

Proceedings of the
CONSTITUTIONAL CONVENTION
OF HAWAII
of 1978

Volume I

Proceedings of the
CONSTITUTIONAL
CONVENTION OF HAWAII
of 1978

Volume I

JOURNAL AND DOCUMENTS

Published under the supervision of the
CHIEF CLERK OF THE CONVENTION

State of Hawaii

Honolulu, Hawaii
1980

CERTIFICATE

We hereby certify that the proceedings of the Hawaii State Constitutional Convention of 1978 are true and correct, that the originals have been duly signed by the President and Secretary of the Convention and that they have been prepared and printed in two volumes as follows:

Volume I consisting of the official journal and documents of the Convention;

Volume II consisting of the debates of the Committee of the Whole as assembled by article.

The two volumes have been prepared and printed in accordance with the provisions of Act 17, Special Session, Session Laws of Hawaii, 1977.

A handwritten signature in cursive script, appearing to read "William D. Paly".

President of the Convention

A handwritten signature in cursive script, appearing to read "M. Aounia Ching".

Secretary of the Convention

Editor's Notes

Volume I of the Proceedings of the Constitutional Convention of Hawaii of 1978 consists essentially of the journal, prepared for each day of the Convention and approved by the presiding officer, and the documents and communications of the Convention.

In contrast with 1968, the 1978 Convention met for 7 more days than the 1968's 58 days and had 20 more delegates than the 82 of 1968, from 51 districts throughout the State, 33 more than in 1968.

For these reasons, as well as the particularly "grass-roots" character of the Convention, the volume of material produced in 1978--as evidenced in both books--was substantially greater than that produced in 1968. In terms of Volume I, this resulted in: more than twice the number of pages of the 1968 volume; the addition of a new section in the Convention Documents recording the 18 committee proposals and indicating their step-by-step revisions; elimination or streamlining of some of the more traditional phraseology used in previous journal editions; and a complete rewriting of the Second Reading debates, changing the former verbatim style of dialogue (as in the debates in Volume II) to a much shorter, more concise and less expansive summarization style.

Preface

When the third Constitutional Convention convened on July 5, 1978, it was to examine a document that had had its foundations laid in 1950. At the time the Constitution was written, Hawaii was still hoping for statehood and 9 years would pass before it came about. The framers of the Constitution were hoping in a sense to impress Congress with Hawaii's stability and readiness to become part of the union, and they drafted essentially a conservative document.

Having the experience of older states to draw upon, the drafters of the new Hawaii State Constitution came up with what the National Municipal League said "set a new high standard in the writing of a modern state constitution by a convention." This Constitution became effective on August 21, 1959.

In 1968 another state constitutional convention met to review the document which was still in its teens. The driving force behind the 1968 meeting was the U.S. supreme court ruling on one man, one vote, which called for big changes in the method of establishing senatorial and representative districts.

The 82 convention delegates met at the McKinley High School gymnasium and after a long, hot summer recommended 23 amendments. All but one, which lowered the voting age from 20 to 18, were approved by the voters; after the United States adopted a constitutional amendment lowering the voting age to 18, however, Hawaii followed suit and in 1972 amended its Constitution to set the voting age at 18. This amendment was one of only five constitutional changes made prior to the 1978 Convention that had been proposed by the legislature and then ratified by the voters.

In 1976 Hawaii voters were given an early chance by the legislature to vote for another constitutional convention and by a wide margin they approved.

Under Act 17, Session Laws of Hawaii, Special Session of 1977, the legislature provided for the election of 102 delegates from 51 districts throughout the State. This is in contrast to the 82 delegates elected from 18 districts for the 1968 convention. The legislature provided for a total budget of \$2.5 million, which was not fully utilized. The election for constitutional convention delegates was held on May 20, 1978. The compensation mechanism under which delegates were paid \$1,000 a month, beginning May 21, for a period of 4 months, was designed to foster a deadline-oriented attitude.

It should be noted that a substantial effort was made, beginning in 1976, to educate the public on the possible issues and the importance of the delegate election. The Citizens for Con-Con Education Committee originally started by the League of Women Voters and Common Cause Hawaii did an outstanding job, both with the public at large and particularly for the delegates prior to the actual Convention. The media gave full support to this effort. They did, however, advocate that the Convention be a "grass-roots" convention. Legislators, council members and other officeholders were discouraged from running as delegates. As a result, few did. In the 1968 convention, 1/3 of the 82 delegates were legislators and most of the rest were close to the political scene and relatively well acquainted before they convened.

In the 1978 Convention, there were only 7 delegates out of the 102 who had even held political office. Most delegates met for the first time at our first caucus. In 1968, there were 8 women; in 1978 there were 30. It was a relatively young group, with almost half the delegates under 34.

Finding a suitable site for the Convention was something of a problem. The historic old federal building, recently vacated, was finally selected as it afforded the best combination of location and office space. While some of the delegates were crowded for office

space, after some renovation it proved quite workable. The large former office of the internal revenue service was used for plenary sessions, and the old courtrooms proved useful for large committee meetings.

Through the support and assistance of Senate President John Ushijima and House Speaker James Wakatsuki, the senate auditorium and conference rooms at the State Capitol were also used to accommodate committee hearings and informational sessions.

From the time of our first meeting, Governor Ariyoshi lent his personal support to facilitate the work of the Convention. However, he steadfastly refrained from taking any position on any of the amendments before the Convention. After the end of the Convention, the governor endorsed the work of the Convention and recommended acceptance of the amendments by the voters.

The social dynamics of putting together 102 people new to the political forum and charging them with organizing, electing officers, adopting rules, forming committees, studying issues, hearing testimony, debating and voting on amendments, and putting the recommended amendments in ballot form for the voters, all in a 2-1/2-month period, is asking almost too much for any such convention. In addition, an extension of time was not feasible. Aside from the pay terminations of delegates and staff, the proposed amendments had to be in the lieutenant governor's office by September 22 in order to be on the November ballot.

In organizing, the delegates adopted rules similar to those followed in the 1968 convention. The rules allowed the president to name the committee chairpersons, vice-chairpersons and members of the various committees. Provision was made for eight vice-presidents, one from each senatorial district. They were elected by the delegates from that district. The president, secretary and assistant secretary were elected by the Convention as a whole in closed balloting.

The vice-presidents met with the president on a regular basis to assist in the coordination of convention activities and represent the concerns of the delegates from their respective senatorial districts regarding the conduct of the Convention. The convention secretary and assistant secretary, to minimize conflicts, coordinated the task of scheduling committee meetings.

Provision was made for 14 standing committees and 2 administrative committees. Two new committees were provided for in this Convention--a Committee on Hawaiian Affairs and a Committee on Ethics. To reflect current concern with environmental matters, the agriculture committee was renamed the Committee on Environment, Agriculture, Conservation and Land (EACL).

In making committee assignments, each delegate was polled as to committee preference; every delegate was then assigned to the committee of first choice. Most delegates sat on three or four committees. The committee chairpersons had a heavy load; with 25 to 30 members on most standing committees, they presided over a group larger than the state senate. All delegates worked hard at educating themselves on all aspects of their committee responsibility. They had available extensive study material on each article of the Constitution prepared before the Convention by the Legislative Reference Bureau. They heard dozens of people, expert and lay, tell them how they should make changes. To afford voters on the neighbor islands input on proposals of concern to them, hearings were held on every island. At these neighbor island meetings, the work of each committee was reviewed by the chairperson or vice-chairperson. The convention vice-president from that island presided at these meetings.

The various proposals were referred by the president to the appropriate standing committees for review and action. The president was ably assisted in the work by his administrative assistant. Subsequent to the cutoff for submission of proposals, the various committees labored through the dozens of proposals that had been referred to them. In all, 835 proposals were introduced during the Convention. Under the Convention's rules, a committee chairperson could not sit on a proposal. If the committee did not vote it out, a delegate could bring it up in the Committee of the Whole, which was comprised of all 102 delegates. It was also possible to make amendments on Second Reading following the report of the Committee of the Whole. The Proceedings of the Convention will

attest to this. It was in the Committee of the Whole as well as at Second Reading that most of the debate took place. The Committee of the Whole sessions were chaired by one of the vice-presidents or a delegate named by the president.

For the first half of the Convention, plenary sessions were limited largely to procedural matters in order to allow as much time as possible for committee hearings. In the latter part of the session, scheduling of the committee reports and proposals for action by the Convention also involved the various committee chairpersons and the chief clerk. A tight schedule was necessary to afford adequate time for debate on the proposed amendments. Evening meetings were often scheduled in order to accomplish this; a number of sessions on key issues ran well past midnight. Toward the end, the strain on the delegates was noticeable.

Numerous resolutions were introduced but as a matter of policy and in view of time constraints, introduction of resolutions was generally discouraged. In the closing days of the Convention, action was taken on a number of resolutions that were either "mahalo" in nature or designed to provide guidance to future conventions.

The Committee on Budget, Accounts and Printing developed a budget for the \$2.5 million authorized by the legislature. The convention president was authorized to modify and administer the budget as required by circumstances. The Convention was kept informed of budget allocations. The total amount authorized was not fully used.

Each delegate hired his/her own staff, and committee chairpersons retained added staff assistants to handle the committee workload. The attitude, effort and dedication of this group were noteworthy.

That this Convention had two groups, the so-called majority group and the independent group, has been well chronicled by the media and fully recorded in the debates. There is no question that this division detracted from the work of the Convention. There were many unnecessary parliamentary wrangles. Whether as a practical matter this could have been avoided is problematical. The schism developed when the Convention was first organized and a temporary chairman elected. A key issue pervading the Convention was that of initiative, recall and referendum (IRR). There was strong support by a large and vocal group for IRR and it was generally favored by the media. The majority group of the Convention was opposed to it--the independent group favored it. The division between the groups was further aggravated by the fact that in naming chairpersons for key standing committees, none were identified with the independent group. It should be noted that in spite of sometimes heated differences on the floor and in debate, delegates rarely aired feelings off the floor. Admittedly, the Convention was not helped by the factionalism, but in any political body a majority group with its leadership is a necessary function if the job is going to get done. This was especially true in the tight time-frame faced by the Convention.

The activities of the Convention were well covered by the press, radio and television stations. The coverage was excellent and the public was kept well informed. KHET-Hawaii Public Television taped many of the actual proceedings.

Space here does not permit a review of the many key issues that were examined and debated by the delegates. As previously noted, the IRR question was the big public issue before the Convention. The media devoted much time and attention to it, and lobbying for and against the measure was heavy. There was naturally considerable disappointment expressed when the Convention voted down any form of IRR.

On other issues, the delegates were all but unanimous in their support of some form of expenditure ceiling by the state government. Control of water resources and the need for a clean, healthful environment received considerable attention. The Convention examined the judicial system and provided for an appellate court and a new system for the selection of judges. In the legislative area, the delegates were concerned about providing adequate time checks to assure public awareness of pending legislation and review by legislators; one of the measures adopted was the requirement for a recess of 5 days, mid-term in the legislative session. With regard to elections, the Convention provided for staggered terms for state senators. It also supported a provision for a modified open primary where the voter can choose the ballot desired.

Although the Committee on Hawaiian Affairs was a new one, the Convention saw fit to afford strong support to a number of amendments designed to assure residents of Hawaiian ancestry greater control of policies and administration of, and recourse to, the benefits promised by the Hawaiian Homes Commission Act. Other amendments were made to provide for a comprehensive Hawaiian education program in the curriculum of the public schools.

Initially, many saw the majority group of the Convention as a stand-pat group and predicted little significant change to the Constitution, especially in view of their opposition to IRR. However, with 102 delegates change was inevitable. Unquestionably, some amendments were more legislative than constitutional. More than 100 amendments were proposed--some very minor, some largely significant. In all, the delegates tried in the short time available to address those matters of concern to the citizenry and, in so doing, to provide a better working document for the State. Time alone will be the judge of the accomplishments of the third Constitutional Convention.

In view of the number of amendments, the Committee on Submission and Information had a difficult time developing a ballot that would provide the citizens a fair opportunity to accept or reject individual amendments. A major effort to educate the voters on the proposed amendments was made. A public relations firm was retained to develop a broad-based program of information in the newspapers, radio and television. The theme of the program was "You can make a difference." In addition, a special information supplement covering all of the proposed amendments was published prior to the general election on November 7, 1978.

In addition, arrangements were made for the convention president to address a wide range of business, civic, union and trade groups to explain and review amendments and issues of interest. Other delegates also spoke to various community groups. A number of delegates expressed strong reservations or recommended "no" votes on some of the proposed amendments. This reflected their positions during the Convention. At the general election on November 7, 1978, the amendments as proposed were overwhelmingly approved by the electorate.

These amendments were challenged in both the state supreme court and the federal district court. The federal court dismissed the challenge and, except for a few minor proposed amendments, the state supreme court upheld the ballot and the ratification election and procedures.

However, beyond the legal controversy, a larger question remains as to whether 35 percent of those voting is sufficient for ratification, and the requirement may well be amended. Whether also there should be another constitutional convention in 1988 will be decided in 1986.

That the Convention was able to accomplish the work that it did within the time allotted was due in no small measure to an outstanding group of people, well experienced in their field, who were in charge of key support functions for the Convention. George M. Amimoto served as chief clerk and was responsible for the many faceted duties of that position. James T. Funaki, who also served with the 1968 convention, headed our legal support team. Richard F. Kahle, Jr. was responsible for the Legislative Reference Bureau staff. Tom Lee served as administrator of the Convention. Parliamentarians Benedict Goo and Masato "Opu" Sugihara earned their stipend. Harry K. Lee of the federal General Services Administration and Richard M. Nakamura and Akira Kubota of the state Department of Accounting and General Services were most supportive in our varied demands for space and supplies.

William W. Paty, Jr.

T. Ihara	Kimball	Miller	Shon	Takemoto	Oyamura	Yamashita	Iwamoto	Tamayori	L.S. Ihara
Liu	Lacy	Chun	Chu	Hamilton	Stone	Kojima	Harris		
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C.C. Ching	Iweda	Nakamura	M.H. Ching	Blake	Shimo				

Wurdeman	Takehara	Takahashi	Ohtai	D. Ching	Uyehara	Suton	Sakama	Peterson	Lewis	M. Leo	Ishikawa
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Odenaka	Nozaki	Nishimoto	R.K. Lee	D. Ihara	Kayashita	Fujimoto	Chang	Fukunaga	Hirata
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Kato	Hino	Hashimoto	Hegino	Alcon	Campbell	Burgess	Barnes
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Furukoshi	De Soto	Crozier	Taira	Walters	L.M. Ching	Goldenow	Barnard
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Stirling	Hokama	Ellis	Eastvold	Dyer	Anae				
Fushkoshi	McCall	Izu	Taktiani	Tam	Souki	Hornick	Chung	Penbacker	Sasaki
Villaverde	Kono	Taktiani	Tam	Souki	Hornick	Chung	Penbacker	Sasaki	
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Contents

<i>Preface</i>	vii	Twenty-Fourth Day	
<i>Standing Committees</i>	xv	Monday, August 7, 1978	136
<i>Officers and Delegates</i>	xxi	Twenty-Fifth Day	
		Tuesday, August 8, 1978	137
		Twenty-Sixth Day	
		Wednesday, August 9, 1978	139
		Twenty-Seventh Day	
		Thursday, August 10, 1978	141
		Twenty-Eighth Day	
		Friday, August 11, 1978	143
		Twenty-Ninth Day	
		Saturday, August 12, 1978	155
		Thirtieth Day	
		Monday, August 14, 1978	157
		Thirty-First Day	
		Tuesday, August 15, 1978	160
		Thirty-Second Day	
		Wednesday, August 16, 1978	161
		Thirty-Third Day	
		Thursday, August 17, 1978	165
		Thirty-Fourth Day	
		Friday, August 18, 1978	167
		Thirty-Fifth Day	
		Saturday, August 19, 1978	169
		Thirty-Sixth Day	
		Monday, August 21, 1978	171
		Thirty-Seventh Day	
		Tuesday, August 22, 1978	186
		Thirty-Eighth Day	
		Wednesday, August 23, 1978	187
		Thirty-Ninth Day	
		Thursday, August 24, 1978	189
		Fortieth Day	
		Friday, August 25, 1978	211
		Forty-First Day	
		Saturday, August 26, 1978	214
		Forty-Second Day	
		Monday, August 28, 1978	215
		Forty-Third Day	
		Tuesday, August 29, 1978	220
		Forty-Fourth Day	
		Wednesday, August 30, 1978	224
		Forty-Fifth Day	
		Thursday, August 31, 1978	226
		Forty-Sixth Day	
		Friday, September 1, 1978	230
		Forty-Seventh Day	
		Saturday, September 2, 1978	251
		Forty-Eighth Day	
		Monday, September 3, 1978	255
		Forty-Ninth Day	
		Tuesday, September 5, 1978	265
CONVENTION JOURNAL			
First Day			
Wednesday, July 5, 1978	1		
Second Day			
Thursday, July 6, 1978	21		
Third Day			
Friday, July 7, 1978	23		
Fourth Day			
Monday, July 10, 1978	26		
Fifth Day			
Tuesday, July 11, 1978	31		
Sixth Day			
Wednesday, July 12, 1978	35		
Seventh Day			
Thursday, July 13, 1978	39		
Eighth Day			
Friday, July 14, 1978	44		
Ninth Day			
Monday, July 17, 1978	54		
Tenth Day			
Tuesday, July 18, 1978	59		
Eleventh Day			
Wednesday, July 19, 1978	68		
Twelfth Day			
Thursday, July 20, 1978	76		
Thirteenth Day			
Friday, July 21, 1978	81		
Fourteenth Day			
Monday, July 24, 1978	87		
Fifteenth Day			
Tuesday, July 25, 1978	92		
Sixteenth Day			
Wednesday, July 26, 1978	97		
Seventeenth Day			
Thursday, July 27, 1978	101		
Eighteenth Day			
Friday, July 28, 1978	105		
Nineteenth Day			
Monday, July 31, 1978	109		
Twentieth Day			
Tuesday, August 1, 1978	122		
Twenty-First Day			
Wednesday, August 2, 1978	132		
Twenty-Second Day			
Thursday, August 3, 1978	133		
Twenty-Third Day			
Friday, August 4, 1978	135		

Fiftieth Day			
Wednesday, September 6, 1978	....	267	
Fifty-First Day			
Thursday, September 7, 1978	.....	269	
Fifty-Second Day			
Friday, September 8, 1978	.....	288	
Fifty-Third Day			
Saturday, September 9, 1978	.....	314	
Fifty-Fourth Day			
Monday, September 11, 1978	.....	316	
Fifty-Fifth Day			
Tuesday, September 12, 1978	.....	319	
Fifty-Sixth Day			
Wednesday, September 13, 1978	..	349	
Fifty-Seventh Day			
Thursday, September 14, 1978	.....	351	
Fifty-Eighth Day			
Friday, September 15, 1978	.....	353	
Fifty-Ninth Day			
Saturday, September 16, 1978	.....	370	
Sixtieth Day			
Sunday, September 17, 1978	.....	416	
Sixty-First Day			
Monday, September 18, 1978	.....	449	
Sixty-Second Day			
Tuesday, September 19, 1978	.....	465	
Sixty-Third Day			
Wednesday, September 20, 1978	..	468	
Sixty-Fourth Day			
Thursday, September 21, 1978	.....	486	
Sixty-Fifth Day			
Saturday, December 2, 1978	.....	518	
			CONVENTION DOCUMENTS
			Resolutions
			520
			Standing Committee Reports
			558
			Committee Proposals
			784
			Digest of Proposals Offered by
			Delegates
			838
			Minority Reports
			974
			Committee of the Whole Reports
			1000
			Special Committee Reports
			1028
			Governor's Messages
			1035
			Departmental Communications
			1039
			Miscellaneous Communications
			1043
			Petitions
			1044
			FINAL STATUS OF MEASURES
			PROPOSED
			Index of Proposals and Resolutions ..
			1047
			Final Status of Proposals and
			Resolutions
			1056
			Sections of the Constitution Affected
			1115
			APPENDIX
			Act 17 of 1977 (Special Session)
			1133
			Act 42 of 1978
			1136
			Act 243 of 1978
			1137
			Rules of the Convention
			1138
			State Constitution
			1148
			EXPENSES OF THE CONVENTION
			1191
			<i>Index</i>
			1206

Standing Committees

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Hale, Helene H.
Hanaike, Dona L.
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Hironaka, Masami

Ihara, Les S., Jr.
Ikeda, Walter H.
Kojima, Yoshio
Kono, Lawrence H.
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Odanaka, Donna
Penebacker, John R.
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Hanaike, Dona L.
Hirata, Milton Y.
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Kojima, Yoshio

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Pulham, Floyd W.
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 Fushikoshi, Lester T.
 Hagino, Gerald T.
 Hamilton, Thomas H.
 Hino, Akira
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de Costa, Frank	Sasaki, Richard Y.
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Hashimoto, Clarice Y.	Sutton, Warner
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Ihara, Dennis	Takehara, Alice T.
	Uyehara, Larry S.*

*New member, added 7/17/78.

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Dyer, Masu K.	Lee, Rachel K.
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Fujimoto, Richard I.	Okamura, Tom
Fushikoshi, Lester T.	Ontai, Calvin W.
Goodenow, H. Jean	Pulham, Floyd W.
Hamilton, Thomas H.	Sasaki, Richard Y.
Hashimoto, Clarice Y.	Uyehara, Larry S.
Hirata, Milton Y.	Wurdeman, Ginger K.

ENVIRONMENT, AGRICULTURE, CONSERVATION AND LAND

Anthony K. Chang, Chairperson
 Gerald T. Hagino, Vice-Chairperson
 Clarice Y. Hashimoto, Vice-Chairperson

Barnes, Bruce E.
 Ching, Calvin C.
 Ching, Laura M.
 Chun, Dennis K. S.
 Crozier, Michael L.
 de Costa, Frank
 De Soto, Adelaide
 Fukunaga, Carol A.
 Funakoshi, Elayne M.
 Harris, Jeremy
 Hoe, Charlene R.
 Hornick, Leslee G.
 Ihara, Les S., Jr.

Lacy, Paul L.
 Lewis, Peter C.
 McCall, Bruce C.
 Nakamura, Craig G.
 Nozaki, Patricia P.
 O'Toole, Steve
 Sasaki, Richard Y.
 Shinno, James M.
 Shon, James T.
 Takahashi, Wayne T.
 Takitani, Anthony P.
 Waihee, John D. III
 Yoshimura, Philip I.

HAWAIIAN AFFAIRS

Adelaide De Soto, Chairperson
 John R. Penebacker, Vice-Chairperson
 Leon K. Sterling, Jr., Vice-Chairperson

Alcon, Emilio S.
 Barr, Allen W.
 Blake, Hartwell K.
 Blean, David W.
 Chang, Anthony K.
 Chong, Jacqueline T.
 Chung, Kayo R.
 Crozier, Michael L.
 Fernandes Salling, Lehua
 Hagino, Gerald T.
 Harris, Jeremy

Hayashida, Franklin I.
 Hoe, Charlene R.
 Hokama, Riki
 Hornick, Leslee G.
 Ihara, Dennis
 Ihara, Teruo
 Nozaki, Patricia P.
 Ontai, Calvin W.
 Shinno, James M.
 Silva, Gil
 Sutton, Warner

- ETHICS

Tom Okamura, Chairperson
 Famika Anae, Vice-Chairperson
 Laura M. Ching, Vice-Chairperson

Blean, David W.
 Burgess, H. William
 Cabral, Walter K.
 Campbell, Naomi S.
 Chu, Rai Saint
 Chun, Dennis K. S.
 De Soto, Adelaide
 Fukunaga, Carol A.
 Harris, Jeremy
 Hashimoto, Clarice Y.
 Hirata, Milton Y.
 Hironaka, Masami
 Kaito, Kay K.

Kojima, Yoshio
 Lee, Rachel K.
 Miller, Georgia E.
 Nakamura, Craig G.
 Nishimoto, Melvin Y.
 Shon, James T.
 Silva, Gil
 Souki, Joseph M.
 Sterling, Leon K., Jr.
 Taira, Robert S.
 Uyehara, Larry S.
 Yoshimura, Philip I.

REVISION, AMENDMENT AND OTHER PROVISIONS

Yvonne Y. Izu, Chairperson
 Milton Y. Hirata, Vice-Chairperson
 Kay K. Kaito, Vice-Chairperson

Anae, Famika	Hayashida, Franklin I.
Andrews, Mark J.	Hornick, Leslee G.
Barr, Allen W.	Ihara, Dennis*
Chung, Kayo R.	Ikeda, Walter H.
De Soto, Adelaide	Kaapu, Kekoa D.
Fernandes Salling, Lehua	Kono, Lawrence H.
Fujimoto, Richard I.	Marumoto, Barbara
Fushikoshi, Lester T.	Ontai, Calvin W.
Hamilton, Thomas H.	Uyehara, Larry S.
Hanaike, Dona L.	Villaverde, Marcelliano K.

*New member, added 7/11/78.

STYLE

Thomas H. Hamilton, Chairperson
 Donna Odanaka, Vice-Chairperson
 John J. Stone, Vice-Chairperson

Barnes, Bruce E.	Nozaki, Patricia P.
Burgess, H. William	Penebacker, John R.
Ching, Calvin C.	Pulham, Floyd W.
Ching, Laura M.	Takahashi, Wayne T.
Eastvold, Donald W., Jr.	Takehara, Alice T.
Ellis, Robert F.	Takemoto, Anne H.
Hale, Helene H.	Tamayori, Dean T.
Ihara, Teruo	Weatherwax, Wallace W.
Kimball, Alan W.	Yoshimura, Philip I.
Ledward, Masako H.	

SUBMISSION AND INFORMATION

Karen H. Iwamoto, Chairperson
 Mary Ann Barnard, Vice-Chairperson
 Kayo R. Chung, Vice-Chairperson

Blake, Hartwell K.	Kimball, Alan W.
Chu, Rai Saint	Miller, Georgia E.
Hagino, Gerald T.	Odanaka, Donna
Harris, Jeremy	Peterson, C. Randall
Hino, Akira	Silva, Gil
Hironaka, Masami	Stegmaier, David D.
Hoe, Charlene R.	Sterling, Leon K., Jr.
Ihara, Les S., Jr.	Taira, Robert S.
Kaapu, Kekoa D.	Waihee, John D. III

ADMINISTRATIVE STANDING COMMITTEES

BUDGET, ACCOUNTS AND PRINTING

Masako H. Ledward, Chairperson
 Michael L. Crozier, Vice-Chairperson
 Franklin I. Hayashida, Vice-Chairperson

Anae, Famika
 Blean, David W.
 Campbell, Naomi S.
 Dyer, Masu K.
 Hale, Helene H.
 Hanaike, Dona L.
 Ishikawa, John M.
 Lacy, Paul L.
 Lee, Rachel K.

Okamura, Tom
 O'Toole, Steve
 Sasaki, Richard Y.
 Sterling, Leon K., Jr.
 Sutton, Warner
 Tam, John E.
 Uyehara, Larry S.
 Yamashita, Bruce I.

RULES

Anne H. Takemoto, Chairperson
 Richard Y. Sasaki, Vice-Chairperson
 Marcelliano K. Villaverde, Vice-Chairperson

Campbell, Naomi S.
 Chang, Anthony K.
 Ching, M. Haunani
 Chun, Dennis K. S.
 DiBianco, Paul E.
 Funakoshi, Elayne M.
 Goodenow, H. Jean
 Hironaka, Masami
 Hoe, Charlene R.
 Hokama, Riki

Lee, Rachel K.
 Liu, Michael M. F.
 Nishimoto, Melvin Y.
 Odanaka, Donna
 Penebacker, John R.
 Pulham, Floyd W.
 Shinno, James M.
 Taira, Robert S.
 Wurdeman, Ginger K.
 Yamashita, Bruce I.

Officers and Delegates

CONVENTION OFFICERS

President	William W. Paty, Jr.
Vice-President	Bruce C. McCall
Vice-President	Allen W. Barr
Vice-President	Paul E. DiBianco
Vice-President	Donald D. H. Ching
Vice-President	Larry S. Uyehara
Vice-President	H. Jean Goodenow
Vice-President	Les S. Ihara, Jr.
Vice-President	James M. Shinno
Secretary	M. Haunani Ching
Assistant Secretary	Craig G. Nakamura

ELECTED STAFF

Chief Clerk	George M. Amimoto
Assistant Clerk	Colin T. Miyabara

ADMINISTRATOR OF THE CONVENTION

Administrator	Thomas M. W. Lee
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DELEGATES TO THE CONVENTION

District 1	Floyd W. Pulham Gil Silva
District 2A	Helene H. Hale Lawrence H. Kono
District 2B	Bruce C. McCall Philip I. Yoshimura
District 3	Lester T. Fushikoshi Marcelliano K. Villaverde
District 4	Yvonne Y. Izu Leon K. Sterling, Jr.
District 5A	Mark J. Andrews Allen W. Barr
District 5B	Masami Hironaka John E. Tam
District 6A	David W. Blean Riki Hokama
District 6B	Joseph M. Souki Anthony P. Takitani

District 7A	Steve O'Toole David D. Stegmaier
District 7B	Tom Okamura Wallace W. Weatherwax
District 8A	Thomas H. Hamilton Craig G. Nakamura
District 8B	Rai Saint Chu Barbara Marumoto
District 9A	Karen H. Iwamoto Bruce I. Yamashita
District 9B	Les S. Ihara, Jr. Dean T. Tamayori
District 10A	M. Haunani Ching Walter H. Ikeda
District 10B	Dennis K. S. Chun John J. Stone
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District 11B	Georgia E. Miller James T. Shon
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District 12B	Milton Y. Hirata Kekoa D. Kaapu
District 13A	Bruce E. Barnes H. William Burgess
District 13B	Teruo Ihara Anne H. Takemoto
District 13C	Carol A. Fukunaga Masako H. Ledward
District 14A	John M. Ishikawa C. Randall Peterson
District 14B	Calvin C. Ching Alan W. Kimball
District 15A	Anthony K. Chang Peter C. Lewis
District 15B	Warner Sutton Robert S. Taira
District 16A	Laura M. Ching Dennis Ihara
District 16B	Franklin I. Hayashida Akira Sakima
District 17A	Naomi S. Campbell Larry S. Uyehara

District 17B	Marion Lee John D. Waihee III
District 18A	Kay K. Kaito Alice T. Takehara
District 18B	Emilio S. Alcon Richard I. Fujimoto
District 19A	Donald D. H. Ching Elayne M. Funakoshi
District 19B	Clarice Y. Hashimoto Donna Odanaka
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District 20B	Melvin Y. Nishimoto Wayne T. Takahashi
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District 22A	Famika Anae William W. Paty, Jr.
District 22B	Akira Hino Rachel K. Lee
District 23	Jacqueline T. Chong Charlene R. Hoe
District 24A	Kayo R. Chung Dona L. Hanaike
District 24B	Paul E. DiBianco Richard Y. Sasaki
District 25A	Walter K. Cabral Masu K. Dyer
District 25B	Robert F. Ellis Leslee G. Hornick
District 26	Donald W. Eastvold, Jr. John R. Penebacker
District 27A	Lehua Fernandes Salling Jeremy Harris
District 27B	Frank de Costa Yoshio Kojima
District 27C	Hartwell K. Blake James M. Shinno

OFFICERS OF THE CONVENTION



William W. Paty, Jr.
President



Bruce C. McCall
Vice-President



Allen W. Barr
Vice-President



Paul E. DiBianco
Vice-President



Donald D. H. Ching
Vice-President



Larry S. Uyehara
Vice-President



H. Jean Goodenow
Vice-President



Les S. Ihara, Jr.
Vice-President



James M. Shinno
Vice-President



M. Haunani Ching
Secretary



Craig G. Nakamura
Assistant Secretary

DELEGATES



Emilio S. Alcon



Famika Anae



Mark J. Andrews



Mary Ann Barnard



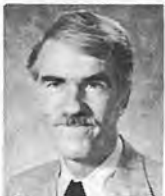
Bruce E. Barnes



Hartwell K. Blake



David W. Blean



H. William Burgess



Walter K. Cabral



Naomi S. Campbell



Anthony K. Chang



Calvin C. Ching



Laura M. Ching



Jacqueline T. Chong



Rai Saint Chu



Dennis K. S. Chun



Kayo R. Chung



Michael L. Crozier



Frank de Costa



Adelaide De Soto
(Frenchy)



Masu K. Dyer



Donald W. Eastvold, Jr.



Robert F. Ellis



Lehua Fernandes Salling



Richard I. Fujimoto



Carol A. Fukunaga



Elayne M. Funakoshi



Lester T. Fushikoshi



Gerald T. Hagino



Helene H. Hale



Thomas H. Hamilton



Dona L. Hanaike



Jeremy Harris



Clarice Y. Hashimoto



Franklin I. Hayashida



Akira Hino



Milton Y. Hirata



Masami Hironaka



Charlene R. Hoe



Riki Hokama



Leslee G. Hornick



Dennis Ihara



Teruo Ihara



Walter H. Ikeda



John M. Ishikawa



Karen H. Iwamoto



Yvonne Y. Izu



Kekoa D. Kaapu



Kay K. Kaito



Alan W. Kimball



Yoshio Kojima



Lawrence H. Kono



Paul L. Lacy



Masako H. Ledward



Marion Lee



Rachel K. Lee



Peter C. Lewis



Michael M. F. Liu



Barbara Marumoto



Georgia E. Miller



Melvin Y. Nishimoto



Patricia P. Nozaki



Donna Odanaka



Tom Okamura



Calvin W. Ontai



Steve O'Toole



John R. Penebacker



C. Randall Peterson



Floyd W. Pulham



Akira Sakima



Richard Y. Sasaki



James T. Shon



Gil Silva



Joseph M. Souki



David D. Stegmaier



Leon K. Sterling, Jr.



John J. Stone



Warner Sutton



Robert S. Taira



Wayne T. Takahashi



Alice T. Takehara



Anne H. Takemoto



Anthony P. Takitani



John E. Tam



Dean T. Tamayori



Marcelliano K. Villaverde



John D. Waihee III



Wallace W. Weatherwax



Ginger K. Wurdeman



Bruce I. Yamashita



Philip I. Yoshimura



George M. Amimoto
Chief Clerk



Colin T. Miyabara
Assistant Clerk



Thomas M. W. Lee
Administrator



Gaylord Apau
Sergeant-at-Arms

CONVENTION JOURNAL

FIRST DAY

Wednesday, July 5, 1978

In accordance with the provisions of Act 17, Session Laws of Hawaii, Special Session of 1977, the Constitutional Convention of Hawaii of 1978 was called to order at 9:35 a.m. on Wednesday, July 5, 1978, by Delegate Floyd Pulham from the First Representative District who acted as temporary Chairman.

Upon welcoming the congregation, Chairman Pulham then appointed Delegates Andrews, Blake, Sterling, Rachel Lee, Peterson and Sakima to escort the Reverend David Kaupu of the Kamehameha Schools to the rostrum.

Reverend Kaupu then invoked the Divine Blessing.

Delegate Pulham thereupon addressed the Convention as follows:

"Good morning. I am rather reminded at this moment of the mosquito who found himself in a nudist colony--he didn't know where to begin either.

"We are gathered here to go about the very serious business of reviewing our State Constitution. I would remind you the word 'constitution' by itself doesn't mean very much. For there are states and nations with written constitutions and very little individual freedom or liberty, and there are others with no written constitution at all, but the people enjoy great civil liberties. It is, then, not the document but the political system contained therein which is important.

"In his Farewell Address of 1796, George Washington stated: 'The basis of our political system is the right of the people to make--and to alter--their constitutions of government.'

"It was toward that very end that all of us were elected as delegates to this Convention. I ask you to take special note of Washington's use of the word 'people.' Constitutions belong in that province of the people, by the people, and for the people, and no group or individual, regardless of purpose, has any right to usurp that basic right of the people.

"We have already spent over a month tied up with organizational and logistical considerations. I don't need to remind you that groups have been formed based upon other than constitutional issues.

"It is indeed a pity the established political system lacked the wisdom to foresee these problems. We now find ourselves using the same personnel and resources available to them, and through which much of these problems could have been handled in advance, freeing the Convention for its larger role, without the added burden of establishing its own political system.

"That was yesterday; today it is history--and let us hope both we and future legislators profit by its lesson. My job today is to charge each and every one of us with the moral responsibility of being a better person than we were yesterday.

"While democracy must have its organization and controls, its vital breath is individual liberty.' [Charles Evans Hughes] If we as delegates are to accomplish the task we were elected to perform, and if we expect the general public to accept the results of our deliberations, some of you are going to have to clean up your act.

"Let us proceed with the following in mind: 'Democracy means not "I am as good as you are" but "You are as good as I am."' [Theodore Parker] Yes, my friends, democracy means many things; certainly it is majority rule, but much more, for it requires freedom of expression for minorities and even minority representations.

"Some of you are saying, 'Okay, okay, so we're organized; let's get on to issues.' I would be remiss in my duties as your temporary Chairman if I did not remind you we are organized as an oligarchy, not as a democracy. This body needs to make a decisive move to reestablish its credibility with the public, or our future deliberations will remain forever suspect.

"It has been said that after this session is over, only our work or lack of it will be remembered. I do not agree with that. Just as we look back to the conventions of 1950 and 1968, history will look back at this Convention and as your individual actions are judged, so will your contribution to history be judged. By your winning a single election, each of you was elevated to a position in the history of this State. You may not be ready for it, but it is here and the results are up to you. I repeat, are you capable of being a better person than you were yesterday?

"Do I believe you can do it? Yes, I certainly do. Why? Because I believe in another principle that says, 'Democracy is based upon the conviction that there are extraordinary possibilities in ordinary people.' [Harry Emerson Fosdick]"

There being no objection, the Chairman at this time appointed George Amimoto as temporary Chief Clerk of the Convention.

SPECIAL COMMITTEE REPORT

Delegate Hashimoto, for the Committee on Credentials, presented a report (Spec. Com. Rep. No. 1) reading as follows:

July 5, 1978

The Honorable Floyd W. Pulham
Temporary Chairman
Constitutional Convention of Hawaii of 1978

Sir:

Your Committee on Credentials begs leave to report that it has examined the Certificates of Election of the Delegates to the Constitutional Convention of Hawaii of 1978, which were issued by the Lieutenant Governor of the State of Hawaii as provided by law, and finds that the delegates certified thereby have been legally elected and are duly qualified to sit as delegates from their respective constitutional convention districts, as follows:

District 1

Floyd W. Pulham
Gil Silva

District 2A	Helene H. Hale Lawrence H. Kono
District 2B	Bruce C. McCall Philip I. Yoshimura
District 3	Lester T. Fushikoshi Marcelliano K. Villaverde
District 4	Yvonne Y. Izu Leon K. Sterling, Jr.
District 5A	Mark J. Andrews Allen W. Barr
District 5B	Masami Hironaka John E. Tam
District 6A	David W. Blean Riki Hokama
District 6B	Joseph M. Souki Anthony P. Takitani
District 7A	Steve O'Toole David D. Stegmaier
District 7B	Tom Okamura Wallace W. Weatherwax
District 8A	Thomas H. Hamilton Craig G. Nakamura
District 8B	Rai Saint Chu Barbara Marumoto
District 9A	Karen H. Iwamoto Bruce I. Yamashita
District 9B	Les S. Ihara, Jr. Dean T. Tamayori
District 10A	M. Haunani Ching Walter H. Ikeda
District 10B	Dennis K. S. Chun John J. Stone
District 11A	H. Jean Goodenow Paul L. Lacy
District 11B	Georgia E. Miller James T. Shon
District 12A	Mary Ann Barnard Michael M. F. Liu
District 12B	Milton Y. Hirata Kekoa D. Kaapu
District 13A	Bruce E. Barnes H. William Burgess
District 13B	Teruo Ihara Anne H. Takemoto

District 13C	Carol A. Fukunaga Masako H. Ledward
District 14A	John M. Ishikawa C. Randall Peterson
District 14B	Calvin C. Ching Alan W. Kimball
District 15A	Anthony K. Chang Peter C. Lewis
District 15B	Warner Sutton Robert S. Taira
District 16A	Laura M. Ching Dennis Ihara
District 16B	Franklin I. Hayashida Akira Sakima
District 17A	Naomi S. Campbell Larry S. Uyehara
District 17B	Marion Lee John D. Waihee III
District 18A	Kay K. Kaito Alice T. Takehara
District 18B	Emilio S. Alcon Richard I. Fujimoto
District 19A	Donald D. H. Ching Elayne M. Funakoshi
District 19B	Clarice Y. Hashimoto Donna Odanaka
District 20A	Gerald T. Hagino Ginger K. Wurdeman
District 20B	Melvin Y. Nishimoto Wayne T. Takahashi
District 21A	Adelaide (Frenchy) De Soto Patricia P. Nozaki
District 21B	Michael L. Crozier Calvin W. Ontai
District 22A	Famika Anae William W. Paty, Jr.
District 22B	Akira Hino Rachel K. Lee
District 23	Jacqueline T. Chong Charlene R. Hoe
District 24A	Kayo R. Chung Dona L. Hanaike
District 24B	Paul E. DiBianco Richard Y. Sasaki

District 25A	Walter K. Cabral Masu K. Dyer
District 25B	Robert F. Ellis Leslee G. Hornick
District 26	Donald W. Eastvold, Jr. John R. Penebacker
District 27A	Lehua Fernandes Salling Jeremy Harris
District 27B	Frank de Costa Yoshio Kojima
District 27C	Hartwell K. Blake James M. Shinno

Your Committee, to which were referred a letter dated June 6, 1978 from Joseph A. Ryan to the Convention and a letter dated June 26, 1978 from Clarence Ching to the Convention, reports thereon as follows:

The letter dated June 6, 1978 from Joseph A. Ryan requested that all of the 16 candidates from District 8A be declared elected as delegates to the Convention because no candidate in the district received a majority of the votes cast. Your Committee finds that the two delegates from District 8A have been legally elected pursuant to Act 17, Session Laws of Hawaii, Special Session of 1977, which provides in part that the "candidates receiving the highest number of votes in the election, not to exceed the number of delegates to which the respective district is entitled, shall be elected as delegates to the convention."

The letter dated June 26, 1978 from Clarence Ching alleged that Warner (Kimo) Sutton does not meet the residency requirements to be a qualified voter necessary to be a delegate from District 15B. Your Committee has examined the evidence presented to it by both Mr. Ching and Mr. Sutton and finds that Warner (Kimo) Sutton is a qualified elector of District 15B from which he has been duly elected.

For the reasons aforesaid, your Committee recommends that the persons named in the Certificates of Election of the Delegates to the Constitutional Convention of Hawaii of 1978 be seated as delegates from their respective constitutional convention districts as aforesaid.

Respectfully submitted,

COMMITTEE ON CREDENTIALS

Clarice Hashimoto, Chairperson
Thomas Hamilton, Vice-Chairperson
Allen Barr
Naomi Campbell
Calvin Ching
Kayo Chung
Frank de Costa
Robert Ellis
Helene Hale
Akira Hino
Milton Hirata
Alan Kimball
Pat Nozaki
Wallace Weatherwax
Bruce Yamashita

On motion by Delegate Hashimoto, seconded by Delegate Hamilton and carried, Spec. Com. Rep. No. 1 was adopted.

At this time the roll was called, showing all delegates present.

The Chairman announced the appointment of Delegates Blean, Calvin Ching, Chong, Hale, Harris and Hirata to escort the Honorable William S. Richardson, Chief Justice of the Supreme Court of the State of Hawaii, to the rostrum.

Chief Justice Richardson then administered the oath of office to the delegates to the Convention.

At this time, the Chairman appointed Delegates Fernandes Salling, Hanaike, Hino, Odanaka, Penebacker and Villaverde as a committee to escort the Honorable George R. Ariyoshi, Governor of the State of Hawaii, to the rostrum.

Governor Ariyoshi then addressed the Convention as follows:

"You are gathered here today for a very solemn and almost sacred task--the review of the Constitution of the State of Hawaii. Into the hands of a few has been placed the trust of many. You are the architects of our future. What you do, or choose not to do, will affect all our lives for many years to come.

"I am sure that I do not need to impress upon you the importance of your tasks. Their magnitude was known to you when you sought election to this Convention, and I am sure have been further impressed upon you in your preliminary deliberations.

"I do not intend to speak here this morning at any length. But permit me a few observations based upon my experience as a constitutional convention delegate ten years ago, and also as Governor of this State during some of the most trying and challenging years of our existence.

"I hope that none of you come to this Convention with such a rigidity of ideas that you are inflexible. You all have convictions, and that is as it should be. You also have areas in which you feel very strongly, and again that is as it should be. But please do not be so strong either in convictions or areas of concern that you cannot approach the proceedings here with an open mind. Please do not be so convinced of the correctness of a certain position that you cannot listen to another side or a contrary point of view. It is the sharing of ideas and viewpoints and wisdom that will make this Convention a worthwhile exercise for the people of Hawaii. It is your flexibility to expand beyond what you now feel is possible that will determine the success or failure of this Convention.

"I am not advocating that you abandon long-held beliefs and philosophies, but I am advocating a tolerance for contrary points of view and a spirit of cooperation. The democratic process is best served when we have free and open discussions, and when we have a willingness to consider points of view other than our own. No one at this Convention can afford to have tunnel vision. There must be a wide field upon which the issues of this Convention can be played. It would be tragic, in my view, if this Convention failed to consider all the alternatives to all of the issues. It just might be that an alternative not now in favor, or even considered, might be the best ultimate choice.

"I do not feel that the success or failure of this Constitutional Convention will be measured either by how few or many changes are made. Rather, success or failure will be measured by the approach to the problems and the process by which decisions are made. The acceptance and rejection of ideas--that is what is important and that is what history will remember. Also, I hope that the delegates to this Convention will continue to recognize the uniqueness of our State. We are unique in so many ways. In geography. In people. In resources. In problems. And in solutions.

"We have a unique approach to living. We have a unique concept of the dignity of all persons, regardless of ethnic origins or economic circumstances. We have a unique quality called the Aloha Spirit, which possibly is our most prized, but yet fragile, possession. Our uniqueness is precious and it must be preserved, and I hope that the document ultimately emerging from this Convention will reflect that. We are the only island State in this Union of States, and we have become accustomed--partly because of our geographical isolation--to finding our own solutions and developing our own style.

"That independence of spirit and action and style must be continued. We must adopt Hawaiian solutions to Hawaiian problems. Certainly, we can borrow from the wisdom and the experiences of others, but we cannot and we should not blindly assume that something is good for Hawaii merely because it happens to be good for some other area.

"At present, we have a very strong central government. For instance, we are alone in having a statewide school system and a statewide system for the delivery of health, social and other human services. Is that bad? The proponents of 'home rule' would say yes. The proponents of equal opportunities for all of our citizens, regardless of where they live, rural or urban, affluent or not, would say no. Home rule is a catch phrase with much appeal. But equal opportunities and equal services for all also have great appeal. Are the two philosophies inconsistent? Can they be reconciled? Should they be reconciled?

"I will not attempt to answer these questions here today. I bring them up only as being illustrative of the issues you will confront. They are indeed worthy of your best efforts, and I urge once again that you approach the challenging tasks ahead of you with an open-mindedness that will do credit to this assembly and to this State.

"The Preamble to our present Constitution notes that the people of Hawaii are 'mindful of our Hawaiian heritage.' This says volumes about our approach to government, and I hope that these words would become a living slogan for this Convention. The Preamble also says that we approach all the world with 'an understanding heart.' These are not just words. They represent a credo of life in these Islands, a credo that has served us so well over the years and one that can carry us forward into the years ahead.

"During the course of your deliberations here in the coming weeks, you will hear, I am sure, many discussions of the rights of citizens. I have always cherished human rights--as a person, as an attorney and as an elected official. But at the same time, I also have cherished the collective and individual responsibilities that have made these rights possible. For every right, there has to be a counterbalancing responsibility. If there is not, anarchy will result.

"We have a bill of rights, both in the federal and state Constitutions. This guarantee of rights sets our governments apart from all others and provides basic guarantees to our citizens that exist nowhere else. But somewhere in your deliberations, I feel it is very important to acknowledge that responsibilities go hand in hand with rights.

"Today is the start of a significant event in the history of Hawaii. It merits the most extensive public input that can be obtained, and with that in mind, I am releasing funds to enable KHET-TV to provide news and interpretive coverage of this Constitutional Convention. You cannot and should not operate in a vacuum, and I feel that it is very important that the public share to the greatest possible extent in this important process of government. Also, I want you to know that my office and our departments will render every assistance to the delegates of this Convention. Please feel that state government is a resource for information and assistance whenever and wherever it is needed.

"In closing, I would like to share a few words and thoughts of Thomas Jefferson. He is a man, without question, who was experienced in the ways of constitutions. In a letter written in 1816, President Jefferson said:

'Some men look at constitutions with sanctimonious reverence, and deem them like the ark of the covenant, too sacred to be touched. They ascribe to the men of the preceding age a wisdom more than human, and suppose what they did to be beyond amendment. . . . I am certainly not an advocate for frequent and untried changes in laws and constitutions. I think moderate imperfections had better be borne with. . . . But I know also, that laws and institutions must go hand in hand with the progress of the human mind. . . . [A]s new discoveries are made, new truths disclosed, and manners and opinions change with the change of circumstances, institutions must advance also, and keep pace with the times. . . . Each generation is as independent of the one preceding, as that was of all which had gone before. It has then, like them, a right to choose for itself the form of government it believes most promotive of its own happiness. . . .'

'I know of no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion by education.'

"These words were written 157 years ago, but they could have been written today.

"Indeed, the power of our government rests with the people, and you, the delegates to this Constitutional Convention, are their chosen representatives. Exercise that power well. Seek to reflect the spirit and the ideals of this society rather than its instant problems and anxieties. Allow the Constitution to express Hawaii's unique relation to our environment, our nation and our world. Allow it to continue to set broad guidelines for the governance of this State, and allow it most of all to represent our philosophies, our hopes and our collective wisdom.

"The challenges you face, beginning today, are great. But even greater is the opportunity to serve, in a unique way, our State and all of its citizens.

"You have my prayerful support as you begin your deliberations.

"Mahalo and aloha."

At 10: 35 a. m. , the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 10: 38 a. m.

INTRODUCTION OF RESOLUTIONS

A resolution (Res. No. 1) relating to the adoption of the rules of the Convention was offered by Delegate Nishimoto and read by the temporary Chief Clerk.

On motion by Delegate Nishimoto, seconded by Delegate Takehara and carried, Res. No. 1 was adopted.

A resolution (Res. No. 2) extending congratulations and thanks to Delegate Teruo Ihara was offered by Delegate Barr and read by the temporary Chief Clerk.

On motion by Delegate Barr, seconded by Delegate De Soto and carried, Res. No. 2 was adopted.

ELECTION OF PRESIDENT

Nominations for the office of President of the Convention being next in order, Delegate Anae placed in nomination the name of Delegate William W. Paty, Jr., seconded by Delegate Stegmaier. Delegate Liu then placed in nomination the name of Delegate Walter K. Cabral, seconded by Delegate Chu.

On motion by Delegate Waihee, seconded by Delegate Taira and unanimously carried, nominations for the office of President of the Convention were closed.

The Chairman then announced that prior to appointing a committee to conduct the election, he would allow time for any interested delegate to speak on behalf of the nominees.

Delegate Marion Lee addressed the Convention as follows:

"Mr. Chairman, my fellow delegates:

"I would like to speak today in support of a man who, within the last 30 days, has been able to gather all resources in organizing 102 people to bring about the smooth opening of this Convention today. That man that I speak of is Bill Paty. In this short span of time, he has been able to meet the challenge of a task which is frustrating, demanding and time-consuming.

"Bill Paty has demonstrated his ability as a responsible presiding officer, one who is experienced, capable and dedicated. This, I feel, is a true reflection of the kind of person he is--one who is fair, just and considerate. This is especially evident in his equitable treatment of young people, as well as women. The fact that he has recognized these two very important considerations is highly commendable. With the kind of insight that he has shown, I feel assured of his genuine concern for the people and by the people.

"The citizens of this great State of Hawaii have entrusted us with an important responsibility, and whatever changes we propose will govern the behavior and lifestyle of every man, woman and child in Hawaii for at least the next decade. I think we must all remember that we are public servants of the people, not their masters. I personally am new to this arena and am learning a lot. And although I am not one of the 'independents,' I certainly consider myself a very independent person. And for the big job ahead of us, I feel that through Bill Paty's leadership, we will produce the kind of changes in our Constitution that will be accepted by the people of Hawaii.

"Bill Paty has been active on business and professional boards and commissions in Hawaii over the past 30 years. His well-respected record in government, business and community service speaks for itself. We are fortunate to have a man of such qualifications and extensive background.

"I am confident that Bill Paty will keep this Convention moving rapidly and effectively to a successful ending. Therefore, I urge all delegates here this morning to support the election of Bill Paty as President of our 1978 Constitutional Convention."

Delegate Villaverde then addressed the Convention as follows:

"I would like to speak in behalf of the candidacy of Mr. William Paty as our permanent Convention President. I had the opportunity and privilege of seconding his nomination in the area of temporary President, and I made my points then and would like to make my points in favor of this great man and a man who will prove himself as a great President for this Convention. I would like to inform the public here and the delegates that I wasn't too happy with the committees I have

been assigned to. I had selected certain committees and I have not been put on these committees that I had asked for. However, as President here on a temporary basis, he saw fit that I serve on the committees that will come. I am looking forward to these committees because he saw fit that I should be on them, and I feel that his appointments have been very fair. I speak also as a delegate from the Big Island and ask you to vote for this man when the time comes to vote, in a few minutes--and to vote for an outstanding man, Mr. William Paty."

Delegate Hagino then addressed the Convention as follows:

"I first heard the name Bill Paty two weeks before our election from a friend who works with me. He said that Bill was the general manager of Waiialua Sugar Company and that he was a real nice guy who helped the community a lot. The very word 'manager' set me against Bill and I hoped that he would not get elected, even though he was born and raised here. But since then I have heard nothing but kind words about Bill from all types of people; in fact, I sometimes wonder if that kind of person really exists.

"We elected Bill temporary President of this Convention over a month ago, with the warning that he was on trial and that if he did not meet our expectations he could not hope to become the permanent President. From that very moment he has been under fire from all sorts of people and groups. He has weathered these trials and tribulations and I admire him for the way he conducted himself at the caucuses we have been to.

"I want to remind all of you that just a few weeks ago everyone was praising Bill for his leadership in settling the very controversial open versus secret ballot issue. Use this secret ballot to vote your conscience and not as a means of protest. Remember you are serving the people and not yourselves.

"A rumor was started and it has been fueled by the media that this Convention will suppress certain issues and not give equal time to all sides. This is the very reason why I am for Bill, because he has been very open and fair to all of us, no matter where we stand. I feel that Bill has passed his trial with flying colors and I am proud that I voted for him as temporary President. And I urge all my fellow delegates to continue supporting him by electing Bill Paty as our permanent President. Mahalo."

Delegate Barnard then addressed the Convention as follows:

"I'd like to express my support of Delegate Paty's candidacy for the presidency of this Convention. I feel that as temporary President, Delegate Paty has proven himself qualified, patient and understanding.

"I feel Delegate Paty is a person who genuinely likes people, and I'm confident that he is eager to work hard to help us, his fellow delegates, serve the people of Hawaii."

Delegate Chung then addressed the Convention as follows:

"My fellow delegates:

"You have heard the complimentary remarks from four previous delegates in behalf of Delegate Bill Paty, nominee for the President of this 1978 Constitutional Convention in our Aloha State of Hawaii. It is a pleasure to offer a few remarks advocating Delegate Bill Paty as our President.

"He is a kama'aina--up from the land we love. He excelled in athletics at Punahou School and at Cornell. He always demonstrated the capacity for hard work, self-sacrifice and teamwork--fundamental qualities of leadership.

"He carried these same qualities to Waialua Sugar plantation 32 years ago when he first worked as an assistant agriculturist--and today he is the manager, loved by all from all walks of life at Waialua.

"Bill served with distinction in World War II with the 101 Airborne Division and on D Day, June 6, 1944, he was one of the first to parachute into Normandy. Bill was subsequently injured and captured by the enemy and held in captivity, and the old Hawaiian courage motivated him to escape several times and he was again recaptured. He is not a quitter. Finally, Bill was honorably discharged from our United States Army because of injuries, with the rank of major. Our Bill Paty is one who can lead because he is not one to alibi or blame others in case the going gets rough. He can lead because when things go well Bill will be the last to say, 'I did it.' But he will be the first to say, 'We did it together.' This is the kind of quality we need in this Convention, dear fellow delegates. Bill believes in a phrase we originally heard at one of our last workshops--to be well governed is to be well informed. And truly Bill subscribes to that, and therefore I urge you all that Bill is our man. Mahalo."

Delegate Liu then addressed the Convention as follows:

"Mr. Chairman, I rise to speak in support of the nomination of Walter Cabral to permanently chair as President the 1978 Constitutional Convention for the entire State of Hawaii. There can be no question as to Delegate Cabral's qualifications to handle the tasks of President--he has been an effective organizer in his community, a commander of rank in our armed forces, and a capable administrator in business. But today we must look beyond the resume qualities of leadership. We must look beyond the ability to prepare this hall and distribute paychecks. We must assess what has transpired these past 6 weeks and ask: Does good leadership allow an issue like postponement of an election to divide this important body?

"Would a fair and open-minded leader have allowed himself to speak in terms of 'my group' when he is in fact supposed to lead the whole group?

"Would it not have been more statesmanlike to have influenced the outcome of our rules by addressing the rules committee as a whole rather than meeting with just a few members?

"And finally, would we not have had any images of stringman dispelled if the selection of committee leaders had been done either in a room closed to all or else closed to none?

"We must ask these hard questions today, for if we do not, how will we be able to honestly deal with the much harder questions that face us tomorrow, and the next day, and every day after that? The time has come to reject leadership based on so-called human nature that cuts the world into friend and foe, supporter and opponent, victors and vanquished. This style of leadership may be fine for a legislature, but I would hope that all of us realize by now that we are not a legislature. We must be free to treat each other as individuals and free to judge each other on merit. Simply, we must be free to think for ourselves.

"I feel no self-righteousness in what I have said to you--I take no great pleasure in bringing clouds on an otherwise bright and

joyful occasion. But my heart and spirit desperately call for a fresh wind of leadership to take us into calmer and clearer waters. Walter Cabral is that evenhanded helmsman we need to steer us, from this day forth. Mr. Chairman, I nominate Walter Cabral."

Delegate Cabral made the following nomination acceptance speech:

"As we begin this Convention, we would do well to recall the motto of our Hawaii: Ua mau ke ea o ka aina i ka pono--the life of the land is perpetuated in righteousness.

"I now stand before this body and declare my acceptance of my nomination for the presidency of this historical and significant Convention with the pledge that, if I am elected, I will strive to the utmost to lead our most important undertaking in this Convention toward preserving the people's right to be judiciously represented--for they are the life of our land.

"In further acceptance of the nomination, I will not stand before you and tell you that I am beholden to no one, for I am beholden--I am beholden to my constituents and all of the people of the State of Hawaii, to represent their interests fairly and determinedly, just as all of you are likewise.

"Throughout my campaign I pledged a philosophy of working together with other delegates in a spirit of cooperation to ensure openness in this Convention, that we might more dutifully represent the interests of the people of Hawaii, as opposed to the favor of minority or singularly special interest groups. This, however, does not construe denial of organized special interest groups from presenting their concerns to this body in an overt fashion.

"If elected, I am committed to a Convention that advocates the highest standards of openness and fairness and to a Convention united in its task though not always in its opinions. Before this Convention was called to order this morning, it was marked by deep divisions among its membership. Continuing these divisions will not serve the people we represent. Almighty God has blessed none of us with all the knowledge needed to address the challenges of this Convention, and certainly no group of us can claim a monopoly on that knowledge. Our task demands the best from all of us.

"In this regard I have, upon searching my conscience deeply, felt an obligation that if I am elected to the presidency, I would need to seriously consider a more democratic process of assigning committee leaderships and the equitable balancing of the committees' members.

"I submit to you that while I am a neophyte in the political arena, I assure you I am not a stranger to leadership responsibilities. Thank you for your kind attention. Mahalo nui kakou, me ke aloha pumehana."

The Chairman then announced the appointment of Delegates Dyer, Lacy, Marumoto, Nozaki, Takahashi and Takitani as members of the Elections Committee.

At 11:20 a.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 11:25 a.m.

Delegate Dyer, Chairman of the Elections Committee, announced that 102 ballots had been cast and that 52 votes were necessary for election. She then announced that Delegate Paty received 69 votes and Delegate Cabral received 33 votes.

The Chairman thereupon appointed Delegates Barnard, Crozier, de Costa, Hoe, Liu and Yoshimura to escort Delegate Paty and Delegate Waihee to escort Mrs. Paty to the rostrum.

The Chairman then received the committee with Delegate Paty in attendance, discharged the committee with thanks and handed the gavel over to Delegate Paty.

The President then assumed the Chair and the temporary Chairman took his seat on the floor of the Convention.

President Paty then made the following acceptance speech:

"Governor Ariyoshi, Lieutenant Governor Doi, Chief Justice Richardson, distinguished guests, fellow delegates, ladies and gentlemen:

"First, let me thank Delegate Floyd Pulham for doing an excellent job in convening this Convention, conducting this election and getting us started on the Constitution trail. I want, too, to thank those who were so complimentary in my nomination and all those who supported my candidacy. I feel it an honor and a rare privilege to serve as President of this 1978 Constitutional Convention of the State of Hawaii. I am well aware that my election was anything but unanimous, although at no time did I ever expect that it would be. I am also aware of the basic concerns that triggered this contest and I fully intend to work hard to try to allay those concerns as we proceed into the business of this Convention. I hope those who have these concerns will afford me this opportunity.

"Now what lies ahead? As I sat listening to the opening ceremony--the oli to Pele and Liliuokalani, and to the chant by Auntie Edith Kanakaole--it seemed to me that perhaps never before in our island history are we as an island people reseeking so strongly our Hawaiian heritage on the one hand, while on the other we try to cope with the multi-faceted problems of an electronic age and with it the dynamic changes in knowledge, values and lifestyles. Drawing in, if you will, our 'aina, those things that have served us so well for so long as we try to chart ahead a course that will afford the best in safeguards, and the best in opportunity for the people of Hawaii. Comparably, we as delegates will be looking at what is and has been a sound document--our State Constitution. As Thomas Jefferson noted, in reflecting on the Constitution, that he was not as he put it 'an advocate of frequent and constant changes in laws and constitutions.' He said that moderate imperfections had better be borne with, but he also noted that our fundamental values change with the acquisition of new knowledge and our task is to identify those fundamental changes in attitudes and values in our society and translate those changes into amendments to our Constitution. This is no small task. I know that all of us here are only too aware that what we do in this Convention will determine the social, political and economic environment that we and a succeeding generation will live in. As a matter of fact, as I have come to know my fellow delegates, I must concede that I am a trifle older than most (like maybe a quarter of a century) and I suspect they will have to live with the efforts of this Convention far longer than I.

"I believe it critical to the success of this Convention that every delegate have the opportunity to expound fully his/her ideas, vigorously advocate desired amendments and that in this process and during this time the public will have full opportunity to make known its views to the delegates and to the respective committees.

"This will come about as each standing committee makes its report to the Committee of the Whole which comprises all the delegates. At this time, each delegate, whether he served on that committee or not, would have the opportunity to propose changes and to engage in debate. After the Committee of the Whole has reported its recommendations to the Con-

vention in regular session, the final vote on each proposal would be taken and again each delegate would have the same opportunity to make known his/her views.

"It is my express intention as your presiding officer to see that this does indeed happen. It is my hope that, as we move on to the task ahead, we can put aside our organizational differences and work effectively, efficiently and, with your support, harmoniously.

"In the spirit of the ho'okupu, I pledge to you my best effort and look forward to working with you, for you and for all the people of the State of Hawaii."

ELECTION OF VICE-PRESIDENTS

The President then stated that each senatorial district had elected its respective vice-president and called upon each district caucus chairman to report on the election.

Delegate Fushikoshi announced that Delegate McCall was elected Vice-President from the First District.

Delegate Andrews announced that Delegate Barr was elected Vice-President from the Second District.

Delegate Anae announced that Delegate DiBianco was elected Vice-President from the Third District.

Delegate Crozier announced that Delegate Donald Ching was elected Vice-President from the Fourth District.

Delegate Campbell announced that Delegate Uyehara was elected Vice-President from the Fifth District.

Delegate Barnard announced that Delegate Goodenow was elected Vice-President from the Sixth District.

Delegate Haunani Ching announced that Delegate Les Ihara was elected Vice-President from the Seventh District.

Delegate Blake announced that Delegate Shinno was elected Vice-President from the Eighth District.

ELECTION OF SECRETARY

The President called for nominations for the office of Secretary of the Convention.

Delegate Hokama put in nomination the name of Delegate Haunani Ching as Secretary of the Convention, seconded by Delegate Chong.

On motion by Delegate Waihee, seconded by Delegate Laura Ching and carried, nominations for the office of Secretary of the Convention were closed. The President thereupon declared Delegate Haunani Ching unanimously elected as Secretary of the Convention.

ELECTION OF ASSISTANT SECRETARY

The President then called for nominations for the office of Assistant Secretary of the Convention.

Delegate Lewis then placed in nomination the name of Delegate Nakamura as Assistant Secretary of the Convention, seconded by Delegate Tamayori.

On motion by Delegate Waihee, seconded by Delegate Laura Ching and carried, nominations for the office of Assistant Secretary of the Convention were closed. The President thereupon declared Delegate Nakamura unanimously elected as Assistant Secretary of the Convention.

The next order of business being the nomination and election of the Chief Clerk, Delegate Waihee placed in nomination the names of George Amimoto as Chief Clerk of the Convention and Colin Miyabara as Assistant Clerk of the Convention.

On motion by Delegate Waihee, seconded by Delegate Taira and carried unanimously, the President announced the elections of George Amimoto and Colin Miyabara as Chief Clerk and Assistant Clerk of the Convention.

At this time, the President announced the names of the chairmen, vice-chairmen and members of the standing committees, as follows:

BILL OF RIGHTS, SUFFRAGE AND ELECTIONS

Wallace W. Weatherwax, Chairperson
Akira Hino, Vice-Chairperson
David D. Stegmaier, Vice-Chairperson

Barnard, Mary Ann
Barnes, Bruce E.
Campbell, Naomi S.
Ching, M. Haunani
Chong, Jacqueline T.
de Costa, Frank
Dyer, Masu K.
Eastvold, Donald W., Jr.
Funakoshi, Elayne M.
Goodenow, H. Jean
Hale, Helene H.
Hanaike, Dona L.
Hayashida, Franklin I.
Hironaka, Masami

Ihara, Les S., Jr.
Ikeda, Walter H.
Kojima, Yoshio
Kono, Lawrence H.
Liu, Michael M. F.
Odanaka, Donna
Penebacker, John R.
Peterson, C. Randall
Taira, Robert S.
Takehara, Alice T.
Takemoto, Anne H.
Villaverde, Marcelliano K.
Waihee, John D. III

LEGISLATURE

Melvin Y. Nishimoto, Chairperson
Jacqueline T. Chong, Vice-Chairperson
Riki Hokama, Vice-Chairperson

Andrews, Mark J.
Barr, Allen W.
Blean, David W.
Cabral, Walter K.
Ching, Donald D. H.
Ching, Laura M.
de Costa, Frank
Goodenow, H. Jean
Hanaike, Dona L.
Hirata, Milton Y.
Kaapu, Kekoa D.
Kaito, Kay K.
Kimball, Alan W.
Kojima, Yoshio

Lee, Rachel K.
Liu, Michael M. F.
Miller, Georgia E.
Okamura, Tom
O'Toole, Steve
Pulham, Floyd W.
Shon, James T.
Stegmaier, David D.
Stone, John J.
Takemoto, Anne H.
Takitani, Anthony P.
Villaverde, Marcelliano K.
Yamashita, Bruce I.

EXECUTIVE

Carol A. Fukunaga, Chairperson
Joseph M. Souki, Vice-Chairperson
Dean T. Tamayori, Vice-Chairperson

Andrews, Mark J.	Ihara, Les S., Jr.
Barnes, Bruce E.	Ishikawa, John M.
Ching, Donald D. H.	Izu, Yvonne Y.
Chu, Rai Saint	Ledward, Masako H.
Chun, Dennis K. S.	Marumoto, Barbara
Crozier, Michael L.	Nakamura, Craig G.
DiBianco, Paul E.	O'Toole, Steve
Eastvold, Donald W., Jr.	Sakima, Akira
Funakoshi, Elayne M.	Takitani, Anthony P.
Fushikoshi, Lester T.	Waihee, John D. III
Hagino, Gerald T.	Weatherwax, Wallace W.
Hamilton, Thomas H.	Wurdeman, Ginger K.
Hino, Akira	Yoshimura, Philip I.
Ihara, Dennis	

JUDICIARY

Walter H. Ikeda, Chairperson
Calvin C. Ching, Vice-Chairperson
Anthony P. Takitani, Vice-Chairperson

Burgess, H. William	Lewis, Peter C.
Campbell, Naomi S.	Liu, Michael M. F.
Chang, Anthony K.	McCall, Bruce C.
Ching, Donald D. H.	Nakamura, Craig G.
Ching, Laura M.	Nishimoto, Melvin Y.
Chu, Rai Saint	Ontai, Calvin W.
DiBianco, Paul E.	Sakima, Akira
Dyer, Masu K.	Stegmaier, David D.
Fernandes Salling, Lehua	Stone, John J.
Fujimoto, Richard I.	Sutton, Warner
Ihara, Dennis	Tam, John E.
Ihara, Teruo	Tamayori, Dean T.
Iwamoto, Karen H.	Weatherwax, Wallace W.
Lee, Marion	Yamashita, Bruce I.

TAXATION AND FINANCE

Peter C. Lewis, Chairperson
Marion Lee, Vice-Chairperson
Wayne T. Takahashi, Vice-Chairperson

Andrews, Mark J.	Kaapu, Kekoa D.
Barr, Allen W.	Kono, Lawrence H.
Blake, Hartwell K.	Lacy, Paul L.
Burgess, H. William	Marumoto, Barbara
DiBianco, Paul E.	McCall, Bruce C.
Ellis, Robert F.	Nozaki, Patricia P.
Fernandes Salling, Lehua	Peterson, C. Randall
Hayashida, Franklin I.	Sakima, Akira
Hirata, Milton Y.	Shinno, James M.
Ikeda, Walter H.	Taira, Robert S.
Ishikawa, John M.	Tam, John E.
Iwamoto, Karen H.	Waihee, John D. III
Izu, Yvonne Y.	Yoshimura, Philip I.

LOCAL GOVERNMENT

Akira Sakima, Chairperson
 Emilio S. Alcon, Vice-Chairperson
 Hartwell K. Blake, Vice-Chairperson

Barnard, Mary Ann	Lee, Marion
Cabral, Walter K.	Lewis, Peter C.
Ching, Donald D. H.	Marumoto, Barbara
Ching, M. Haunani	McCall, Bruce C.
Ellis, Robert F.	Miller, Georgia E.
Hagino, Gerald T.	Shon, James T.
Hale, Helene H.	Souki, Joseph M.
Hino, Akira	Stone, John J.
Hokama, Riki	Takitani, Anthony P.
Hornick, Leslee G.	Tam, John E.
Iwamoto, Karen H.	Tamayori, Dean T.
Izu, Yvonne Y.	Villaverde, Marcelliano K.
Kimball, Alan W.	Wurdeman, Ginger K.
Kojima, Yoshio	Yamashita, Bruce I.

PUBLIC HEALTH AND WELFARE; LABOR AND INDUSTRY

Lester T. Fushikoshi, Chairperson
 Richard I. Fujimoto, Vice-Chairperson
 Gil Silva, Vice-Chairperson

Alcon, Emilio S.	Ishikawa, John M.
Barnard, Mary Ann	Kono, Lawrence H.
Cabral, Walter K.	Lee, Marion
Ching, Calvin C.	Penebacker, John R.
Chung, Kayo R.	Peterson, C. Randall
de Costa, Frank	Sasaki, Richard Y.
Ellis, Robert F.	Souki, Joseph M.
Fukunaga, Carol A.	Stone, John J.
Hashimoto, Clarice Y.	Sutton, Warner
Hokama, Riki	Takahashi, Wayne T.
Ihara, Dennis	Takehara, Alice T.

EDUCATION

Teruo Ihara, Chairperson
 Yoshio Kojima, Vice-Chairperson
 Alice T. Takehara, Vice-Chairperson

Alcon, Emilio S.	Hironaka, Masami
Anae, Famika	Kaito, Kay K.
Chong, Jacqueline T.	Lacy, Paul L.
Chung, Kayo R.	Ledward, Masako H.
Dyer, Masu K.	Lee, Rachel K.
Eastvold, Donald W., Jr.	Nozaki, Patricia P.
Fujimoto, Richard I.	Okamura, Tom
Fushikoshi, Lester T.	Ontai, Calvin W.
Goodenow, H. Jean	Pulham, Floyd W.
Hamilton, Thomas H.	Sasaki, Richard Y.
Hashimoto, Clarice Y.	Uyehara, Larry S.
Hirata, Milton Y.	Wurdeman, Ginger K.

ENVIRONMENT, AGRICULTURE, CONSERVATION AND LAND

Anthony K. Chang, Chairperson
 Gerald T. Hagino, Vice-Chairperson
 Clarice Y. Hashimoto, Vice-Chairperson

Barnes, Bruce E.
 Ching, Calvin C.
 Ching, Laura M.
 Chun, Dennis K. S.
 Crozier, Michael L.
 de Costa, Frank
 De Soto, Adelaide
 Fukunaga, Carol A.
 Funakoshi, Elayne M.
 Harris, Jeremy
 Hoe, Charlene R.
 Hornick, Leslee G.
 Ihara, Les S., Jr.

Lacy, Paul L.
 Lewis, Peter C.
 McCall, Bruce C.
 Nakamura, Craig G.
 Nozaki, Patricia P.
 O'Toole, Steve
 Sasaki, Richard Y.
 Shinno, James M.
 Shon, James T.
 Takahashi, Wayne T.
 Takitani, Anthony P.
 Waihee, John D. III
 Yoshimura, Philip I.

HAWAIIAN AFFAIRS

Adelaide De Soto, Chairperson
 John R. Penebacker, Vice-Chairperson
 Leon K. Sterling, Jr., Vice-Chairperson

Alcon, Emilio S.
 Barr, Allen W.
 Blake, Hartwell K.
 Blean, David W.
 Chang, Anthony K.
 Chong, Jacqueline T.
 Chung, Kayo R.
 Crozier, Michael L.
 Fernandes Salling, Lehua
 Hagino, Gerald T.
 Harris, Jeremy

Hayashida, Franklin I.
 Hoe, Charlene R.
 Hokama, Riki
 Hornick, Leslee G.
 Ihara, Dennis
 Ihara, Teruo
 Nozaki, Patricia P.
 Ontai, Calvin W.
 Shinno, James M.
 Silva, Gil
 Sutton, Warner

ETHICS

Tom Okamura, Chairperson
 Famika Anae, Vice-Chairperson
 Laura M. Ching, Vice-Chairperson

Blean, David W.
 Burgess, H. William
 Cabral, Walter K.
 Campbell, Naomi S.
 Chu, Rai Saint
 Chun, Dennis K. S.
 De Soto, Adelaide
 Fukunaga, Carol A.
 Harris, Jeremy
 Hashimoto, Clarice Y.
 Hirata, Milton Y.
 Hironaka, Masami
 Kaito, Kay K.

Kojima, Yoshio
 Lee, Rachel K.
 Miller, Georgia E.
 Nakamura, Craig G.
 Nishimoto, Melvin Y.
 Shon, James T.
 Silva, Gil
 Souki, Joseph M.
 Sterling, Leon K., Jr.
 Taira, Robert S.
 Uyehara, Larry S.
 Yoshimura, Philip I.

REVISION, AMENDMENT AND OTHER PROVISIONS

Yvonne Y. Izu, Chairperson
 Milton Y. Hirata, Vice-Chairperson
 Kay K. Kaito, Vice-Chairperson

Anae, Famika
 Andrews, Mark J.
 Barr, Allen W.
 Chung, Kayo R.
 De Soto, Adelaide
 Fernandes Salling, Lehua
 Fujimoto, Richard I.
 Fushikoshi, Lester T.
 Hamilton, Thomas H.
 Hanaike, Dona L.

Hayashida, Franklin I.
 Hornick, Leslee G.
 Ikeda, Walter H.
 Kaapu, Kekoa D.
 Kono, Lawrence H.
 Marumoto, Barbara
 Ontai, Calvin W.
 Uyehara, Larry S.
 Villaverde, Marcelliano K.

STYLE

Thomas H. Hamilton, Chairperson
 Donna Odanaka, Vice-Chairperson
 John J. Stone, Vice-Chairperson

Barnes, Bruce E.
 Burgess, H. William
 Ching, Calvin C.
 Ching, Laura M.
 Eastvold, Donald W., Jr.
 Ellis, Robert F.
 Hale, Helene H.
 Ihara, Teruo
 Kimball, Alan W.
 Ledward, Masako H.

Nozaki, Patricia P.
 Penebacker, John R.
 Pulham, Floyd W.
 Takahashi, Wayne T.
 Takehara, Alice T.
 Takemoto, Anne H.
 Tamayori, Dean T.
 Weatherwax, Wallace W.
 Yoshimura, Philip I.

SUBMISSION AND INFORMATION

Karen H. Iwamoto, Chairperson
 Mary Ann Barnard, Vice-Chairperson
 Kayo R. Chung, Vice-Chairperson

Blake, Hartwell K.
 Chu, Rai Saint
 Hagino, Gerald T.
 Harris, Jeremy
 Hino, Akira
 Hironaka, Masami
 Hoe, Charlene R.
 Ihara, Les S., Jr.
 Kaapu, Kekoa D.

Kimball, Alan W.
 Miller, Georgia E.
 Odanaka, Donna
 Peterson, C. Randall
 Silva, Gil
 Stegmaier, David D.
 Sterling, Leon K., Jr.
 Taira, Robert S.
 Waihee, John D. III

ADMINISTRATIVE STANDING COMMITTEES

BUDGET, ACCOUNTS AND PRINTING

Masako H. Ledward, Chairperson
 Michael L. Crozier, Vice-Chairperson
 Franklin I. Hayashida, Vice-Chairperson

Anae, Famika
 Blean, David W.
 Campbell, Naomi S.
 Dyer, Masu K.
 Hale, Helene H.
 Hanaike, Dona L.
 Ishikawa, John M.
 Lacy, Paul L.
 Lee, Rachel K.

Okamura, Tom
 O'Toole, Steve
 Sasaki, Richard Y.
 Sterling, Leon K., Jr.
 Sutton, Warner
 Tam, John E.
 Uyehara, Larry S.
 Yamashita, Bruce I.

RULES

Anne H. Takemoto, Chairperson
 Richard Y. Sasaki, Vice-Chairperson
 Marcelliano K. Villaverde, Vice-Chairperson

Campbell, Naomi S.
 Chang, Anthony K.
 Ching, M. Haunani
 Chun, Dennis K. S.
 DiBianco, Paul E.
 Funakoshi, Elayne M.
 Goodenow, H. Jean
 Hironaka, Masami
 Hoe, Charlene R.
 Hokama, Riki

Lee, Rachel K.
 Liu, Michael M. F.
 Nishimoto, Melvin Y.
 Odanaka, Donna
 Penebacker, John R.
 Pulham, Floyd W.
 Shinno, James M.
 Taira, Robert S.
 Wurdeman, Ginger K.
 Yamashita, Bruce I.

MISCELLANEOUS COMMUNICATION

The following communication was read by the Clerk and disposed of as follows:

A communication from U.S. Senator Spark Matsunaga (Misc. Com. No. 1) expressing best wishes to the delegates was placed on file.

The President directed the Clerk to acknowledge receipt of the communication.

ADJOURNMENT

At 11:53 a.m., on motion by Delegate Taira, seconded by Delegate Waihee and carried, the Convention adjourned until 9:00 a.m. Thursday, July 6, 1978.

SECOND DAY

Thursday, July 6, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 9:00 a.m.

The President presided.

The Divine Blessing was invoked by the Reverend James Marocco of the First Assembly of God.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Burgess, Chun, de Costa, DiBianco and Taira who were excused.

There being no objection, the President ordered that the reading of the Journal of the First Day be dispensed with.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 1) informing the Convention that Res. No. 1, Spec. Com. Rep. No. 1 and the list of standing committee appointments had been printed and distributed.

On motion by Delegate Ledward, seconded by Delegate Hayashida and carried, Stand. Com. Rep. No. 1 was adopted.

INTRODUCTION OF PROPOSALS

On motion by Delegate Waihee, seconded by Delegate Cabral and carried, the following proposals (P. Nos. 1 through 7) passed First Reading by title, were referred to the Committee on Budget, Accounts and Printing and were placed on the calendar for further consideration on Friday, July 7, 1978.

At this time, on a point of personal privilege, Delegate Alcon stated that proposals were not normally read by title when they were introduced in the order of the day for approval, printing and distribution.

The President acknowledged the point and stated that, because it was the first day, an exception would be made although normally this would not be the procedure.

The following proposals (P. Nos. 1 through 7) were then read by title by the Clerk:

A proposal (P. No. 1) entitled: "Relating to Neighborhood Boards," was introduced by Delegate Shon.

A proposal (P. No. 2) entitled: "Relating to Neighborhood Boards," was introduced by Delegate Shon.

A proposal (P. No. 3) entitled: "Amending the Powers of the Board of Education and the Board of Regents of the University of Hawaii," was introduced by Delegate Alcon.

A proposal (P. No. 4) entitled: "Relating to an Open Primary Election," was introduced by Delegate Alcon.

A proposal (P. No. 5) entitled: "Relating to the Board of Regents," was introduced by Delegate Alcon.

A proposal (P. No. 6) entitled: "Relating to Constitutional Conventions," was introduced by Delegate Alcon.

A proposal (P. No. 7) entitled: "Relating to Public Sightliness and Good Order," was introduced by Delegate Hagino.

ADJOURNMENT

At 9:25 a.m., on motion by Delegate Waihee, seconded by Delegate Sutton and carried, the Convention adjourned until 9:00 a.m. Friday, July 7, 1978.

THIRD DAY

Friday, July 7, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 9:00 a.m.

The President presided.

The Divine Blessing was invoked by the Reverend Peter Anderson of Trinity Presbyterian Church.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegate Taira who was excused and Delegates Chun, Hirata and Peterson who were absent.

READING OF THE JOURNAL

Delegate Waihee moved that the Journal of the 1978 Constitutional Convention be approved upon signature of the Secretary and approval by the President. The motion was seconded by Delegate Fukunaga and carried.

The President then announced that the Journals of the First and Second Days had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 2) informing the Convention that Proposal Nos. 1 through 7 and Res. No. 2 had been printed and distributed.

On motion by Delegate Ledward, seconded by Delegate Hayashida and carried, Stand. Com. Rep. No. 2 was adopted.

INTRODUCTION OF PROPOSALS

On motion by Delegate Burgess, seconded by Delegate Silva and carried, the following proposals (P. Nos. 8 through 44) passed First Reading by title, were referred to the Committee on Budget, Accounts and Printing and were placed on the calendar for further consideration on Monday, July 10, 1978:

A proposal (P. No. 8) entitled: "Relating to Boundaries," was introduced by Delegate Sterling.

A proposal (P. No. 9) entitled: "Relating to Real Property Title Claims," was introduced by Delegate Sterling.

A proposal (P. No. 10) entitled: "Relating to Land Title Expenses," was introduced by Delegate Sterling.

A proposal (P. No. 11) entitled: "Relating to Presidential Preference Primaries," was introduced by Delegate Nozaki.

A proposal (P. No. 12) entitled: "Relating to the Right of Economic Security," was introduced by Delegate Nozaki.

A proposal (P. No. 13) entitled: "Relating to Mandatory Retirement," was introduced by Delegate Nozaki.

A proposal (P. No. 14) entitled: "Relating to Agricultural Lands," was introduced by Delegate Nozaki.

A proposal (P. No. 15) entitled: "Relating to Adequate Medical Care," was introduced by Delegate Nozaki.

A proposal (P. No. 16) entitled: "Relating to Community Colleges," was introduced by Delegate Alcon.

A proposal (P. No. 17) entitled: "Relating to Local Government," was introduced by Delegate Alcon.

A proposal (P. No. 18) entitled: "Relating to Public Education Coordination," was introduced by Delegate Alcon.

A proposal (P. No. 19) entitled: "Relating to the People's Right to Know," was introduced by Delegate Chung.

A proposal (P. No. 20) entitled: "Relating to an Alternate State Debt Limit," was introduced by Delegate Marumoto.

A proposal (P. No. 21) entitled: "Relating to the Establishment of a General Fund Expenditure Ceiling," was introduced by Delegate Marumoto.

A proposal (P. No. 22) entitled: "Relating to the Passage of Bills," was introduced by Delegate Marumoto.

A proposal (P. No. 23) entitled: "Relating to the Power of Taxation and Conformity of the State Income Tax Law to the Federal Internal Revenue Code," was introduced by Delegate Marumoto.

A proposal (P. No. 24) entitled: "Relating to the Lapsing of Capital Improvement Projects," was introduced by Delegate Marumoto.

A proposal (P. No. 25) entitled: "Relating to Legislative Sessions," was introduced by Delegate Marumoto.

A proposal (P. No. 26) entitled: "Relating to an Elected Attorney General," was introduced by Delegate Marumoto.

A proposal (P. No. 27) entitled: "Relating to Staggered Terms for the Senate," was introduced by Delegate Marumoto.

A proposal (P. No. 28) entitled: "Relating to Reapportionment," was introduced by Delegate Marumoto.

A proposal (P. No. 29) entitled: "Relating to Constitutional Convention," was introduced by Delegate Marumoto.

A proposal (P. No. 30) entitled: "Relating to Environmental Rights," was introduced by Delegate Shon.

A proposal (P. No. 31) entitled: "Relating to Codes of Ethics," was introduced by Delegate Hashimoto.

A proposal (P. No. 32) entitled: "Relating to Apportioning the Board of Education," was introduced by Delegate Hashimoto.

A proposal (P. No. 33) entitled: "Relating to a Healthful Environment," was introduced by Delegate Hashimoto.

A proposal (P. No. 34) entitled: "Relating to Management of State Population Growth," was introduced by Delegate Hashimoto.

A proposal (P. No. 35) entitled: "Relating to Selective Growth Management," was introduced by Delegate Hashimoto.

A proposal (P. No. 36) entitled: "Relating to the Availability of Groundwater for Public Use," was introduced by Delegate Hashimoto.

A proposal (P. No. 37) entitled: "Relating to Utilization of State Resources," was introduced by Delegate Hashimoto.

A proposal (P. No. 38) entitled: "Relating to Public Assistance," was introduced by Delegate Hashimoto.

A proposal (P. No. 39) entitled: "Relating to Primary Elections," was introduced by Delegate Hagino.

A proposal (P. No. 40) entitled: "Relating to Disqualification from Office," was introduced by Delegate Hagino.

A proposal (P. No. 41) entitled: "Relating to the Terms of the Office of the Governor," was introduced by Delegate Hagino.

A proposal (P. No. 42) entitled: "Relating to the Terms of Office of Elected Officials," was introduced by Delegate Marumoto.

A proposal (P. No. 43) entitled: "Relating to Exemptions from the Debt Limit," was introduced by Delegate Sterling.

A proposal (P. No. 44) entitled: "Relating to Freedom of the Press," was introduced by Delegate Kaapu.

At 9:11 a.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 9:15 a.m.

ORDER OF THE DAY REFERRAL OF PROPOSALS

The President made the following committee assignments of proposals that were introduced on Thursday, July 6, 1978:

P. No. 1 was referred to the Committee on Local Government.

P. No. 2 was jointly referred to the Committee on Local Government and the Committee on Taxation and Finance.

P. No. 3 was referred to the Committee on Education.

P. No. 4 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 5 was referred to the Committee on Education.

P. No. 6 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 7 was referred to the Committee on Environment, Agriculture, Conservation and Land.

ADJOURNMENT

At 9:23 a.m., on motion by Delegate Sutton, seconded by Delegate Waihee and carried, the Convention adjourned until 9:00 a.m. Monday, July 10, 1978.

FOURTH DAY

Monday, July 10, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 9:00 a.m.

The President presided.

The Divine Blessing was invoked by the Reverend Raymond Stumpf of Kapahulu Bible Church.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Blean and Laura Ching who were excused.

The President announced that the Journal of the Third Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 3) informing the Convention that Proposal Nos. 8 through 44 had been printed and distributed.

On motion by Delegate Ledward, seconded by Delegate Crozier and carried, Stand. Com. Rep. No. 3 was adopted.

INTRODUCTION OF PROPOSALS

On motion by Delegate Barr, seconded by Delegate Kaito and carried, the following proposals (P. Nos. 45 through 97) passed First Reading by title, were referred to the Committee on Budget, Accounts and Printing and were placed on the calendar for further consideration on Tuesday, July 11, 1978:

A proposal (P. No. 45) entitled: "Relating to a Healthful Environment," was introduced jointly by Delegates Nakamura and Hagino.

A proposal (P. No. 46) entitled: "Relating to Primary Elections," was introduced by Delegate Goodenow.

A proposal (P. No. 47) entitled: "Relating to Solar Access," was introduced by Delegate Shon.

A proposal (P. No. 48) entitled: "Relating to Ocean and Marine Resources," was introduced by Delegate Shon.

A proposal (P. No. 49) entitled: "Relating to Public Lands," was introduced by Delegate Shon.

A proposal (P. No. 50) entitled: "Relating to Water Resources," was introduced by Delegate Shon.

A proposal (P. No. 51) entitled: "Relating to Energy," was introduced by Delegate Shon.

A proposal (P. No. 52) entitled: "Relating to Agriculture," was introduced by Delegate Shon.

A proposal (P. No. 53) entitled: "Relating to Environmental Protection," was introduced by Delegate Shon.

A proposal (P. No. 54) entitled: "Amending Method of Electing the Lieutenant Governor," was introduced by Delegate O'Toole.

A proposal (P. No. 55) entitled: "Amending the Membership of the Board of Education," was introduced by Delegate Okamura.

A proposal (P. No. 56) entitled: "Relating to the Executive," was introduced by Delegate Hamilton.

A proposal (P. No. 57) entitled: "Relating to Judiciary," was introduced by Delegate Hamilton.

A proposal (P. No. 58) entitled: "Relating to the Board of Regents," was introduced by Delegate Takemoto.

A proposal (P. No. 59) entitled: "Relating to Land Use Commission," was introduced by Delegate Takemoto.

A proposal (P. No. 60) entitled: "Relating to Terms of Legislators," was introduced by Delegate Takemoto.

A proposal (P. No. 61) entitled: "Relating to Public Libraries," was introduced by Delegate Takemoto.

A proposal (P. No. 62) entitled: "Relating to the Election of the Attorney General and County Prosecutors," was introduced by Delegate Takemoto.

A proposal (P. No. 63) entitled: "Relating to Terms of Legislators," was introduced by Delegate Takemoto.

A proposal (P. No. 64) entitled: "Relating to Full Employment," was introduced by Delegate Takemoto.

A proposal (P. No. 65) entitled: "Amending the Duties of the Lieutenant Governor," was introduced by Delegate Takemoto.

A proposal (P. No. 66) entitled: "Relating to the Nonpartisan Election of Judges," was introduced by Delegate Takemoto.

A proposal (P. No. 67) entitled: "Relating to Appropriated Funds by Governor," was introduced by Delegate Takemoto.

A proposal (P. No. 68) entitled: "Relating to a Full-Time Legislature," was introduced by Delegate Takemoto.

A proposal (P. No. 69) entitled: "Relating to Board of Education," was introduced by Delegate Takemoto, by request.

A proposal (P. No. 70) entitled: "Relating to Staggered Terms for the Senate," was introduced by Delegate Takemoto.

A proposal (P. No. 71) entitled: "Relating to Legislative Conference Committees," was introduced by Delegate Takemoto.

A proposal (P. No. 72) entitled: "Relating to Expenditure of Federal Funds," was introduced by Delegate Takemoto.

A proposal (P. No. 73) entitled: "Relating to Access to Information," was introduced by Delegate Barnard.

A proposal (P. No. 74) entitled: "Relating to Removal of District Court Judges," was introduced by Delegate Barnard.

A proposal (P. No. 75) entitled: "Relating to Sex Segregation in Public Educational Institutions," was introduced by Delegate Barnard.

A proposal (P. No. 76) entitled: "Relating to Economic Security," was introduced by Delegate Barnard.

A proposal (P. No. 77) entitled: "Relating to Freedom of Speech," was introduced by Delegate Barnard.

A proposal (P. No. 78) entitled: "Relating to the Right to Bear Arms," was introduced by Delegate Barnard.

A proposal (P. No. 79) entitled: "Relating to the Legislature," was introduced by Delegate Stone.

A proposal (P. No. 80) entitled: "Relating to Judiciary," was introduced by Delegate Stone.

A proposal (P. No. 81) entitled: "Relating to Quiet Title," was introduced by Delegate De Soto.

A proposal (P. No. 82) entitled: "Relating to Procurement of Native Hawaiian Artifacts," was introduced by Delegate Hagino.

A proposal (P. No. 83) entitled: "Relating to an Intermediate Appellate Court," was introduced by Delegate Hagino.

A proposal (P. No. 84) entitled: "Relating to a Council on Revenues and Expenditures," was introduced by Delegate Hagino.

A proposal (P. No. 85) entitled: "Relating to the Abolishment of the Grand Jury," was introduced by Delegate Hagino.

A proposal (P. No. 86) entitled: "Relating to Primary Elections," was introduced by Delegate O'Toole.

A proposal (P. No. 87) entitled: "Relating to Presidential Preference Primaries," was introduced by Delegate O'Toole.

A proposal (P. No. 88) entitled: "Relating to Agriculture," was introduced by Delegate Shon.

A proposal (P. No. 89) entitled: "Relating to Agriculture," was introduced by Delegate Shon.

A proposal (P. No. 90) entitled: "Relating to Agriculture," was introduced by Delegate Shon.

A proposal (P. No. 91) entitled: "Relating to Terms of Legislators," was introduced by Delegate Takemoto.

A proposal (P. No. 92) entitled: "Relating to an Open Primary Election," was introduced by Delegate Stone.

A proposal (P. No. 93) entitled: "Relating to Unemployment," was introduced by Delegate Sakima.

A proposal (P. No. 94) entitled: "Relating to Constitutional Convention Delegates," was introduced by Delegate Okamura.

A proposal (P. No. 95) entitled: "Relating to the Direct Initiative," was introduced by Delegate Liu.

A proposal (P. No. 96) entitled: "Relating to the Power of the People to Amend and Revise the Constitution, to Enact Laws by Initiative, Approve and Reject Acts of the Legislature Through Referendum," was introduced by Delegate Liu.

A proposal (P. No. 97) entitled: "Relating to an Open Primary Election," was introduced by Delegate Cabral.

ORDER OF THE DAY
REFERRAL OF PROPOSALS

The President made the following committee assignments of proposals that were introduced on Friday, July 7, 1978:

- P. No. 8 was referred to the Committee on Revision, Amendment and Other Provisions.
- P. No. 9 was referred to the Committee on Revision, Amendment and Other Provisions.
- P. No. 10 was referred to the Committee on Revision, Amendment and Other Provisions.
- P. No. 11 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 12 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 13 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 14 was referred to the Committee on Environment, Agriculture, Conservation and Land.
- P. No. 15 was referred to the Committee on Public Health and Welfare; Labor and Industry.
- P. No. 16 was referred to the Committee on Education.
- P. No. 17 was referred to the Committee on Local Government.
- P. No. 18 was referred to the Committee on Education.
- P. No. 19 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 20 was referred to the Committee on Taxation and Finance.
- P. No. 21 was referred to the Committee on Taxation and Finance.
- P. No. 22 was referred to the Committee on Legislature.
- P. No. 23 was referred to the Committee on Taxation and Finance.
- P. No. 24 was referred to the Committee on Taxation and Finance.
- P. No. 25 was referred to the Committee on Legislature.
- P. No. 26 was referred to the Committee on Executive.
- P. No. 27 was referred to the Committee on Legislature.
- P. No. 28 was referred to the Committee on Legislature.
- P. No. 29 was referred to the Committee on Revision, Amendment and Other Provisions.
- P. No. 30 was referred to the Committee on Environment, Agriculture, Conservation and Land.
- P. No. 31 was referred to the Committee on Revision, Amendment and Other Provisions.
- P. No. 32 was referred to the Committee on Education.
- P. No. 33 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 34 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 35 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 36 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 37 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 38 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 39 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 40 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 41 was referred to the Committee on Executive.

P. No. 42 was jointly referred to the Committee on Legislature, the Committee on Executive, and the Committee on Local Government.

P. No. 43 was referred to the Committee on Taxation and Finance.

P. No. 44 was referred to the Committee on Bill of Rights, Suffrage and Elections.

RE-REFERRAL OF PROPOSAL

The President re-referred P. No. 7 from the Committee on Environment, Agriculture, Conservation and Land to the Committee on Public Health and Welfare; Labor and Industry.

At this time, the Assistant Secretary announced that his office had prepared an interim schedule for committee meetings and that copies of the schedule would be distributed to each delegate's office. He stressed that the schedule was only temporary, subject to changes depending on the Convention's schedule.

At 9:11 a.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 9:15 a.m.

ADJOURNMENT

At 9:16 a.m., on motion by Delegate Barnes, seconded by Delegate Blake and carried, the Convention adjourned until 11:30 a.m. Tuesday, July 11, 1978.

FIFTH DAY

Tuesday, July 11, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11:30 a.m.

The President presided.

The Divine Blessing was invoked by the Reverend David Telfer of Aina Haina Church of God.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Ontai and Takitani who were excused and Delegate Barnes who was absent.

The President announced that the Journal of the Fourth Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 4) informing the Convention that Proposal Nos. 45 through 97 had been printed and distributed.

On motion by Delegate Ledward, seconded by Delegate Crozier and carried, Stand. Com. Rep. No. 4 was adopted.

INTRODUCTION OF PROPOSALS

On motion by Delegate Hagino, seconded by Delegate Funakoshi and carried, the following proposals (P. Nos. 98 through 115) passed First Reading by title, were referred to the Committee on Budget, Accounts and Printing and were placed on the calendar for further consideration on Wednesday, July 12, 1978:

A proposal (P. No. 98) entitled: "Relating to the Selection of Judges," was introduced by Delegate Liu.

A proposal (P. No. 99) entitled: "Relating to the Right to Privacy," was introduced by Delegate Hino.

A proposal (P. No. 100) entitled: "Relating to Traditional Hawaiian Rights of Access," was introduced by Delegate Wurdeman.

A proposal (P. No. 101) entitled: "Relating to Judicial Terms of Office," was introduced by Delegate Takemoto.

A proposal (P. No. 102) entitled: "Relating to Constitutional Conventions," was introduced by Delegate Izu.

A proposal (P. No. 103) entitled: "Relating to the Employees' Retirement System," was introduced by Delegate Wurdeman.

A proposal (P. No. 104) entitled: "Relating to the Executive," was introduced by Delegate Wurdeman.

A proposal (P. No. 105) entitled: "Relating to an Intermediate Court of Appeals," was introduced by Delegate Kaito.

A proposal (P. No. 106) entitled: "Relating to the Constitutional Convention," was introduced by Delegate Shon.

A proposal (P. No. 107) entitled: "Relating to Growth and Natural Resources," was introduced by Delegate Shon.

A proposal (P. No. 108) entitled: "Relating to Hawaiian Home Lands," was introduced by Delegate De Soto.

A proposal (P. No. 109) entitled: "Relating to Constitutional Convention Lobbyists," was introduced by Delegate Okamura.

A proposal (P. No. 110) entitled: "Relating to the Judiciary," was introduced by Delegate Ikeda.

A proposal (P. No. 111) entitled: "Relating to Grand Jury," was introduced by Delegate Ikeda.

A proposal (P. No. 112) entitled: "Relating to Federal Lands," was introduced by Delegate Sterling.

A proposal (P. No. 113) entitled: "Relating to Conservation and Development of Resources," was introduced by Delegate Crozier.

A proposal (P. No. 114) entitled: "Relating to an Elected Attorney General," was introduced by Delegate Goodenow.

A proposal (P. No. 115) entitled: "Relating to Terms of Office of Elected Officials," was introduced by Delegate Goodenow.

ORDER OF THE DAY REFERRAL OF PROPOSALS

The President made the following committee assignments of proposals that were introduced on Monday, July 10, 1978:

P. No. 45 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 46 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 47 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 48 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 49 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 50 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 51 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 52 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 53 was jointly referred to the Committee on Environment, Agriculture, Conservation and Land, and the Committee on Public Health and Welfare; Labor and Industry.

P. No. 54 was referred to the Committee on Executive.

P. No. 55 was referred to the Committee on Education.

P. No. 56 was referred to the Committee on Executive.

P. No. 57 was referred to the Committee on Judiciary.

P. No. 58 was referred to the Committee on Education.

P. No. 59 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 60 was referred to the Committee on Legislature.

P. No. 61 was referred to the Committee on Education.

P. No. 62 was jointly referred to the Committee on Executive and the Committee on Local Government.

P. No. 63 was jointly referred to the Committee on Legislature and the Committee on Bill of Rights, Suffrage and Elections.

P. No. 64 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 65 was referred to the Committee on Executive.

P. No. 66 was referred to the Committee on Judiciary.

P. No. 67 was jointly referred to the Committee on Legislature and the Committee on Taxation and Finance.

P. No. 68 was jointly referred to the Committee on Legislature; the Committee on Taxation and Finance; and the Committee on Revision, Amendment and Other Provisions.

P. No. 69 was jointly referred to the Committee on Education and the Committee on Legislature.

P. No. 70 was referred to the Committee on Legislature.

P. No. 71 was referred to the Committee on Legislature.

P. No. 72 was referred to the Committee on Taxation and Finance.

P. No. 73 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 74 was referred to the Committee on Judiciary.

P. No. 75 was referred to the Committee on Education.

P. No. 76 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 77 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 78 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 79 was referred to the Committee on Legislature.

P. No. 80 was referred to the Committee on Judiciary.

P. No. 81 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 82 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 83 was referred to the Committee on Judiciary.

P. No. 84 was referred to the Committee on Taxation and Finance.

P. No. 85 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 86 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 87 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 88 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 89 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 90 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 91 was referred to the Committee on Legislature.

P. No. 92 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 93 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 94 was jointly referred to the Committee on Ethics and the Committee on Revision, Amendment and Other Provisions.

P. No. 95 was jointly referred to the Committee on Bill of Rights, Suffrage and Elections; the Committee on Legislature; and the Committee on Revision, Amendment and Other Provisions.

P. No. 96 was jointly referred to the Committee on Bill of Rights, Suffrage and Elections; the Committee on Legislature; and the Committee on Revision, Amendment and Other Provisions.

P. No. 97 was referred to the Committee on Bill of Rights, Suffrage and Elections.

RE-REFERRAL OF PROPOSAL

The President re-referred P. No. 31 from the Committee on Revision, Amendment and Other Provisions to the Committee on Ethics.

ADJOURNMENT

At 11:40 a.m., on motion by Delegate Silva, seconded by Delegate Fushikoshi and carried, the Convention adjourned until 11:30 a.m. Wednesday, July 12, 1978.

SIXTH DAY

Wednesday, July 12, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11:30 a.m.

The President presided.

The Divine Blessing was invoked by the Honorable Leon K. Sterling, Jr., delegate from the Fourth District to the Constitutional Convention of Hawaii of 1978.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Miller and Takahashi who were excused and Delegates Hamilton and Ontai who were absent.

The President announced that the Journal of the Fifth Day had been signed by the Secretary and approved by the President.

GOVERNOR'S MESSAGE

A message from the Governor (Gov. Msg. No. 2) was read by the Clerk as follows:

Executive Chambers
Honolulu

July 7, 1978

The Honorable William W. Paty, Jr.
President
1978 Constitutional Convention of Hawaii

Dear President Paty:

This is to acknowledge your letter of July 6, 1978, in which you ask for approval to sign vouchers for the Constitutional Convention.

I am enclosing with this letter a copy of my memorandum to State Comptroller Hideo Murakami which advises him that I am delegating to you authority to expend funds appropriated by Section 7, Act 17, SSLH 1977, and so much thereof as may be necessary as authorized under Act 243, SLH 1978, to defray expenses of the Constitutional Convention. The memorandum authorizes the Comptroller to honor warrant vouchers signed by you.

With warm personal regards, I remain,

Yours very truly,

(s) George R. Ariyoshi

The President thereupon directed the Clerk to place Gov. Msg. No. 2 on file.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented

a report (Stand. Com. Rep. No. 5) informing the Convention that Proposal Nos. 98 through 115 had been printed and distributed.

On motion by Delegate Crozier, seconded by Delegate Funakoshi and carried, Stand. Com. Rep. No. 5 was adopted.

At this time, Delegate Lacy, on a point of personal privilege, stated:

"In this morning's paper there was an article concerning a meeting of the budget committee yesterday, in which it was indicated that I was the single dissenting voter. And I want it known that I did not vote against the President's authority in relation to the budget as it implied in that article.

"My negative vote was in full and honest support of the President against what I consider to be an irresponsible ratification of a budget that, in my opinion, may embarrass our President, with the desire that it go back to him for review before being presented to the Convention. If this is not done, I will then make my reasons known before the assembly."

INTRODUCTION OF PROPOSALS

On motion by Delegate Harris, seconded by Delegate Calvin Ching and carried, the following proposals (P. Nos. 116 through 144) passed First Reading by title, were referred to the Committee on Budget, Accounts and Printing and were placed on the calendar for further consideration on Thursday, July 13, 1978:

A proposal (P. No. 116) entitled: "Relating to the Codes of Ethics," was introduced by Delegate Shon.

A proposal (P. No. 117) entitled: "Relating to the Preservation of National Traditions," was introduced by Delegate Wurdeman.

A proposal (P. No. 118) entitled: "Relating to Number of Mayoral Terms," was introduced by Delegate Sakima.

A proposal (P. No. 119) entitled: "Relating to the Executive," was introduced by Delegate Sakima.

A proposal (P. No. 120) entitled: "Relating to Voters Rights," was introduced by Delegate Goodenow.

A proposal (P. No. 121) entitled: "Relating to School Personnel," was introduced by Delegate De Soto.

A proposal (P. No. 122) entitled: "Relating to Statutory Initiative," was introduced by Delegate DiBianco.

A proposal (P. No. 123) entitled: "Relating to Revision and Amendments of the Constitution," was introduced by Delegate DiBianco.

A proposal (P. No. 124) entitled: "Relating to the Election of County Prosecutors," was introduced by Delegate DiBianco.

A proposal (P. No. 125) entitled: "Relating to the Creation of Independent Counsel for Grand Juries," was introduced by Delegate DiBianco.

A proposal (P. No. 126) entitled: "Relating to the Establishment of an Intermediate Appellate Court (and Limitation Upon Right to Appeal to the Supreme Court)," was introduced by Delegate DiBianco.

A proposal (P. No. 127) entitled: "Relating to the Election of the Attorney General," was introduced by Delegate DiBianco.

A proposal (P. No. 128) entitled: "Relating to a Judicial Commission," was introduced by Delegate O'Toole.

A proposal (P. No. 129) entitled: "Relating to a Judicial Commission," was introduced by Delegate O'Toole.

A proposal (P. No. 130) entitled: "Relating to Conference Committees," was introduced by Delegate O'Toole.

A proposal (P. No. 131) entitled: "Relating to Collective Bargaining Negotiations," was introduced by Delegate Ellis.

A proposal (P. No. 132) entitled: "Relating to Apportioning the Board of Education," was introduced by Delegate Kojima.

A proposal (P. No. 133) entitled: "Amending the Power of the Board of Education," was introduced by Delegate Kojima.

A proposal (P. No. 134) entitled: "Relating to Public Education," was introduced by Delegate Sakima.

A proposal (P. No. 135) entitled: "Relating to Membership of the Board of Regents," was introduced by Delegate Goodenow.

A proposal (P. No. 136) entitled: "Relating to the Schedule," was introduced by Delegate Izu.

A proposal (P. No. 137) entitled: "Relating to Recall of Elected Public Officers," was introduced by Delegate Barnes.

A proposal (P. No. 138) entitled: "Relating to Referendum," was introduced by Delegate Barnes.

A proposal (P. No. 139) entitled: "Relating to a Judicial Commission," was introduced by Delegate Dennis Ihara.

A proposal (P. No. 140) entitled: "Relating to the Grand Jury," was introduced by Delegate Chu.

A proposal (P. No. 141) entitled: "Relating to the Recall of Justices and Judges," was introduced by Delegate Chu.

A proposal (P. No. 142) entitled: "Relating to Convening of the Grand Jury and Preliminary Hearings," was introduced by Delegate Chu.

A proposal (P. No. 143) entitled: "Relating to Neighborhood Mediation Boards and Adjudication Bodies," was introduced by Delegate Chu.

A proposal (P. No. 144) entitled: "Relating to the Elderly," was introduced by Delegate Rachel Lee.

ORDER OF THE DAY REFERRAL OF PROPOSALS

The President made the following committee assignments of proposals that were introduced on Tuesday, July 11, 1978:

P. No. 98 was referred to the Committee on Judiciary.

P. No. 99 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 100 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 101 was referred to the Committee on Judiciary.

P. No. 102 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 103 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 104 was referred to the Committee on Executive.

P. No. 105 was referred to the Committee on Judiciary.

P. No. 106 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 107 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 108 was referred to the Committee on Hawaiian Affairs.

P. No. 109 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 110 was referred to the Committee on Judiciary.

P. No. 111 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 112 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 113 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 114 was referred to the Committee on Executive.

P. No. 115 was jointly referred to the Committee on Executive, the Committee on Local Government, and the Committee on Legislature.

RE-REFERRAL OF PROPOSAL

The President re-referred P. No. 82 from the Committee on Public Health and Welfare; Labor and Industry to the Committee on Hawaiian Affairs.

At this time, Delegate Dyer introduced several young men from the Windward Chapter of the Order of the Demolay, who were recognized by the Convention.

Delegate Sterling then joined Delegate Dyer in calling the attention of the delegates to the boy scouts, girl scouts and camp fire girls serving as volunteer pages for the Convention.

ADJOURNMENT

At 11:45 a.m., on motion by Delegate Laura Ching, seconded by Delegate Sasaki and carried, the Convention adjourned until 11:30 a.m. Thursday, July 13, 1978.

SEVENTH DAY

Thursday, July 13, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11:30 a.m.

The President presided.

The Divine Blessing was invoked by Mr. Sam Sherrard, Executive Director of Hawaii Youth for Christ.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present.

The President announced that the Journal of the Sixth Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 6) informing the Convention that Spec. Com. Rep. No. 2, Proposal Nos. 116 through 144 and Res. No. 3 had been printed and distributed.

On motion by Delegate Crozier, seconded by Delegate Yamashita and carried, Stand. Com. Rep. No. 6 was adopted.

SPECIAL COMMITTEE REPORT

Delegate Okamura requested that action on Spec. Com. Rep. No. 2, relating to the Code of Ethics, be deferred until Friday, July 14, 1978, to allow the delegates more time to review the code. The President, noting that there was no objection, so ordered.

INTRODUCTION OF PROPOSALS

On motion by Delegate Calvin Ching, seconded by Delegate Iwamoto and carried, the following proposals (P. Nos. 145 through 183) passed First Reading by title, were referred to the Committee on Budget, Accounts and Printing and were placed on the calendar for further consideration on Friday, July 14, 1978:

A proposal (P. No. 145) entitled: "Relating to Hawaiian Home Lands," was introduced by Delegate De Soto.

A proposal (P. No. 146) entitled: "Relating to the Legislative Session," was introduced by Delegate Shon.

A proposal (P. No. 147) entitled: "Relating to the Commission on Legislative Salaries," was introduced by Delegate Lewis.

A proposal (P. No. 148) entitled: "Relating to Native Crops Research Center," was introduced by Delegate De Soto.

A proposal (P. No. 149) entitled: "Relating to the Initiative," was introduced by Delegate Barnes.

A proposal (P. No. 150) entitled: "Relating to the Care of the Total Person," was introduced by Delegate Chung.

A proposal (P. No. 151) entitled: "Relating to Public Safety," was introduced by Delegate Chung.

A proposal (P. No. 152) entitled: "Relating to the Secretary of the Board of Education," was introduced jointly by Delegates Takehara and Takahashi.

A proposal (P. No. 153) entitled: "Relating to School District Representation of Board of Education Membership," was introduced jointly by Delegates Takehara and Takahashi.

A proposal (P. No. 154) entitled: "Relating to the Election of the Attorney General," was introduced by Delegate Cabral.

A proposal (P. No. 155) entitled: "Relating to School Security," was introduced by Delegate Goodenow.

A proposal (P. No. 156) entitled: "Amending Board of Education Representation," was introduced by Delegate Alcon.

A proposal (P. No. 157) entitled: "Amending Method of Electing the Lieutenant Governor," was introduced by Delegate Pulham.

A proposal (P. No. 158) entitled: "Relating to a Unicameral Legislature," was introduced by Delegate Cabral.

A proposal (P. No. 159) entitled: "Relating to the Merit Selection of Justices and Judges," was introduced by Delegate DiBianco.

A proposal (P. No. 160) entitled: "Relating to Water Resources," was introduced by Delegate Nozaki.

A proposal (P. No. 161) entitled: "Relating to a Legislative Information Office," was introduced by Delegate Liu.

A proposal (P. No. 162) entitled: "Amending Board of Education Number and Apportionment," was introduced by Delegate Dyer.

A proposal (P. No. 163) entitled: "Relating to Primary Elections," was introduced by Delegate Dyer.

A proposal (P. No. 164) entitled: "Relating to Due Process and Equal Protection," was introduced by Delegate Barnard.

A proposal (P. No. 165) entitled: "Relating to Appointments, Representative of the Population, by Governor to Boards, Commissions, or Other Bodies," was introduced by Delegate Barnard.

A proposal (P. No. 166) entitled: "Relating to Bail," was introduced by Delegate Barnard.

A proposal (P. No. 167) entitled: "Relating to Economic Security," was introduced by Delegate Barnard.

A proposal (P. No. 168) entitled: "Relating to Self-Incrimination," was introduced by Delegate Barnard.

A proposal (P. No. 169) entitled: "Relating to Searches and Seizures," was introduced by Delegate Barnard.

A proposal (P. No. 170) entitled: "Relating to Bailable Offenses," was introduced by Delegate Barnard.

A proposal (P. No. 171) entitled: "Relating to Conservation and Development of Resources," was introduced by Delegate Hornick.

A proposal (P. No. 172) entitled: "Relating to the Board of Education Staff," was introduced by Delegate Goodenow.

A proposal (P. No. 173) entitled: "Relating to Disqualifications from Public Office or Employment," was introduced by Delegate Izu.

A proposal (P. No. 174) entitled: "Relating to Civil Service," was introduced by Delegate Izu.

A proposal (P. No. 175) entitled: "Relating to the Employees' Retirement System," was introduced by Delegate Izu.

A proposal (P. No. 176) entitled: "Relating to Limiting Terms of Public Office," was introduced by Delegate Pulham.

A proposal (P. No. 177) entitled: "Relating to a Unicameral Legislature," was introduced by Delegate Marumoto.

A proposal (P. No. 178) entitled: "Relating to Income Tax Refund," was introduced by Delegate Ikeda.

A proposal (P. No. 179) entitled: "Relating to the Board of Regents," was introduced by Delegate Ikeda.

A proposal (P. No. 180) entitled: "Relating to Judiciary," was introduced by Delegate Ikeda, by request.

A proposal (P. No. 181) entitled: "Relating to Unicameral Legislature," was introduced by Delegate Odanaka.

A proposal (P. No. 182) entitled: "Relating to Land Speculation," was introduced by Delegate Chun.

A proposal (P. No. 183) entitled: "Relating to Codes of Ethics," was introduced by Delegate Chun.

INTRODUCTION OF RESOLUTION

A resolution (Res. No. 3) relating to wording of the State Constitution was offered by Delegate Pulham.

The President thereupon referred Res. No. 3 to the Committee on Style.

ORDER OF THE DAY REFERRAL OF PROPOSALS

The President made the following committee assignments of proposals that were introduced on Wednesday, July 12, 1978:

P. No. 116 was referred to the Committee on Ethics.

P. No. 117 was jointly referred to the Committee on Bill of Rights, Suffrage and Elections and the Committee on Hawaiian Affairs.

P. No. 118 was referred to the Committee on Local Government.

P. No. 119 was referred to the Committee on Executive.

P. No. 120 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 121 was referred to the Committee on Education.

P. No. 122 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 123 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 124 was referred to the Committee on Local Government.

P. No. 125 was referred to the Committee on Judiciary.

P. No. 126 was referred to the Committee on Judiciary.

P. No. 127 was referred to the Committee on Executive.

P. No. 128 was referred to the Committee on Judiciary.

P. No. 129 was referred to the Committee on Judiciary.

P. No. 130 was referred to the Committee on Legislature.

P. No. 131 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 132 was referred to the Committee on Education.

P. No. 133 was referred to the Committee on Education.

P. No. 134 was referred to the Committee on Education.

P. No. 135 was referred to the Committee on Education.

P. No. 136 was referred to the Committee on Legislature.

P. No. 137 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 138 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 139 was referred to the Committee on Judiciary.

P. No. 140 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 141 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 142 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 143 was referred to the Committee on Judiciary.

P. No. 144 was referred to the Committee on Public Health and Welfare; Labor and Industry.

RE-REFERRAL OF PROPOSALS

The President re-referred the following proposals:

P. No. 53 was re-referred from the Committee on Environment, Agriculture, Conservation and Land and the Committee on Public Health and Welfare; Labor and Industry jointly to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 100 was re-referred from the Committee on Bill of Rights, Suffrage and Elections to the Committee on Hawaiian Affairs.

P. No. 106 was re-referred from the Committee on Revision, Amendment and Other Provisions to the Committee on Ethics.

P. No. 109 was re-referred from the Committee on Revision, Amendment and Other Provisions to the Committee on Ethics.

ADJOURNMENT

At 11:44 a. m. , on motion by Delegate Les Ihara, seconded by Delegate Lewis and carried, the Convention adjourned until 11:00 a.m. Friday, July 14, 1978.

EIGHTH DAY

Friday, July 14, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11:00 a.m.

The President presided.

The Divine Blessing was invoked by the Reverend Bill Tipton of First Baptist Church of Honolulu.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegate Chun who was absent.

The President announced that the Journal of the Seventh Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 7) informing the Convention that Proposal Nos. 145 through 183 and Res. Nos. 4 and 5 had been printed and distributed.

On motion by Delegate Crozier, seconded by Delegate Yamashita and carried, Stand. Com. Rep. No. 7 was adopted.

INTRODUCTION OF PROPOSALS

On motion by Delegate Blean, seconded by Delegate Fukunaga and carried, the following proposals (P. Nos. 184 through 222) passed First Reading by title, were referred to the Committee on Budget, Accounts and Printing and were placed on the calendar for further consideration on Monday, July 17, 1978:

A proposal (P. No. 184) entitled: "Relating to Sex Discrimination in Public Educational Institutions," was introduced by Delegate Kojima.

A proposal (P. No. 185) entitled: "Relating to Constitutional Conventions," was introduced by Delegate Pulham.

A proposal (P. No. 186) entitled: "Relating to Organization; Discipline; Rules; Procedure," was introduced by Delegate Campbell.

A proposal (P. No. 187) entitled: "Relating to State Language," was introduced by Delegate De Soto.

A proposal (P. No. 188) entitled: "Relating to Segregation in Public Schools," was introduced by Delegate Goodenow.

A proposal (P. No. 189) entitled: "Relating to Trusteeship of Freshwater," was introduced by Delegate Hoe.

A proposal (P. No. 190) entitled: "Relating to Reapportionment," was introduced by Delegate Takemoto.

A proposal (P. No. 191) entitled: "Relating to Collective Bargaining Rights," was introduced by Delegate Takemoto.

A proposal (P. No. 192) entitled: "Relating to Human Rights," was introduced by Delegate Takemoto.

A proposal (P. No. 193) entitled: "Relating to Legislative Acts," was introduced by Delegate Villaverde.

A proposal (P. No. 194) entitled: "Relating to the Designation of Counties," was introduced by Delegate Villaverde.

A proposal (P. No. 195) entitled: "Relating to Openness of Committee Meetings," was introduced by Delegate Villaverde.

A proposal (P. No. 196) entitled: "Relating to Interim Organization of Legislators Following Election," was introduced by Delegate Villaverde.

A proposal (P. No. 197) entitled: "Relating to Water Ownership," was introduced by Delegate Villaverde.

A proposal (P. No. 198) entitled: "Relating to Public Hearings on Land Use," was introduced by Delegate Villaverde.

A proposal (P. No. 199) entitled: "Relating to Public Access to Recreational Areas," was introduced by Delegate Villaverde.

A proposal (P. No. 200) entitled: "Relating to Free Choice of Public Schools," was introduced by Delegate Nozaki.

A proposal (P. No. 201) entitled: "Relating to Public Participation in the Public School System," was introduced by Delegate Nozaki.

A proposal (P. No. 202) entitled: "Relating to Alternative Education Programs," was introduced by Delegate Nozaki.

A proposal (P. No. 203) entitled: "Relating to Local Government," was introduced by Delegate Hale.

A proposal (P. No. 204) entitled: "Relating to Debt Limitations for Political Subdivisions," was introduced by Delegate Liu.

A proposal (P. No. 205) entitled: "Relating to Public Assistance," was introduced by Delegate de Costa.

A proposal (P. No. 206) entitled: "Relating to Budget and Finance," was introduced by Delegate Takemoto.

A proposal (P. No. 207) entitled: "Relating to Bill of Rights," was introduced by Delegate Hale.

A proposal (P. No. 208) entitled: "Relating to Public Education," was introduced by Delegate Hale.

A proposal (P. No. 209) entitled: "Relating to Hawaiian Home Lands," was introduced by Delegate Nozaki.

A proposal (P. No. 210) entitled: "Relating to Geographic Representation on the Board of Education," was introduced by Delegate Goodenow.

A proposal (P. No. 211) entitled: "Relating to State Boundaries," was introduced by Delegate Uyehara.

A proposal (P. No. 212) entitled: "Relating to Legislative Proceedings," was introduced by Delegate Shon.

A proposal (P. No. 213) entitled: "Relating to Low Income Housing," was introduced by Delegate Chung.

A proposal (P. No. 214) entitled: "Relating to Public Safety," was introduced by Delegate Chung.

A proposal (P. No. 215) entitled: "Relating to Local Government," was introduced by Delegate Sakima.

A proposal (P. No. 216) entitled: "Relating to Collective Bargaining Negotiators," was introduced by Delegate Ellis.

A proposal (P. No. 217) entitled: "Relating to Board of Education," was introduced by Delegate Donald Ching.

A proposal (P. No. 218) entitled: "Relating to Tax Credit for Voters," was introduced by Delegate Crozier.

A proposal (P. No. 219) entitled: "Relating to the Board of Education and the Board of Regents of the University of Hawaii," was introduced by Delegate Hamilton.

A proposal (P. No. 220) entitled: "Relating to Age Discrimination in Civil Rights," was introduced by Delegate Takehara.

A proposal (P. No. 221) entitled: "Prohibiting the Destruction of Conservation Lands and Historic Sites," was introduced by Delegate Nozaki.

A proposal (P. No. 222) entitled: "Relating to Water Ownership," was introduced by Delegate Nozaki.

INTRODUCTION OF RESOLUTIONS

The following resolutions were read by the Clerk and disposed of as follows:

A resolution (Res. No. 4) reaffirming support of the Equal Rights Amendment was offered jointly by Delegates Takemoto, Chong, Hagino, Weatherwax and Marion Lee.

The President thereupon referred Res. No. 4 to the Committee on Bill of Rights, Suffrage and Elections.

A resolution (Res. No. 5) relating to proposals was offered by Delegate Haunani Ching.

The President thereupon referred Res. No. 5 to the Committee on Rules.

ORDER OF THE DAY REFERRAL OF PROPOSALS

The President made the following committee assignments of proposals that were introduced on Thursday, July 13, 1978:

P. No. 145 was jointly referred to the Committee on Environment, Agriculture, Conservation and Land and the Committee on Hawaiian Affairs.

P. No. 146 was referred to the Committee on Legislature.

P. No. 147 was referred to the Committee on Legislature.

P. No. 148 was jointly referred to the Committee on Environment, Agriculture, Conservation and Land and the Committee on Hawaiian Affairs.

P. No. 149 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 150 was referred to the Committee on Public Health and Welfare; Labor and Industry.

- P. No. 151 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 152 was referred to the Committee on Education.
- P. No. 153 was referred to the Committee on Education.
- P. No. 154 was referred to the Committee on Executive.
- P. No. 155 was referred to the Committee on Education.
- P. No. 156 was referred to the Committee on Education.
- P. No. 157 was referred to the Committee on Executive.
- P. No. 158 was referred to the Committee on Legislature.
- P. No. 159 was referred to the Committee on Judiciary.
- P. No. 160 was referred to the Committee on Environment, Agriculture, Conservation and Land.
- P. No. 161 was referred to the Committee on Legislature.
- P. No. 162 was referred to the Committee on Education.
- P. No. 163 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 164 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 165 was referred to the Committee on Executive.
- P. No. 166 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 167 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 168 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 169 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 170 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 171 was referred to the Committee on Environment, Agriculture, Conservation and Land.
- P. No. 172 was referred to the Committee on Education.
- P. No. 173 was referred to the Committee on Revision, Amendment and Other Provisions.
- P. No. 174 was referred to the Committee on Revision, Amendment and Other Provisions.
- P. No. 175 was referred to the Committee on Revision, Amendment and Other Provisions.
- P. No. 176 was referred to the Committee on Local Government.
- P. No. 177 was referred to the Committee on Legislature.
- P. No. 178 was referred to the Committee on Taxation and Finance.
- P. No. 179 was referred to the Committee on Education.
- P. No. 180 was referred to the Committee on Judiciary.

P. No. 181 was referred to the Committee on Legislature.

P. No. 182 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 183 was referred to the Committee on Ethics.

RE-REFERRAL OF PROPOSALS

The President re-referred the following proposals:

P. No. 95 was re-referred from the Committee on Bill of Rights, Suffrage and Elections; the Committee on Legislature; and the Committee on Revision, Amendment and Other Provisions jointly to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 96 was re-referred from the Committee on Bill of Rights, Suffrage and Elections; the Committee on Legislature; and the Committee on Revision, Amendment and Other Provisions jointly to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 100 was re-referred from the Committee on Hawaiian Affairs to the Committee on Bill of Rights, Suffrage and Elections and the Committee on Hawaiian Affairs jointly.

DEFERRED MATTER

Spec. Com. Rep. No. 2 (Ad Hoc Committee on Ethics--Deferred from July 13, 1978):

Delegate Okamura, for the Ad Hoc Committee on Ethics, presented a report (Spec. Com. Rep. No. 2) recommending adoption of Spec. Com. Rep. No. 2 and approval of the Code of Ethics of the Constitutional Convention of Hawaii of 1978.

On being recognized by the President, Delegate Okamura spoke in favor of adopting Spec. Com. Rep. No. 2, as follows:

"Mr. President, in drafting this report, your ad hoc ethics committee has put together a strong ethics code for the delegates of this Convention--one that is as stringent as the code that applies to all other public officials in this State. This code was carefully developed after in-depth committee deliberations in which the many factors involved in the code were weighed very carefully.

"This Code of Ethics is, I believe, a reflection of the openness and sincerity that has and will continue to prevail over the proceedings of this Convention. Equally important, the adoption of this comprehensive code will insure the unquestionable integrity of the activities of this Convention, thus reassuring the public's confidence and trust.

"In enacting the first ethics code for a constitutional convention in the nation, we are voluntarily assuming the highest standards of conduct applied to any public official in this case. It is a noteworthy and positive way in which to begin this Convention.

"I therefore urge the adoption of the Code of Ethics now before us. Mahalo."

Amendments then being in order, a motion was made by Delegate DiBianco and seconded by Delegate Donald Ching to amend Section 5, subsection (1) of the Code of Ethics by inserting the words "or defeat" after the word "passage," to read as follows: "No delegate or employee shall assist any person or business or act in a representative capacity for a fee or other compensation or under a contingent compensation arrangement to secure

passage or defeat of a proposal, or other transaction in which he has participated or will participate as a delegate or employee."

There being no further discussion, the motion to amend Section 5, subsection (1), was put by the Chair and carried.

At this time, a motion was made by Delegate Pulham and seconded by Delegate Goodenow to amend Section 4 of the Code of Ethics by adding a fourth subsection, to read as follows: "(4) No delegate shall employ or cause to be employed by this Convention any person related by blood or through marriage in any position for which public funds are expended."

Speaking in favor of the amendment, Delegate Pulham said that public acceptance of the decisions of government in a democracy was based upon legitimacy and confidence and that nepotism undermined the basic fabric of public trust. He further stated that the Convention already suffered from a credibility problem that would only be worsened if it allowed nepotism to continue.

Delegate Campbell also rose to speak in favor of the amendment. She stated that the question was not whether nepotism was illegal, but whether the hiring of family members would affect the public's confidence in the deliberations of the Convention.

At 11: 37 a.m. , the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 11: 41 a.m.

Delegate Souki rose to oppose the amendment, stating that the hiring of blood relatives would not have any major impact on the drafting of the State Constitution and that it would not be detrimental to the public interest.

At this time, Delegate Chu moved that the proposed amendment be further amended. On request that Delegate Chu's amendment be put in writing, the Chair called for a recess.

At 11: 47 a.m. , the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 11: 58 a.m.

Delegate Pulham at this time informed the Chair that he wished to withdraw his motion. Delegate Goodenow then withdrew her second to the motion. There being no objection, Delegate Pulham's motion was withdrawn.

Delegate Chu then moved to resubmit her amendment, seconded by Delegate Kimball, to read as follows: "(4) Employing members of the delegate's immediate family in the Convention. Immediate family shall include parents, spouse, offspring and siblings."

Delegate Kaapu, speaking against the amendment, argued that barring relatives from the Convention would violate an individual's right to an equal chance for employment and that it might be in violation of the federal Constitution's prohibition on discrimination by ancestry.

Delegate Okamura also spoke against the amendment, stating that the committee, in its deliberations, had considered the issue of hiring family members and had concluded that such a practice was not in itself against the Convention's interest. He further stated that it was only when the employee was not qualified and took unwarranted advantage as a family member that hiring a relative became a problem.

At this time, Delegate O'Toole requested a roll-call vote. Delegate Donald Ching, on a point of inquiry, asked whether under Rule 32 of the convention rules there was enough support for a roll-call vote, the provisions requiring at least ten votes.

The Chair thereupon put Delegate O'Toole's request to the Convention. With only eight supporting votes, roll call was denied.

A vote on Delegate Chu's amendment then being in order, the question was put by the Chair and the motion failed to carry.

At this time, Delegate Hale moved, seconded by Delegate Ellis, to amend Section 1, subsection (6), by deleting the words "July 5, 1977 to July 5, 1978" and substituting in lieu thereof "July 5, 1978 to September 21, 1978."

Delegate Hale, speaking for the amendment, pointed out that it was not the prerogative of the Convention to require financial disclosure for the period July 5, 1977 to July 5, 1978 and that such information should not be required of the spouses and dependent children of delegates.

Delegate Burgess then informed the Convention that the delegates' financial disclosure requirement recommended by the committee was similar to that of the legislature. He further stated that to limit the disclosure period to the period of the Convention would make the financial disclosure meaningless.

Delegate Okamura also spoke against the amendment, pointing out that the committee had decided on a 1-year period beginning a full year prior to the convening date of the Convention. He said that between the date of the initial disclosure statement and October 31, 1978, all delegates would be required to file an updated statement if they incurred any major financial changes.

There being no further discussion, Delegate Hale's motion to amend Section 1, subsection (6), was put by the Chair and failed to carry.

At this time, Delegate Hale made a motion, seconded by Delegate Kimball, to amend subsection (1) of Section 7 by deleting the words "the delegate's spouse and dependent children."

At 12:40 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 12:46 p.m.

Delegate Hale's motion to amend subsection (1) of Section 7 was then put by the Chair and failed to carry.

Delegate Funakoshi then introduced a motion, seconded by Delegate Hale, to amend subsection (1) of Section 7 by adding the words "and any member living in the same household" after "dependent children."

Delegate Waihee, speaking against the amendment, expressed his concern about having to disclose the financial conditions of people merely living in one's household and stated that he felt this was going too far.

Delegate Funakoshi's motion was then put by the Chair and failed to carry.

At this time, a motion was made by Delegate Kimball and seconded by Delegate Dyer to amend Section 7, subsection (1), paragraph (A), by adding the following sentence: "In exercising his or her right to privacy, a delegate's spouse or dependent may decline to disclose his or her source and amount of income, provided said income is derived from a source separate and unrelated to the delegate's."

Speaking in favor of the amendment, Delegate Kimball noted that a spouse's as well as a child's right to privacy was guaranteed under the Constitution, and the disclosure requirement should not therefore mandatorily be applicable to them.

There being no further discussion, Delegate Kimball's motion was put by the Chair and, by a show of hands, failed to carry.

Delegate Pulham then moved, seconded by Delegate Hale, to amend Section 4 by adding a fourth subsection, to read as follows: "(4) All delegates employing or causing to be employed by this Convention any member of his or her immediate family, to include parents, spouse, offspring and siblings, will make immediate disclosure of said action by filing a letter with the Clerk of the Convention, listing his or her name, the name, relationship, position held and salary paid of the employee."

Discussion being in order, Delegate Burgess stated that, since all employees and

pay schedules were a matter of public record, he felt the amendment was not necessary.

Delegate Kaapu, speaking against the amendment, stated that to single out any group or treat any group differently was wrong. He pointed out that hiring an incompetent relative was bad but that there was nothing wrong in hiring a relative who was competent.

Delegate De Soto also expressed opposition to the amendment. She spoke for fair and equal treatment for all, not the polarization of people because of birth or blood.

Delegate DiBianco then spoke in favor of the amendment. He said that the foundation of any ethics code was full and complete disclosure by its members. He further stated that the public had the right to know and that the pending motion merely asked that the public be advised as to who these people were.

There being no further discussion, the motion to adopt the amendment was put by the Chair and failed to carry.

At this time, a motion was made by Delegate Campbell and seconded by Delegate Hale to amend Section 4, subsection (2), by deleting the words "except as provided by law" and substituting in lieu thereof "whether said compensation or other consideration is derived from government employment, private employment, unions or other groups."

In speaking for the amendment, Delegate Campbell stated that the purpose of the amendment was to prohibit delegates from receiving supplemental income from any source, whether government, private employer, union or other group. She said that no distinction should be made between income received from any of these sources. She then pointed out that it was improper to establish two sets of rules--one governing individuals who receive supplemental income from unions and another governing employees of private business. She stated that the basic rule of ethics was that no man should serve more than one master.

There being no further discussion, the motion to amend Section 4, subsection (2), was put by the Chair and failed to carry.

Delegate Harris then made a motion, seconded by Delegate Waihee, to amend Section 7, subsection (1), paragraph (H), by inserting the words "at least \$50,000 but less than \$75,000" after "less than \$50,000" in the seventh and eighth lines.

Delegate Harris explained that the proposed amendment was a technical one to correct a typographical error that unintentionally omitted these words.

The motion to amend Section 7, subsection (1), paragraph (H), was put by the Chair and carried.

Delegate Hale then moved to amend Section 8 by deleting the words "suspension or removal from office or employment," seconded by Delegate Ellis.

Speaking for the motion, Delegate Hale stated that there was no purpose in suspending or removing a delegate for failing to comply with the provisions of the code, as public reprimand would be punishment enough.

There being no further discussion, the motion to amend Section 8 was put by the Chair and failed to carry. Delegate Wurdeman then requested a division of the house. The Chair proceeded to retake the vote, this time by a rising vote, and again declared that the motion failed to carry.

Delegate Kaito at this time moved that subsection (2) of Section 7 be amended by inserting in the blanks in the second line the dates "July 14" and "July 28." The motion was seconded by Delegate Waihee.

Delegate Kojima then moved, seconded by Delegate Sutton, to amend Delegate Kaito's amendment by changing the latter date to read "July 31." He explained that neighbor island delegates would require more time to meet the disclosure requirements.

Delegate Kaito concurred with the amendment and changed her motion to the amended dates of "July 14" and "July 31," seconded by Delegate Waihee.

This motion was then put by the Chair and carried.

At this time, the President recognized Delegate Hale. Delegate Hale then stated:

"Mr. President, I would just like to say that I want to clear the air on any misapprehension or misinformation that might have come forth because of all my amendments.

"I'd like to compliment the Committee on Ethics for doing what I realize is a very difficult job and handling some very difficult questions. I certainly sympathize with them, because I know it must have been a very difficult job.

"However, I'm going to have to vote against this whole Code of Ethics, not because I do not believe that we should adopt a code of ethics. I am firmly of the opinion that this Convention should have a code of ethics, and I was so firmly of the opinion that on the very first day I was notified that I was elected, I sat down and wrote a letter to the Ethics Commission.

"Unfortunately, all of the material that I received from them in those pre-Convention days is back in Hilo, and I was not able, within 24 hours, to get my hands on it to properly make amendments that possibly could have been done a little better. I was very concerned from the very beginning that this Convention adopt a code of ethics, and I still feel that we should adopt a code of ethics.

"However, I think during this meeting--this is going to be very misleading to the public. If we are basing this on the precedents set by the legislature, we have to realize that the legislature has an Ethics Commission before which any complaints regarding a legislator or employee can be brought for a full disclosure and public hearing, and that the Ethics Commission will then decide whether anybody has violated the code of ethics of the State.

"There is no provision in this Code of Ethics for us to go to a commission or to any other body set up by this Convention to find out whether or not we violated this Code of Ethics. I think this is a basic defect in the proposal, because I can't see how the Convention is going to carry out this last Section 8 without setting up a committee or allowing us to go before the State Ethics Commission.

"Therefore, I'm going to have to vote against the whole proposal. I feel the wording in the disclosure [section] is very confusing, and I don't understand it. I am not able to give a lot of the information asked for, as I pointed out before, and therefore I just cannot vote for it.

"But I want it clearly understood: I am for a code of ethics. I am for the highest standards of conduct for each individual delegate. I certainly believe in all the ideas that are proposed here, and I would not want anybody to think that because I vote no that I am voting against this Convention having a code of ethics."

There being no further discussion, Delegate Okamura moved, seconded by Delegate Uyehara, that Spec. Com. Rep. No. 2 be received and placed on file and the Code of Ethics, as amended in RD. 1, be approved. The question was then put by the Chair and the motion carried.

The President then made the following announcement:

"The Chair has an announcement, if I may. I have a memo and a letter [Dept. Com. No. 1] from the lieutenant governor's office, which I think is of concern to all of us. We don't have time to review it at this

point. Very briefly, we are informed by the lieutenant governor's office that if we are to get the results of our deliberations--amendments--on the ballot for the November general election, he is asking that it be in his hands by the 20th of September.

"Obviously, this is going to put a real strain on all of us, and in my memo I tried to outline the Chair's concern on that. I'll be prepared to review that with you when we convene on Monday."

ADJOURNMENT

At 1:45 p.m., on motion by Delegate Shon, seconded by Delegate Andrews and carried, the Convention adjourned until 11:30 a.m. Monday, July 17, 1978.

NINTH DAY

Monday, July 17, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11:30 a.m.

The President presided.

The Divine Blessing was invoked by the Honorable Marcelliano Villaverde, delegate from the Third District to the Constitutional Convention of Hawaii of 1978.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates de Costa and Pulham who were excused.

The President announced that the Journal of the Eighth Day had been signed by the Secretary and approved by the President.

GOVERNOR'S MESSAGE

A message from the Governor (Gov. Msg. No. 3) informing the Convention that the governor had approved the request of the Hawaii Public Broadcasting Authority for funds to provide television coverage of the Constitutional Convention was read by the Clerk as follows:

Executive Chambers
Honolulu

July 13, 1978

The Honorable William W. Paty, Jr.
President
1978 Constitutional Convention of Hawaii

Dear President Paty:

I write in response to your letter of June 28, 1978, in which you support the request of the Hawaii Public Broadcasting Authority for funds to provide television coverage of the Constitutional Convention.

I am pleased to report that I have approved the Authority's request. I am in agreement with you that publicizing this significant political milestone is a valuable public service project providing for citizen education on the Constitutional Convention. I further believe that the State should play a major role in informing and educating the public on the issues introduced before the Constitutional Convention.

I wish you and your colleagues well as you enter into your important deliberations on the Constitution of Hawaii.

With warm personal regards, I remain,

Yours very truly,

(s) George R. Ariyoshi

The President thereupon directed the Clerk to place Gov. Msg. No. 3 on file.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 8) informing the Convention that Proposal Nos. 184 through 222, Res. Nos. 6 and 7 and Stand. Com. Rep. No. 9 had been printed and distributed.

On motion by Delegate Crozier, seconded by Delegate Hayashida and carried, Stand. Com. Rep. No. 8 was adopted.

On motion by Delegate Ledward, seconded by Delegate Crozier and carried, Stand. Com. Rep. No. 9, relating to the budget, was deferred until July 18, 1978.

INTRODUCTION OF PROPOSALS

On motion by Delegate Penebacker, seconded by Delegate Hanaike and carried, the following proposals (P. Nos. 223 through 244) passed First Reading by title, were referred to the Committee on Budget, Accounts and Printing and were placed on the calendar for further consideration on Tuesday, July 18, 1978:

A proposal (P. No. 223) entitled: "Relating to the Secretary of State," was introduced by Delegate Souki.

A proposal (P. No. 224) entitled: "Relating to a Council on Revenues and Expenditures," was introduced by Delegate Souki.

A proposal (P. No. 225) entitled: "Relating to a State Police Force," was introduced by Delegate Dennis Ihara.

A proposal (P. No. 226) entitled: "Relating to Biennial Sessions," was introduced by Delegate Cabral.

A proposal (P. No. 227) entitled: "Relating to the Board of Education Budget," was introduced by Delegate Kojima.

A proposal (P. No. 228) entitled: "Relating to Shorelines and Public Rights-of-Way," was introduced jointly by Delegates Takahashi and Takehara.

A proposal (P. No. 229) entitled: "Relating to Disqualification of Judges," was introduced by Delegate DiBianco.

A proposal (P. No. 230) entitled: "Relating to Self-Sufficient Opportunities," was introduced by Delegate Hoe.

A proposal (P. No. 231) entitled: "Relating to Education Personnel," was introduced by Delegate Kimball.

A proposal (P. No. 232) entitled: "Relating to a State Plan," was introduced by Delegate Ledward.

A proposal (P. No. 233) entitled: "Relating to Hawaiian Home Lands," was introduced by Delegate Villaverde.

A proposal (P. No. 234) entitled: "Relating to the Judiciary," was introduced by Delegate Villaverde.

A proposal (P. No. 235) entitled: "Relating to the Office of the Governor," was introduced by Delegate Villaverde.

A proposal (P. No. 236) entitled: "Relating to Legislature," was introduced by Delegate Villaverde.

A proposal (P. No. 237) entitled: "Relating to the Board of Education," was introduced by Delegate Ledward.

A proposal (P. No. 238) entitled: "Relating to Terms of Office," was introduced by Delegate Okamura.

A proposal (P. No. 239) entitled: "Relating to the Missouri System of Merit Selection of Judicial Offices," was introduced by Delegate Chu.

A proposal (P. No. 240) entitled: "Relating to a Merit Selection of Judicial Offices," was introduced by Delegate Chu.

A proposal (P. No. 241) entitled: "Relating to Powers of the Lieutenant Governor," was introduced by Delegate Donald Ching.

A proposal (P. No. 242) entitled: "Relating to Publicly Financed Initiative," was introduced by Delegate Odanaka.

A proposal (P. No. 243) entitled: "Relating to the Commission on Legislative Salaries," was introduced by Delegate Lewis.

A proposal (P. No. 244) entitled: "Relating to Restricting State Appropriations," was introduced by Delegate Andrews.

INTRODUCTION OF RESOLUTIONS

The following resolutions were read by the Clerk and disposed of as follows:

A resolution (Res. No. 6) urging retention of Article I, Section 8, of the State Constitution relating to the grand jury was offered by Delegate Sterling.

The President thereupon referred Res. No. 6 to the Committee on Judiciary.

A resolution (Res. No. 7) relating to a bicameral legislature was offered jointly by Delegates Fushikoshi, Sasaki and Nozaki.

The President thereupon referred Res. No. 7 to the Committee on Legislature.

ORDER OF THE DAY REFERRAL OF PROPOSALS

The President made the following committee assignments of proposals that were introduced on Friday, July 14, 1978:

P. No. 184 was referred to the Committee on Education.

P. No. 185 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 186 was referred to the Committee on Local Government.

P. No. 187 was jointly referred to the Committee on Revision, Amendment and Other Provisions and the Committee on Hawaiian Affairs.

P. No. 188 was referred to the Committee on Education.

P. No. 189 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 190 was referred to the Committee on Legislature.

P. No. 191 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 192 was referred to the Committee on Executive.

- P. No. 193 was referred to the Committee on Legislature.
- P. No. 194 was referred to the Committee on Local Government.
- P. No. 195 was referred to the Committee on Legislature.
- P. No. 196 was referred to the Committee on Legislature.
- P. No. 197 was referred to the Committee on Environment, Agriculture, Conservation and Land.
- P. No. 198 was referred to the Committee on Environment, Agriculture, Conservation and Land.
- P. No. 199 was referred to the Committee on Environment, Agriculture, Conservation and Land.
- P. No. 200 was referred to the Committee on Education.
- P. No. 201 was referred to the Committee on Education.
- P. No. 202 was referred to the Committee on Education.
- P. No. 203 was referred to the Committee on Local Government.
- P. No. 204 was referred to the Committee on Taxation and Finance.
- P. No. 205 was referred to the Committee on Public Health and Welfare; Labor and Industry.
- P. No. 206 was referred to the Committee on Legislature.
- P. No. 207 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 208 was referred to the Committee on Education.
- P. No. 209 was referred to the Committee on Hawaiian Affairs.
- P. No. 210 was referred to the Committee on Education.
- P. No. 211 was referred to the Committee on Revision, Amendment and Other Provisions.
- P. No. 212 was referred to the Committee on Legislature.
- P. No. 213 was referred to the Committee on Public Health and Welfare; Labor and Industry.
- P. No. 214 was referred to the Committee on Public Health and Welfare; Labor and Industry.
- P. No. 215 was referred to the Committee on Local Government.
- P. No. 216 was referred to the Committee on Public Health and Welfare; Labor and Industry.
- P. No. 217 was referred to the Committee on Education.
- P. No. 218 was referred to the Committee on Revision, Amendment and Other Provisions.
- P. No. 219 was referred to the Committee on Education.
- P. No. 220 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 221 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 222 was referred to the Committee on Environment, Agriculture, Conservation and Land.

Announcements being in order, the President announced that the Chair intended to set some policy guidelines with respect to limiting the type of resolution acceptable for submission to the Convention.

The President then stated his concern relative to the correspondence from the lieutenant governor's office informing the Convention that all proposals must be submitted there by September 20 if they were to be placed on the November ballots. The President said that he was trying to arrange a meeting with a representative of that office to find out why such a lead time was required.

ADJOURNMENT

At 11:40 a.m., on motion by Delegate Goodenow, seconded by Delegate Funakoshi and carried, the Convention adjourned until 11:30 a.m. Tuesday, July 18, 1978.

TENTH DAY

Tuesday, July 18, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11:30 a.m.

The President presided.

The Divine Blessing was invoked by the Reverend Russ Palsrok of the Christian Reformed Church.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present.

The President announced that the Journal of the Ninth Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORTS

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 10) informing the Convention that Proposal Nos. 223 through 244, Stand. Com. Rep. No. 11 and Res. No. 5, RD. 1, had been printed and distributed.

On motion by Delegate Anae, seconded by Delegate Blean and carried, Stand. Com. Rep. No. 10 was adopted.

Delegate Takemoto, for the Committee on Rules, presented a report (Stand. Com. Rep. No. 11) recommending the adoption of Res. No. 5, as amended in RD. 1, relating to proposals, and thereupon moved for its adoption, seconded by Delegate Shinno.

The President called for discussion and recognized Delegate Takemoto, who then spoke in favor of adoption as follows:

"Mr. President, your Committee on Rules met yesterday and reviewed the deadline for introduction of all individual proposals. We also discussed the problems of meeting the September 20th deadline of the lieutenant governor's office in order that all the amendments will be assured of being on the general election ballot in November.

"We therefore decided, Mr. President, to set July 24, 1978 as the cutoff date for the introduction of individual proposals. The rules committee will be meeting with Morris Takushi of the lieutenant governor's office this afternoon, jointly with the Committee on Submission and Information, to see whether the September 20th deadline could possibly be pushed back to a later date. If the lieutenant governor's office indicates that such a modification is possible, we will submit to this Convention another amendment to reflect such a change. I therefore respectfully request that this body adopt this resolution. Thank you."

Delegate DiBianco then rose to speak against adoption, stating:

"Mr. President, as you are well aware, I submitted the other day a resolution which has yet to be circulated among the members of this delegation. I would like to read that resolution into the record

now because I rise to speak in opposition to the adoption of Standing Committee Report No. 11. My resolution is as follows:

"WHEREAS, the 1978 Constitutional Convention has been entrusted by the people of the State of Hawaii with the task of carefully evaluating and proposing amendments to the State Constitution; and

"WHEREAS, the fulfillment of our duties makes any artificial time limitation inappropriate; and

"WHEREAS, the Lieutenant Governor has indicated his desire that this Convention complete all its work no later than September 20, 1978 for the convenience of his office and the Diamond International Printing Corporation; now, therefore,

"BE IT RESOLVED that the 1978 Constitutional Convention formally request of the Lieutenant Governor's office that it explore alternate means of providing ballot service for the November 1978 election so as not to interfere with this Convention's deliberations.'

"Now, Mr. President, you explained to me yesterday that one of the reasons for holding up this resolution was because the lieutenant governor was going to be sending a representative over here to speak with us. Based on that understanding, I was willing to have this resolution held up. I then went to the permanent rules committee meeting later on Monday afternoon and when the issue of whether we should have a July 24th proposal deadline came up, I said--and I thought I was echoing your own words--let's wait until the lieutenant governor's office sends a representative over. When the lieutenant governor's office explains to us their position on the September 20th deadline, then we will have the information available to determine whether or not the July 24th proposal cutoff is appropriate. The rules committee ignored those remarks; as a matter of fact, Mr. President, you were there as an ex-officio member and urged the July 24th proposal deadline, and the July 24th proposal deadline consequently wound up being Standing Committee Report No. 11 which is before us for a vote today.

"My position has not changed. I think my resolution now may be a little awkward because of the fact that we do have this resolution before us. However, I do think that we should defer all further action on this until we've heard from the lieutenant governor's office. More importantly, speaking to the merits of this particular matter, I think what we're doing here--and it really concerns me--is that this Convention is letting the tail wag the dog. We're so concerned about meeting this November deadline and we're so concerned about meeting the September 20th cutoff date, that I think we're just going to rush judgment through the rest of the summer. If we allow the September 20th cutoff date to interfere with our proposal submissions, we're going to let it interfere with our committee deliberations, with our public hearings and with everything else that we do, including our arguments here and in the Committee of the Whole.

"I think it is the duty of everybody in this Convention to work as diligently and as deliberately and as cautiously as we can in amending the Constitution, which is what we were all sent here to do. If we make the September 20th deadline, fine. If we don't, too bad. Then we go to a special election, or we go to the next November election. My own feeling is that the lieutenant governor has given himself so much lead time that we could miss the September 20th deadline that he's trying to impose on us and still make it on the November ballot. But if we can't, we can't. I don't understand what the concern is here--that after spending \$2.5 million, we rush through the completion just to make it on the November ballot, whether we've got good, bad or indifferent constitutional amendments. I think we should just

concern ourselves with revising this Constitution properly, and we should rip up the calendars and not pay any attention to them. If we make the September 20th deadline, fine. If not, who cares."

At this time, Delegate Lacy moved that the motion be laid on the table, seconded by Delegate Hale. The question was put by the Chair and failed to carry. A division of the house was then called for by Delegate Wurdeman. The question was again put by the Chair, and the motion failed by a rising vote.

Delegate Hale then moved that action on Stand. Com. Rep. No. 11 and Res. No. 5, RD. 1, be deferred until Wednesday, July 19, seconded by Delegate DiBianco.

Delegate DiBianco rose to speak in favor of the motion. He said to defer action for one day would be appropriate inasmuch as it would afford delegates who were not members of the rules committee an opportunity to read the report and to confer with other delegates.

At 11:48 a.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 11:52 a.m.

The motion to defer action on Stand. Com. Rep. No. 11 and Res. No. 5, RD. 1, until Wednesday, July 19, was put by the Chair and carried.

Delegate Iwamoto then announced that there would be an afternoon meeting with the Administrator of Elections, Morris Takushi, relative to the suggested timetable and printing of ballots. She invited all interested delegates to attend.

INTRODUCTION OF PROPOSALS

On motion by Delegate Hirata, seconded by Delegate Fujimoto and carried, the following proposals (P. Nos. 245 through 292) passed First Reading by title, were referred to the Committee on Budget, Accounts and Printing and were placed on the calendar for further consideration on Wednesday, July 19, 1978:

A proposal (P. No. 245) entitled: "Relating to the Uses of Hawaiian Home Lands," was introduced by Delegate Wurdeman.

A proposal (P. No. 246) entitled: "Relating to Equal Treatment for Local Governments," was introduced by Delegate Wurdeman.

A proposal (P. No. 247) entitled: "Relating to Bifurcated Criminal Trials," was introduced by Delegate Funakoshi.

A proposal (P. No. 248) entitled: "Relating to the Direct Initiative," was introduced by Delegate Funakoshi.

A proposal (P. No. 249) entitled: "Relating to the Lieutenant Governor," was introduced by Delegate Cabral.

A proposal (P. No. 250) entitled: "Relating to Bonds and Debt Limitations for the State," was introduced by Delegate Liu.

A proposal (P. No. 251) entitled: "Relating to Constitutional Conventions," was introduced by Delegate Taira.

A proposal (P. No. 252) entitled: "Relating to Legislative Sessions," was introduced by Delegate Taira.

A proposal (P. No. 253) entitled: "Relating to Right to Privacy," was introduced by Delegate Anae.

A proposal (P. No. 254) entitled: "Relating to State Militia," was introduced by Delegate Anae.

A proposal (P. No. 255) entitled: "Relating to Equal Protection," was introduced by Delegate Anae.

A proposal (P. No. 256) entitled: "Relating to Board of Education," was introduced by Delegate Hironaka.

A proposal (P. No. 257) entitled: "Relating to Segregation and Discrimination in Public Education," was introduced by Delegate Goodenow.

A proposal (P. No. 258) entitled: "Relating to Public Health and Welfare," was introduced by Delegate Souki.

A proposal (P. No. 259) entitled: "Relating to Restricting the Total Appropriations of the State," was introduced by Delegate Andrews.

A proposal (P. No. 260) entitled: "Relating to County Costs," was introduced by Delegate Andrews.

A proposal (P. No. 261) entitled: "Relating to the Recall of Elected State Officials," was introduced by Delegate Hanaike.

A proposal (P. No. 262) entitled: "Relating to the Recall of Elected State Officials," was introduced by Delegate Hanaike.

A proposal (P. No. 263) entitled: "Relating to the Constitutional Convention Delegates," was introduced by Delegate Blean.

A proposal (P. No. 264) entitled: "Relating to the Designation of Counties, Including Molokai," was introduced by Delegate Blean.

A proposal (P. No. 265) entitled: "Relating to Apportioning the Board of Education," was introduced by Delegate Tamayori.

A proposal (P. No. 266) entitled: "Relating to Legislative Rules," was introduced by Delegate Tamayori.

A proposal (P. No. 267) entitled: "Relating to Staggered Terms for Senators," was introduced by Delegate Tamayori.

A proposal (P. No. 268) entitled: "Relating to the Appointment of Justices and Judges," was introduced by Delegate Hale.

A proposal (P. No. 269) entitled: "Relating to Constitutional Convention," was introduced by Delegate Sasaki.

A proposal (P. No. 270) entitled: "Relating to Natural Resources," was introduced by Delegate Sasaki.

A proposal (P. No. 271) entitled: "Relating to Legislators' Salaries," was introduced by Delegate Sasaki.

A proposal (P. No. 272) entitled: "Relating to Human Rights and Language Discrimination," was introduced by Delegate Sasaki.

A proposal (P. No. 273) entitled: "Amending Public Sightliness and Good Order," was introduced by Delegate Sasaki.

A proposal (P. No. 274) entitled: "Relating to Voter Education and Information," was introduced by Delegate Sasaki.

A proposal (P. No. 275) entitled: "Relating to Reapportionment," was introduced by Delegate Sasaki.

A proposal (P. No. 276) entitled: "Relating to Capital Punishment," was introduced by Delegate Sasaki.

A proposal (P. No. 277) entitled: "Relating to the Imposition of a Transient Accommodation Tax by the Counties," was introduced by Delegate Sasaki.

A proposal (P. No. 278) entitled: "Relating to Excise (Sales) Tax," was introduced by Delegate Pulham.

A proposal (P. No. 279) entitled: "Relating to a Separate Board of Regents for Each County," was introduced by Delegate Pulham.

A proposal (P. No. 280) entitled: "Relating to Reapportionment," was introduced by Delegate Uyehara.

A proposal (P. No. 281) entitled: "Relating to Recall of Elected and Appointed Officials," was introduced by Delegate Dyer.

A proposal (P. No. 282) entitled: "Relating to School Advisory Councils," was introduced by Delegate Chung.

A proposal (P. No. 283) entitled: "Relating to Standing to Certain Beneficiaries," was introduced by Delegate De Soto.

A proposal (P. No. 284) entitled: "Relating to Educational Needs of Native Hawaiians," was introduced by Delegate De Soto.

A proposal (P. No. 285) entitled: "Relating to Bill Introductions and Recess," was introduced by Delegate Donald Ching.

A proposal (P. No. 286) entitled: "Relating to the Supreme Court," was introduced by Delegate Chu.

A proposal (P. No. 287) entitled: "Relating to Funding for Private Education," was introduced by Delegate Chu.

A proposal (P. No. 288) entitled: "Relating to Salaries of Legislators," was introduced by Delegate Calvin Ching.

A proposal (P. No. 289) entitled: "Relating to Judiciary," was introduced by Delegate Calvin Ching.

A proposal (P. No. 290) entitled: "Relating to Appointment of Justices and Judges," was introduced by Delegate Calvin Ching.

A proposal (P. No. 291) entitled: "Relating to Nonpartisan Elections for the Board of Education," was introduced by Delegate Marumoto.

A proposal (P. No. 292) entitled: "Relating to the Disqualification of Members," was introduced by Delegate Blean.

ORDER OF THE DAY REFERRAL OF PROPOSALS

The President made the following committee assignments of proposals that were introduced on Monday, July 17, 1978:

P. No. 223 was jointly referred to the Committee on Executive and the Committee on Legislature.

P. No. 224 was referred to the Committee on Taxation and Finance.

P. No. 225 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 226 was jointly referred to the Committee on Legislature and the Committee on Taxation and Finance.

P. No. 227 was referred to the Committee on Education.

P. No. 228 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 229 was referred to the Committee on Judiciary.

P. No. 230 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 231 was referred to the Committee on Education.

P. No. 232 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 233 was referred to the Committee on Hawaiian Affairs.

P. No. 234 was referred to the Committee on Judiciary.

P. No. 235 was referred to the Committee on Executive.

P. No. 236 was referred to the Committee on Legislature.

P. No. 237 was referred to the Committee on Education.

P. No. 238 was referred to the Committee on Executive.

P. No. 239 was referred to the Committee on Judiciary.

P. No. 240 was referred to the Committee on Judiciary.

P. No. 241 was referred to the Committee on Executive.

P. No. 242 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 243 was referred to the Committee on Legislature.

P. No. 244 was referred to the Committee on Taxation and Finance.

RE-REFERRAL OF PROPOSALS

The President re-referred the following proposals:

P. No. 141 was re-referred from the Committee on Bill of Rights, Suffrage and Elections to the Committee on Judiciary.

P. No. 186 was re-referred from the Committee on Local Government to the Committee on Legislature.

RE-REFERRAL OF RESOLUTION

The President re-referred Res. No. 6 from the Committee on Judiciary to the Committee on Bill of Rights, Suffrage and Elections.

DEFERRED MATTER

Stand. Com. Rep. No. 9 (Committee on Budget, Accounts and Printing--Deferred from July 17, 1978):

At this time, the President, to avoid any possible conflict of interest since he was instrumental in modifying and developing the current budget, appointed Delegate McCall,

Vice-President from the First Senatorial District, to preside over the Convention.

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 9) recommending adoption of the 1978 Constitutional Convention budget and thereupon moved for its adoption, seconded by Delegate Funakoshi.

Discussion then being in order, Delegate Ledward informed the delegates that the \$118,500 allocated in the budget for per diem payment was based upon 79 calendar days, including Saturdays, Sundays and holidays.

Delegate Eastvold then rose, on a point of information, to ask whether the President, under Rule 20, had the power to make necessary budgetary adjustments or whether he must go before the Convention for approval. In line with this, he questioned whether the President and the chairman of the Committee on Budget, Accounts and Printing could be given such a discretion without seeking the approval of the Convention.

When told that the Convention was free to govern itself and that the adoption of Stand. Com. Rep. No. 9 would in effect give the President and the committee chairman the authority to exercise such a discretion, Delegate Eastvold then spoke against the motion. He pointed out that Rule 20 of the Rules of the Convention stated that all resolutions "authorizing or contemplating the expenditure of money shall be referred, as of course, to the Committee on Budget, Accounts and Printing for its report thereon before final action by the Convention." He then stated that the fourth paragraph of Stand. Com. Rep. No. 9, which authorized discretionary powers to the President and the committee chairman, was therefore in contradiction with Rule 20.

Delegate Lacy also spoke against the motion. He said his first concern regarding Rule 20 was covered by the previous speaker. He proceeded to point out, however, that he had other misgivings about Stand. Com. Rep. No. 9 and the budget. He said he disagreed with the report in that the funds that were appropriated by the legislature were released by the governor to the officers of the Convention; the officers, he said, consisted of the President, the eight Vice-Presidents, the Secretary and the Assistant Secretary.

His other concern, Delegate Lacy continued, was the \$125,000 listed in the budget as unemployment. He felt that the amount being set aside for unemployment compensation might be too low and that the Convention should be allowed more time to obtain a more supportable estimate for budgetary purposes; to do otherwise, he added, would be acting in a fiscally irresponsible manner and could result in public reprimand in the future.

Delegate Sterling then rose to speak in favor of adopting Stand. Com. Rep. No. 9 and the budget because it was a functional budget geared to the production of the Convention. He added that he had asked some friends in the insurance business about some of the concerns expressed regarding unemployment compensation and they advised that the amount in the budget was workable.

Delegate Waihee also spoke in favor of the motion and the budget. He expressed his concern about the allegation that the committee report violated Rule 20, as he felt it did the exact opposite, representing the Convention and the President's efforts to carry out the intent of that rule. The President, he said, had had a number of delegates, from early days, prepare recommendations for the ad hoc budget committee, which took final action in accordance with the rules and then reported it out on the floor.

Delegate Waihee then stated that if the committee recommended that kind of a discretion to the President, this was also in accordance with the rules, and that it was up to the delegates to accept or reject it. He stated that he felt there was ample justification for granting that discretion to the President, that budget adjustments were necessary from time to time and someone must be entrusted with the discretion to make them within the appropriated sums--including any necessary adjustments in unemployment compensation. He added that the figure listed in the budget was the result of some analysis.

Delegate Waihee concluded that giving the President this discretion would be in accordance with the original statute, in which the legislature gave the President authority to expend those funds, and that the Convention should trust the President to the same degree that an outside body did.

At 12: 12 p.m. , the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 12: 21 p.m.

At this time, Delegate Hornick moved to separate the budget and Stand. Com. Rep. No. 9, seconded by Delegate Eastvold.

Delegate Hornick, speaking for the motion, pointed out that instead of delaying approval of the budget because of disagreements in the committee report, she felt that separation of the arguments would allow the Convention to proceed, with each of the questions given distinct and separate consideration.

The motion to separate the budget and Stand. Com. Rep. No. 9 was put by the Chair and carried.

At this time, Delegate Pulham moved for approval of the 1978 Constitutional Convention budget as submitted by the Committee on Budget, Accounts and Printing, seconded by Delegate Hayashida.

Delegate Hoe, on a point of information, inquired as to how the \$50,000 allocated for submission and information was to be spent and also whether there were other moneys to be used for these purposes.

Delegate Iwamoto, in response, informed the Convention that the \$50,000 itemized in the budget was to be used for disseminating information to registered voters while the Convention was still in session. Under consideration at this time, she said, was a plan for mailing Con Con publications to all registered voters. She also pointed out that the 1978 Hawaii state legislature had provided a \$200,000 appropriation under Act 243 for citizen education programs, and that the committee was studying the best possible use for this money.

At this time, the motion to approve the 1978 Constitutional Convention budget as submitted by the Committee on Budget, Accounts and Printing was put by the Chair and carried.

The business before the Convention then being the motion to adopt Stand. Com. Rep. No. 9, Delegate Ellis rose and moved, seconded by Delegate Kono, to recommit Stand. Com. Rep. No. 9 to the Committee on Budget, Accounts and Printing, with the recommendation that the committee delete all references to the delegation of authority to the President for the purpose of modifying the budget.

At 12: 32 p.m. , the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 12: 42 p.m.

At this time, Delegate Hale rose to speak against the motion to recommit. She said that all those concerns being discussed had been given due consideration by the committee, and that the Convention should get on with business rather than getting bogged down with administrative details. She added that the committee report delegated responsibility to the President and the committee chairman and this was perfectly proper.

Delegate DiBianco, on a point of information, inquired whether by adopting the committee report, Rule 20 was being suspended or altered, and if so whether it would not require a two-thirds rather than majority vote.

The Chair in reply ruled that a two-thirds vote was not required since the Convention's rules were not being amended.

Delegate Kono, speaking in favor of recommitting Stand. Com. Rep. No. 9, stated that although he agreed that the President should have a free hand in the interest of efficiency, an executive acting without the full knowledge of the Convention was not exercising proper fiscal accountability. If the committee report were recommitted, he said, he would suggest to the committee that the vice-presidents be kept informed on all fiscal transfers.

President Paty then rose to speak concerning the powers of the President in allocating the funds available for operation of the Convention. He stated that he intended to

work very closely with the chairperson and members of the Committee on Budget, Accounts and Printing, and that he would be prepared to review the budget with any of the delegates at any time. He further stated that he would be reviewing it with the budget committee periodically as disbursements came in.

President Paty then said that he felt his responsibility as administrator was one of trying to best coordinate available funds with necessary activities. He concluded that he would provide full disclosure to the budget committee, and if he felt the Convention should be appraised he would review it with the entire delegation.

The Chair noted that one of the questions concerned whether he would share the information with the vice-presidents.

President Paty then stated that the vice-presidents had been included in his remarks concerning his willingness to share with everybody. He pointed out that the vice-presidents met with the President on a regular basis and that he was more than willing to talk over problems, as sharing a problem always helped.

There being no further discussion, the motion to recommit Stand. Com. Rep. No. 9 was put by the Chair and failed to carry.

The Chair then put the main motion to adopt Stand. Com. Rep. No. 9, and it carried.

At 1:09 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 1:12 p.m.

At this time, the President resumed the Chair and Delegate McCall returned to his seat.

ADJOURNMENT

At 1:18 p.m., on motion by Delegate Pulham, seconded by Delegate Stegmaier and carried, the Convention adjourned until 11:30 a.m. Wednesday, July 19, 1978.

ELEVENTH DAY

Wednesday, July 19, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11:30 a.m.

The President presided.

The Divine Blessing was invoked by Dr. Curtis Askew of Olivet Baptist Church.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegate Kaapu who was absent.

The President announced that the Journal of the Tenth Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 12) informing the Convention that Proposal Nos. 245 through 292 had been printed and distributed.

On motion by Delegate Crozier, seconded by Delegate Yamashita and carried, Stand. Com. Rep. No. 12 was adopted.

INTRODUCTION OF PROPOSALS

On motion by Delegate Takahashi, seconded by Delegate Hokama and carried, the following proposals (P. Nos. 293 through 330) passed First Reading by title, were referred to the Committee on Budget, Accounts and Printing and were placed on the calendar for further consideration on Thursday, July 20, 1978:

A proposal (P. No. 293) entitled: "Relating to Local Government," was introduced by Delegate Souki.

A proposal (P. No. 294) entitled: "Relating to the Bill of Rights," was introduced by Delegate Hornick.

A proposal (P. No. 295) entitled: "Relating to Housing," was introduced by Delegate Cabral.

A proposal (P. No. 296) entitled: "Relating to Establishment of Board of Vocational Education," was introduced by Delegate Alcon.

A proposal (P. No. 297) entitled: "Relating to the Legislature," was introduced by Delegate Shon.

A proposal (P. No. 298) entitled: "Relating to Education," was introduced by Delegate Chong.

A proposal (P. No. 299) entitled: "Relating to Legislative Appropriations," was introduced by Delegate Villaverde.

A proposal (P. No. 300) entitled: "Amending Intergovernmental Relations," was introduced by Delegate Villaverde.

A proposal (P. No. 301) entitled: "Relating to the Rights of Man," was introduced by Delegate Peterson.

A proposal (P. No. 302) entitled: "Relating to the Hawaiian Homes Commission Act," was introduced by Delegate De Soto.

A proposal (P. No. 303) entitled: "Relating to a Hawaiian Bill of Rights," was introduced by Delegate De Soto.

A proposal (P. No. 304) entitled: "Relating to Public Education," was introduced by Delegate Pulham.

A proposal (P. No. 305) entitled: "Relating to Reapportionment," was introduced jointly by Delegates Chong, Hokama and Nishimoto.

A proposal (P. No. 306) entitled: "Relating to Legislative Sessions," was introduced jointly by Delegates Chong, Hokama and Nishimoto.

A proposal (P. No. 307) entitled: "Relating to the Imposition of Real Property Taxes by the Counties," was introduced by Delegate Hokama.

A proposal (P. No. 308) entitled: "Relating to the Hawaiian Homes Commission Act," was introduced by Delegate De Soto.

A proposal (P. No. 309) entitled: "Relating to the Preservation of Conservation Lands, Historic, Spiritual and Cultural Sites," was introduced by Delegate De Soto.

A proposal (P. No. 310) entitled: "Relating to Available Lands," was introduced by Delegate De Soto.

A proposal (P. No. 311) entitled: "Relating to an Appointed Board of Education," was introduced by Delegate Takemoto, by request.

A proposal (P. No. 312) entitled: "Relating to Debt Limit," was introduced by Delegate Sutton.

A proposal (P. No. 313) entitled: "Relating to the Ownership of Land," was introduced by Delegate Goodenow.

A proposal (P. No. 314) entitled: "Relating to Plain Language," was introduced by Delegate Pulham.

A proposal (P. No. 315) entitled: "Relating to Mineral Rights," was introduced by Delegate Hale.

A proposal (P. No. 316) entitled: "Relating to Expenditure Controls," was introduced by Delegate Marumoto.

A proposal (P. No. 317) entitled: "Relating to the Chief Legal Officer of the State," was introduced by Delegate Marumoto.

A proposal (P. No. 318) entitled: "Relating to Publication of Ethics Opinions," was introduced by Delegate Marumoto.

A proposal (P. No. 319) entitled: "Deleting the Office of Lieutenant Governor," was introduced by Delegate Calvin Ching.

A proposal (P. No. 320) entitled: "Relating to Legislative Leadership," was introduced by Delegate Calvin Ching.

A proposal (P. No. 321) entitled: "Relating to the Legislative Session," was introduced by Delegate Calvin Ching.

A proposal (P. No. 322) entitled: "Relating to a Statewide Police Force," was introduced by Delegate Calvin Ching.

A proposal (P. No. 323) entitled: "Relating to Legislative Sessions and Legislators' Incomes," was introduced by Delegate Odanaka.

A proposal (P. No. 324) entitled: "Relating to Rights of the Accused," was introduced by Delegate Liu.

A proposal (P. No. 325) entitled: "Relating to Constitutional Conventions," was introduced by Delegate Miller.

A proposal (P. No. 326) entitled: "Relating to Popular Initiative," was introduced by Delegate Miller.

A proposal (P. No. 327) entitled: "Relating to Amendment and Revision of the Constitution," was introduced by Delegate Miller.

A proposal (P. No. 328) entitled: "Relating to Education," was introduced by Delegate De Soto.

A proposal (P. No. 329) entitled: "Relating to the Governance of the Public School System," was introduced by Delegate Haunani Ching.

A proposal (P. No. 330) entitled: "Relating to Constitutional Conventions," was introduced by Delegate Haunani Ching.

ORDER OF THE DAY REFERRAL OF PROPOSALS

The President made the following committee assignments of proposals that were introduced on Tuesday, July 18, 1978:

P. No. 245 was jointly referred to the Committee on Environment, Agriculture, Conservation and Land and the Committee on Hawaiian Affairs.

P. No. 246 was referred to the Committee on Local Government.

P. No. 247 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 248 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 249 was referred to the Committee on Executive.

P. No. 250 was referred to the Committee on Taxation and Finance.

P. No. 251 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 252 was referred to the Committee on Legislature.

P. No. 253 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 254 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 255 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 256 was referred to the Committee on Education.

P. No. 257 was referred to the Committee on Education.

P. No. 258 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 259 was referred to the Committee on Taxation and Finance.

P. No. 260 was referred to the Committee on Taxation and Finance.

- P. No. 261 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 262 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 263 was referred to the Committee on Legislature.
- P. No. 264 was referred to the Committee on Local Government.
- P. No. 265 was referred to the Committee on Education.
- P. No. 266 was referred to the Committee on Legislature.
- P. No. 267 was referred to the Committee on Legislature.
- P. No. 268 was referred to the Committee on Judiciary.
- P. No. 269 was referred to the Committee on Revision, Amendment and Other Provisions.
- P. No. 270 was referred to the Committee on Environment, Agriculture, Conservation and Land.
- P. No. 271 was referred to the Committee on Legislature.
- P. No. 272 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 273 was referred to the Committee on Public Health and Welfare; Labor and Industry.
- P. No. 274 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 275 was referred to the Committee on Legislature.
- P. No. 276 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 277 was referred to the Committee on Local Government.
- P. No. 278 was referred to the Committee on Taxation and Finance.
- P. No. 279 was referred to the Committee on Education.
- P. No. 280 was referred to the Committee on Legislature.
- P. No. 281 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 282 was referred to the Committee on Education.
- P. No. 283 was referred to the Committee on Hawaiian Affairs.
- P. No. 284 was jointly referred to the Committee on Education and the Committee on Hawaiian Affairs.
- P. No. 285 was referred to the Committee on Legislature.
- P. No. 286 was referred to the Committee on Judiciary.
- P. No. 287 was referred to the Committee on Education.
- P. No. 288 was referred to the Committee on Revision, Amendment and Other Provisions.
- P. No. 289 was referred to the Committee on Judiciary.
- P. No. 290 was referred to the Committee on Judiciary.

P. No. 291 was referred to the Committee on Education.

P. No. 292 was referred to the Committee on Legislature.

RE-REFERRAL OF PROPOSAL

The President re-referred P. No. 232 from the Committee on Public Health and Welfare; Labor and Industry to the Committee on Environment, Agriculture, Conservation and Land.

The President at this time made an announcement requesting that delegates use discretion relative to introducing resolutions. He asked that they exercise restraint in submitting resolutions not germane to the provisions of the Hawaii State Constitution or the amendments, in light of the workload and schedule of the Convention.

DEFERRED MATTER

Stand. Com. Rep. No. 11 (Res. No. 5, RD. 1) (Committee on Rules--Deferred from July 18, 1978):

Delegate Takemoto, for the Committee on Rules, moved for the adoption of Stand. Com. Rep. No. 11 and Res. No. 5, as amended in RD. 1, seconded by Delegate Shinno.

Delegate Blean then moved, that Stand. Com. Rep. No. 11 be separated and placed on file and Res. No. 5, RD. 1, be adopted, seconded by Delegate Eastvold. The motion to separate and file Stand. Com. Rep. No. 11 was then put by the Chair and carried.

Delegate Takemoto moved, seconded by Delegate Waihee, to amend Res. No. 5, RD. 1, by deleting in the fourth paragraph the words "waived or" and substituting the number "52" for "68," to read as follows:

"BE IT FURTHER RESOLVED that said time and date of 4 o'clock p.m. of July 24, 1978 may be amended only by the affirmative vote of at least 52 delegates,"

There being no further discussion, the motion was put by the Chair and carried.

At this time, Delegate Blean moved to amend the third and fourth paragraphs of the resolution by deleting in both paragraphs the date "July 24" and substituting "July 31" in lieu thereof. The motion was seconded by Delegate Barr.

At 12:00 noon, the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 12:02 p.m.

Delegate Blake, speaking against the amendment, said that the basic concern of all delegates should be to have the constitutional amendments ready for the public to ratify in November rather than to have a special election.

Delegate Lewis rose to speak against the amendment also. He said that at yesterday's joint meeting of the committees on rules and submission and information, the lieutenant governor's office had satisfactorily answered all questions regarding the timetable for submission of proposals in order for the amendments to be on the general election ballot.

Delegate DiBianco, in rebuttal, said that he on the other hand thought most of the answers given by the representative from the lieutenant governor's office were rather evasive. Looking over the schedule, he stated, additional days could be gained by having someone from that office work out of the mainland printing company during the period the ballots were being typeset and corrected; and further, that instead of the 7 days set aside for printing, an advanced press capable of printing 40,000 ballots an hour, which the company owned, could release a few more days.

Furthermore, Delegate DiBianco continued, he could not understand why the ballots required 6 days for delivery from California when they could be flown in if necessary. In light of these facts, he questioned whether the Convention should concern itself with the lieutenant governor's time-frame to the point where it would affect their deliberations.

Delegate Goodenow then rose to speak against the amendment, stating that the delegates had had approximately 3 weeks to submit their proposals and, with the weekend still to come, Monday's deadline was not an unreasonable one. She said that the delegates' input should instead be concentrated on committee work and on floor debates.

Delegate Haunani Ching, also speaking against the amendment, said that it would be unfortunate if the cutoff date were extended to July 31, since public hearings for the neighbor islands had been scheduled beginning July 26. She said that the delegates would be doing people on the neighbor islands a disservice by appearing before them with an incomplete listing of proposals.

Delegate Harris, speaking for the amendment, said that the major concern of the Convention should be a well-thought-out review of the State's Constitution rather than expediency. He said both the delegates and the public had been assured that the cutoff date was July 31, and based on that information the delegates had proceeded to plan their research schedules and meetings with constituents. He further stated that he saw no reason why the Convention could not accept both the September 20th deadline of the lieutenant governor and the Convention's July 31st deadline for introduction of proposals.

Delegate Takemoto then rose to speak against the amendment, stating that much of the public contact and research work could have been done as early as the day the delegates were officially elected, and that to seek public input at this late date would not produce any well-thought-out plan. She added that all individual proposals would be filed by the committees and replaced with committee proposals, and that at the time these committee proposals were considered, each delegate would have another opportunity to make his feelings known.

Delegate Sterling, speaking against the amendment, said that he was very frustrated at the inflexible schedule presented by the lieutenant governor's office yesterday. However, he added, as a member of the Convention, his responsibility was to see that suitable legislation was presented to the public in time to give the people of the State of Hawaii the opportunity to study the Convention's amendments.

Delegate Silva also spoke against the amendment. He said that the issue was not when the deadline was but whether one was willing to put in the extra time to meet the July 24th deadline. He also expressed concern regarding the number of duplicate proposals being introduced.

Delegate Blean, in supporting his amendment, said that changing the date at this point in time would mean the Convention was changing the rules in the middle of the game and this could lead to a loss of credibility with the public. He also pointed out that haste makes waste, and that cramming now could lead to sloppy work. As for the neighbor islands, he said, the plans for these trips had been made with the July 31st deadline still in effect, so that argument was totally irrelevant.

Delegate Dennis Ihara also spoke in favor of the amendment, saying that he had planned a community forum to discuss with his constituents any concerns they might have, which he would offer in the form of proposals to the Convention. Only by placing the deadline back, he said, would there be enough time to meet with his people.

Delegate Waihee, speaking against the amendment, mentioned that the Convention never officially set July 31 as the cutoff, as insinuated by some previous speakers. He said this was merely the date originally proposed in Res. No. 5. Whichever date was agreed to by the Convention, whether 24 or 31, he pointed out, would be the first date established. He added that the rationale that a constituent's input was cut off with the deadline for introduction of proposals was not correct because each delegate would have further opportunities to update his constituents' requests in the committee deliberations.

Delegate Yamashita also spoke against the amendment, saying that the delay would impose a hardship on the committees inasmuch as public hearings must be scheduled, and

that unless the committees had in their possession all proposals referred to them, they might find it difficult to organize such hearings.

Delegate O'Toole rose to speak in favor of the amendment. He said that public hearings need not await the deadline for introduction of proposals but may be held before as well as after such cutoff. He also said that by holding public hearings on Saturday and in the evening, the Convention could still come out with well-thought-out committee reports and proposals.

At this time the Chair announced that although some delegates had requested the previous question, the Chair intended to permit further discussion as needed. But, he cautioned, as much of the debate was repetitious, the Convention should be ready to consider voting soon.

Delegate De Soto, speaking against the amendment, said that she empathized with the proponents of the amendment as she too felt she was being pushed unfairly by the time constraints, but that she was voting against the amendment because there was no alternative.

Delegate Ontai then rose to speak for the amendment. He said that there were 51 days between July 31 and September 20 and, if everyone put his nose to the grindstone, the Convention might be able to save its credibility with the public.

Delegate Cabral also spoke in favor of the amendment. He said that he might be amenable to the July 24th date if the Chair or the Committee on Budget, Accounts and Printing would allow additional funds to pay for staff researchers' overtime work. Otherwise, he stated, he viewed the July 31st date as a very acceptable compromise enabling the delegates to receive necessary evidence for inclusion in their proposals.

Delegate Chu also spoke in favor of the amendment, saying that 3 working days was simply not enough notice. She questioned whether moving the cutoff date up a week to July 24 would make any significant difference in meeting the September 20th deadline imposed by the lieutenant governor. Where July 31 was only the 19th day of the Convention, and the state legislature normally cut off introduction of bills on the 30th day of a 60-day session, she pointed out that the 19th day in a supposed 55-day convention calendar (to September 20) should not make any difference.

Delegate Sterling, who had earlier spoken against the amendment, rose at this time to announce that, after listening to the delegates, he had changed his mind about voting against the amendment. He reiterated his frustrations regarding the inflexible schedule presented by the lieutenant governor's office and told the delegates that many of these problems could have been prevented had they been properly addressed at the conclusion of the 1968 constitutional convention.

At 12:55 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 1:01 p.m.

At this time Delegate Blake, who had also spoken earlier against the amendment, rose to withdraw his objections.

Delegate Kimball, on being recognized, spoke in favor of the amendment not only because of the artificial constraints already placed on the Convention but also because he could not see the correlation between the July 24th and September 20th deadlines. He also said that the July 31st date would be more suitable for him as he looked at proposals as his personal means of contributing input on issues for consideration in committees to which he was not assigned.

Delegate Laura Ching also spoke in favor of the amendment, saying that she had a meeting scheduled with her constituents for July 26 and adopting the July 24th deadline would mean shortchanging her constituents.

There being no further discussion, the motion to adopt Delegate Blean's amendment was put by the Chair and carried.

The President then called for discussion on the adoption of Res. No. 5, RD. 1, as amended. There being no further discussion, the question of the adoption of Res. No. 5, as amended, was put by the Chair and the motion carried.

MISCELLANEOUS COMMUNICATION

There being no further business, the Chair asked that the Clerk read a letter from the convention attorney (Misc. Com. No. 2) regarding Delegate Ledward's motion on Stand. Com. Rep. No. 9, relating to the budget.

The following communication was read by the Clerk and placed on file:

July 19, 1978

The Honorable William W. Paty, Jr.
President
1978 Constitutional Convention of Hawaii

Sir:

Re: Delegate Ledward's motion relating to
discretionary power of the President
to adjust budget

If a matter authorizes or contemplates the expenditure of money, the matter must be referred to the Committee on Budget, Accounts and Printing for its consideration and report under Rule 20. Delegate Ledward's motion relating to the discretionary power of the President to adjust the budget covers a subject for referral to and report by the Committee on Budget, Accounts and Printing under Rule 20. Thus, action by the Convention of such a motion would be in contravention of Rule 20.

Inasmuch as the subject of the motion was already reported on by the Committee on Budget, Accounts and Printing under Standing Committee Report No. 9 which was duly adopted by the Convention, Delegate Ledward's motion is unnecessary.

Yours very truly,

James T. Funaki, Chief Attorney
Constitutional Convention of Hawaii of 1978

ADJOURNMENT

At 1:12 p.m., on motion by Delegate Hayashida, seconded by Delegate Fernandes Salling and carried, the Convention adjourned until 11:30 a.m. Thursday, July 20, 1978.

TWELFTH DAY

Thursday, July 20, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11: 30 a.m.

The President presided.

The Divine Blessing was invoked by Mr. Terry Bosgra of the Oahu Association of Evangelicals.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegate Sterling who was excused and Delegates Barnes and Marion Lee who were absent.

The President announced that the Journal of the Eleventh Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 13) informing the Convention that Proposal Nos. 293 through 330 had been printed and distributed.

On motion by Delegate Funakoshi, seconded by Delegate Crozier and carried, Stand. Com. Rep. No. 13 was adopted.

INTRODUCTION OF PROPOSALS

On motion by Delegate Hornick, seconded by Delegate Izu and carried, the following proposals (P. Nos. 331 through 374) passed First Reading by title, were referred to the Committee on Budget, Accounts and Printing and were placed on the calendar for further consideration on Friday, July 21, 1978:

A proposal (P. No. 331) entitled: "Relating to Hawaiian Studies," was introduced by Delegate Takehara.

A proposal (P. No. 332) entitled: "Relating to Citizen Participation in Education," was introduced by Delegate Takehara.

A proposal (P. No. 333) entitled: "Relating to the Right of People to Continuity of Public Services," was introduced by Delegate Cabral.

A proposal (P. No. 334) entitled: "Relating to Public Employees," was introduced by Delegate Cabral.

A proposal (P. No. 335) entitled: "Relating to the Board of Land and Natural Resources," was introduced by Delegate Shon.

A proposal (P. No. 336) entitled: "Relating to the State Land Use Commission," was introduced by Delegate Shon.

A proposal (P. No. 337) entitled: "Relating to Gambling Legislation," was introduced by Delegate Marumoto.

A proposal (P. No. 338) entitled: "Relating to Public Contracts," was introduced by Delegate Marumoto.

A proposal (P. No. 339) entitled: "Relating to Campaign Contributions," was introduced by Delegate Marumoto.

A proposal (P. No. 340) entitled: "Relating to Vacancies in the State Legislature," was introduced by Delegate Takitani.

A proposal (P. No. 341) entitled: "Relating to the Return of Kahoolawe to the People of the State of Hawaii," was introduced by Delegate Chu.

A proposal (P. No. 342) entitled: "Relating to Public Financing of Election Campaigns," was introduced by Delegate Haunani Ching.

A proposal (P. No. 343) entitled: "Relating to Legislative Approval on Supplemental Appropriations," was introduced by Delegate Liu.

A proposal (P. No. 344) entitled: "Relating to Appropriations," was introduced by Delegate Liu.

A proposal (P. No. 345) entitled: "Relating to Abolishing the Office of Lieutenant Governor," was introduced by Delegate Miller.

A proposal (P. No. 346) entitled: "Relating to Legislative Salaries," was introduced by Delegate Uyehara.

A proposal (P. No. 347) entitled: "Relating to Public Health," was introduced by Delegate Fujimoto.

A proposal (P. No. 348) entitled: "Relating to the Selection of Judges," was introduced by Delegate Nishimoto.

A proposal (P. No. 349) entitled: "Relating to the Preamble," was introduced jointly by Delegates Hagino, Tamayori and Yamashita.

A proposal (P. No. 350) entitled: "Relating to Legislative Sessions," was introduced by Delegate Pulham.

A proposal (P. No. 351) entitled: "Relating to Limitations on Campaign Contributions," was introduced by Delegate Villaverde.

A proposal (P. No. 352) entitled: "Relating to Local Government, Charter Review Commission," was introduced by Delegate Kono.

A proposal (P. No. 353) entitled: "Relating to Fiscal Impact," was introduced by Delegate Nozaki.

A proposal (P. No. 354) entitled: "Relating to the Lapsing of Appropriations and the Reduction of Bond Authorizations," was introduced by Delegate Nozaki.

A proposal (P. No. 355) entitled: "Relating to Tax Review," was introduced by Delegate Nozaki.

A proposal (P. No. 356) entitled: "Relating to Presidential Preference Primaries," was introduced by Delegate Barnes.

A proposal (P. No. 357) entitled: "Relating to Voter Registration," was introduced by Delegate Barnes.

A proposal (P. No. 358) entitled: "Relating to the Power of Taxation," was introduced by Delegate Sutton.

A proposal (P. No. 359) entitled: "Relating to Constitutional Convention Delegates," was introduced by Delegate Hale.

A proposal (P. No. 360) entitled: "Relating to Rights of Accused," was introduced by Delegate Hale.

A proposal (P. No. 361) entitled: "Relating to Rights of Accused," was introduced by Delegate Hale.

A proposal (P. No. 362) entitled: "Relating to Language," was introduced by Delegate Hale.

A proposal (P. No. 363) entitled: "Relating to the Civil Service," was introduced by Delegate Hale.

A proposal (P. No. 364) entitled: "Relating to Taxing Power of Board of Education," was introduced by Delegate Hale.

A proposal (P. No. 365) entitled: "Relating to Limitation on State Spending," was introduced by Delegate Marumoto.

A proposal (P. No. 366) entitled: "Relating to Local Government," was introduced by Delegate Sakima.

A proposal (P. No. 367) entitled: "Relating to Appropriations and Expenditures," was introduced by Delegate Blake.

A proposal (P. No. 368) entitled: "Relating to Limitation on State Spending," was introduced by Delegate Blake.

A proposal (P. No. 369) entitled: "Relating to State Revenue Sharing with Political Subdivisions," was introduced by Delegate Blake.

A proposal (P. No. 370) entitled: "Relating to the State Debt Limit," was introduced by Delegate Blake.

A proposal (P. No. 371) entitled: "Relating to the Rights of Accused," was introduced by Delegate Kojima.

A proposal (P. No. 372) entitled: "Relating to County Councils," was introduced by Delegate Hanaike.

A proposal (P. No. 373) entitled: "Relating to Single Member Senate Districts," was introduced by Delegate Hanaike.

A proposal (P. No. 374) entitled: "Relating to the Power and Duties of the Lieutenant Governor," was introduced by Delegate Kimball.

ORDER OF THE DAY REFERRAL OF PROPOSALS

The President made the following committee assignments of proposals that were introduced on Wednesday, July 19, 1978:

P. No. 293 was referred to the Committee on Local Government.

P. No. 294 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 295 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 296 was referred to the Committee on Education.

P. No. 297 was referred to the Committee on Legislature.

P. No. 298 was referred to the Committee on Education.

P. No. 299 was referred to the Committee on Taxation and Finance.

P. No. 300 was referred to the Committee on Revision, Amendment and Other Provisions.

- P. No. 301 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 302 was referred to the Committee on Hawaiian Affairs.
- P. No. 303 was jointly referred to the Committee on Hawaiian Affairs and the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 304 was referred to the Committee on Education.
- P. No. 305 was referred to the Committee on Legislature.
- P. No. 306 was referred to the Committee on Legislature.
- P. No. 307 was referred to the Committee on Local Government.
- P. No. 308 was referred to the Committee on Hawaiian Affairs.
- P. No. 309 was referred to the Committee on Environment, Agriculture, Conservation and Land.
- P. No. 310 was jointly referred to the Committee on Hawaiian Affairs and the Committee on Environment, Agriculture, Conservation and Land.
- P. No. 311 was referred to the Committee on Education.
- P. No. 312 was referred to the Committee on Taxation and Finance.
- P. No. 313 was referred to the Committee on Environment, Agriculture, Conservation and Land.
- P. No. 314 was referred to the Committee on Revision, Amendment and Other Provisions.
- P. No. 315 was referred to the Committee on Environment, Agriculture, Conservation and Land.
- P. No. 316 was referred to the Committee on Taxation and Finance.
- P. No. 317 was referred to the Committee on Executive.
- P. No. 318 was referred to the Committee on Ethics.
- P. No. 319 was referred to the Committee on Executive.
- P. No. 320 was referred to the Committee on Legislature.
- P. No. 321 was referred to the Committee on Legislature.
- P. No. 322 was referred to the Committee on Revision, Amendment and Other Provisions.
- P. No. 323 was referred to the Committee on Legislature.
- P. No. 324 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 325 was referred to the Committee on Revision, Amendment and Other Provisions.
- P. No. 326 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 327 was referred to the Committee on Revision, Amendment and Other Provisions.
- P. No. 328 was referred to the Committee on Education.

P. No. 329 was referred to the Committee on Education.

P. No. 330 was referred to the Committee on Revision, Amendment and Other Provisions.

ADJOURNMENT

At 11:38 a.m., on motion by Delegate Hokama, seconded by Delegate Uyehara and carried, the Convention adjourned until 11:30 a.m. Friday, July 21, 1978.

THIRTEENTH DAY

Friday, July 21, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11:30 a.m.

The President presided.

The Divine Blessing was invoked by the Reverend Doug Grogan of the Kailua Community Church of Christian Missionary Alliance.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Fernandes Salling, Ontai and Takahashi who were absent.

The President announced that the Journal of the Twelfth Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 14) informing the Convention that Proposal Nos. 331 through 374 had been printed and distributed.

On motion by Delegate Anae, seconded by Delegate Crozier and carried, Stand. Com. Rep. No. 14 was adopted.

INTRODUCTION OF PROPOSALS

On motion by Delegate Tamayori, seconded by Delegate Marumoto and carried, the following proposals (P. Nos. 375 through 433) passed First Reading by title, were referred to the Committee on Budget, Accounts and Printing and were placed on the calendar for further consideration on Monday, July 24, 1978:

A proposal (P. No. 375) entitled: "Relating to Board of Education," was introduced by Delegate Anae.

A proposal (P. No. 376) entitled: "Relating to Cruel and Unusual Punishment," was introduced by Delegate Penebacker.

A proposal (P. No. 377) entitled: "Relating to Qualifications for Elective Office," was introduced by Delegate Penebacker.

A proposal (P. No. 378) entitled: "Relating to Jury Service," was introduced by Delegate Penebacker.

A proposal (P. No. 379) entitled: "Relating to Elective Terms of County Officers," was introduced by Delegate Penebacker.

A proposal (P. No. 380) entitled: "Relating to Rights of Accused," was introduced by Delegate Penebacker.

A proposal (P. No. 381) entitled: "Relating to a Healthful Environment," was introduced by Delegate Hornick.

A proposal (P. No. 382) entitled: "Relating to Salaries," was introduced by Delegate Izu.

A proposal (P. No. 383) entitled: "Relating to the Establishment of a Constitutional Revision Commission," was introduced by Delegate Hamilton.

A proposal (P. No. 384) entitled: "Relating to the Right to Strike by Certain Public Employees," was introduced by Delegate Kaito.

A proposal (P. No. 385) entitled: "Relating to the Hawaiian Homes Commission Act," was introduced by Delegate De Soto.

A proposal (P. No. 386) entitled: "Relating to School Advisory Councils, the Board of Education and the Superintendent of Education," was introduced by Delegate Nozaki.

A proposal (P. No. 387) entitled: "Relating to the Possession and Use of Marijuana," was introduced by Delegate Cabral.

A proposal (P. No. 388) entitled: "Relating to Elections," was introduced by Delegate Chun.

A proposal (P. No. 389) entitled: "Relating to State Departments," was introduced by Delegate Souki.

A proposal (P. No. 390) entitled: "Relating to Legislative Organization," was introduced by Delegate Pulham.

A proposal (P. No. 391) entitled: "Relating to the Recall of Principal Department Heads," was introduced by Delegate Shon.

A proposal (P. No. 392) entitled: "Relating to Rehabilitation of Native Hawaiians," was introduced by Delegate Penebacker.

A proposal (P. No. 393) entitled: "Relating to Federal Funds," was introduced by Delegate Nozaki.

A proposal (P. No. 394) entitled: "Relating to Budget and Finance," was introduced by Delegate O'Toole.

A proposal (P. No. 395) entitled: "Relating to Review of Rules and Regulations," was introduced by Delegate O'Toole.

A proposal (P. No. 396) entitled: "Relating to Special Sessions," was introduced by Delegate O'Toole.

A proposal (P. No. 397) entitled: "Relating to Rights of the Accused," was introduced by Delegate Barnard.

A proposal (P. No. 398) entitled: "Relating to Initiative Power and Process," was introduced by Delegate Kimball.

A proposal (P. No. 399) entitled: "Relating to the State Flag," was introduced by Delegate Izu.

A proposal (P. No. 400) entitled: "Relating to Communication Rights," was introduced by Delegate Barnes.

A proposal (P. No. 401) entitled: "Relating to Cultural Resources," was introduced by Delegate Taira.

A proposal (P. No. 402) entitled: "Relating to the People's Right to Know," was introduced by Delegate Villaverde.

A proposal (P. No. 403) entitled: "Relating to Primary Elections," was introduced by Delegate Campbell.

A proposal (P. No. 404) entitled: "Relating to the Constitutional Convention," was introduced by Delegate Campbell.

A proposal (P. No. 405) entitled: "Relating to Hawaiian Affairs," was introduced by Delegate Silva.

A proposal (P. No. 406) entitled: "Relating to an Ombudsman Commission," was introduced by Delegate Cabral.

A proposal (P. No. 407) entitled: "Relating to Constitutional Conventions," was introduced by Delegate Hornick.

A proposal (P. No. 408) entitled: "Relating to Terms of Legislators," was introduced by Delegate Izu.

A proposal (P. No. 409) entitled: "Relating to Taxation of Food and Drugs," was introduced by Delegate Barr.

A proposal (P. No. 410) entitled: "Relating to Old Age Assistance," was introduced by Delegate Souki.

A proposal (P. No. 411) entitled: "Relating to the Preservation of Conservation Lands, Parks and Recreational Areas--Aina Malama," was introduced by Delegate Paty, by request.

A proposal (P. No. 412) entitled: "Relating to a Unicameral Legislature," was introduced by Delegate Paty, by request.

A proposal (P. No. 413) entitled: "Relating to Primary Elections," was introduced by Delegate Paty, by request.

A proposal (P. No. 414) entitled: "Relating to Restrictions on the Disposition of State and County Owned Lands," was introduced by Delegate Paty, by request.

A proposal (P. No. 415) entitled: "Relating to Blanket Primary Elections," was introduced by Delegate Paty, by request.

A proposal (P. No. 416) entitled: "Relating to the Preservation of Conservation Lands, Parks and Recreational Areas--Aina Malama," was introduced by Delegate Paty, by request.

A proposal (P. No. 417) entitled: "Relating to the Public's Right to Know," was introduced by Delegate Paty, by request.

A proposal (P. No. 418) entitled: "Relating to Codes of Ethics," was introduced by Delegate Paty, by request.

A proposal (P. No. 419) entitled: "Relating to the Election and Powers of the Lieutenant Governor," was introduced by Delegate Paty, by request.

A proposal (P. No. 420) entitled: "Relating to Recall of Elected Officials," was introduced by Delegate Funakoshi.

A proposal (P. No. 421) entitled: "Relating to Energy Resources," was introduced by Delegate Hino, by request.

A proposal (P. No. 422) entitled: "Relating to the State Motto," was introduced by Delegate Hino, by request.

A proposal (P. No. 423) entitled: "Relating to an Electronic Communication and Information Network Among Islands and States," was introduced by Delegate Chu, by request.

A proposal (P. No. 424) entitled: "Relating to an Independent Grand Jury," was introduced by Delegate Chu.

A proposal (P. No. 425) entitled: "Relating to Qualifications for Judges," was introduced by Delegate Chu.

A proposal (P. No. 426) entitled: "Relating to the Initiative," was introduced by Delegate Hale.

A proposal (P. No. 427) entitled: "Relating to Filing of Information and Preliminary Hearings," was introduced by Delegate Hale.

A proposal (P. No. 428) entitled: "Relating to Residency and Citizenship Requirements," was introduced by Delegate Hale.

A proposal (P. No. 429) entitled: "Relating to the Auditor," was introduced jointly by Delegates Sakima and Nozaki.

A proposal (P. No. 430) entitled: "Relating to Elections," was introduced by Delegate Odanaka.

A proposal (P. No. 431) entitled: "Relating to the Power of the Board of Education," was introduced by Delegate Chung.

A proposal (P. No. 432) entitled: "Relating to the Board of Education," was introduced by Delegate Chung.

A proposal (P. No. 433) entitled: "Relating to Public Education," was introduced by Delegate Chung.

ORDER OF THE DAY REFERRAL OF PROPOSALS

The President made the following committee assignments of proposals that were introduced on Thursday, July 20, 1978:

P. No. 331 was referred to the Committee on Education.

P. No. 332 was referred to the Committee on Education.

P. No. 333 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 334 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 335 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 336 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 337 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 338 was referred to the Committee on Local Government.

P. No. 339 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 340 was referred to the Committee on Legislature.

P. No. 341 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 342 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 343 was referred to the Committee on Taxation and Finance.

P. No. 344 was referred to the Committee on Taxation and Finance.

P. No. 345 was referred to the Committee on Executive.

P. No. 346 was referred to the Committee on Legislature.

P. No. 347 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 348 was referred to the Committee on Judiciary.

P. No. 349 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 350 was referred to the Committee on Legislature.

P. No. 351 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 352 was referred to the Committee on Local Government.

P. No. 353 was referred to the Committee on Taxation and Finance.

P. No. 354 was referred to the Committee on Taxation and Finance.

P. No. 355 was referred to the Committee on Taxation and Finance.

P. No. 356 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 357 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 358 was referred to the Committee on Taxation and Finance.

P. No. 359 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 360 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 361 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 362 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 363 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 364 was referred to the Committee on Education.

P. No. 365 was referred to the Committee on Taxation and Finance.

P. No. 366 was referred to the Committee on Local Government.

P. No. 367 was referred to the Committee on Taxation and Finance.

P. No. 368 was referred to the Committee on Taxation and Finance.

P. No. 369 was referred to the Committee on Local Government.

P. No. 370 was referred to the Committee on Taxation and Finance.

P. No. 371 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 372 was referred to the Committee on Local Government.

P. No. 373 was referred to the Committee on Legislature.

P. No. 374 was referred to the Committee on Executive.

RE-REFERRAL OF PROPOSALS

The President re-referred the following proposals:

P. No. 33 was re-referred from the Committee on Public Health and Welfare; Labor and Industry to the Committee on Public Health and Welfare; Labor and Industry and the Committee on Environment, Agriculture, Conservation and Land jointly.

P. No. 34 was re-referred from the Committee on Public Health and Welfare; Labor and Industry to the Committee on Public Health and Welfare; Labor and Industry and the Committee on Environment, Agriculture, Conservation and Land jointly.

ADJOURNMENT

At 11:40 a.m., on motion by Delegate Ikeda, seconded by Delegate O'Toole and carried, the Convention adjourned until 11:30 a.m. Monday, July 24, 1978.

FOURTEENTH DAY

Monday, July 24, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11:30 a.m.

The President presided.

The Divine Blessing was invoked by Brother Oliver M. Aiu of Chaminade University.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Donald Ching and Takahashi who were excused and Delegates Hirata and Hornick who were absent.

The President announced that the Journal of the Thirteenth Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 15) informing the Convention that Proposal Nos. 375 through 433 had been printed and distributed.

On motion by Delegate Dyer, seconded by Delegate Campbell and carried, Stand. Com. Rep. No. 15 was adopted.

INTRODUCTION OF PROPOSALS

On motion by Delegate Yamashita, seconded by Delegate Sterling and carried, the following proposals (P. Nos. 434 through 465) passed First Reading by title, were referred to the Committee on Budget, Accounts and Printing and were placed on the calendar for further consideration on Tuesday, July 25, 1978:

A proposal (P. No. 434) entitled: "Relating to the Constitutional Convention," was introduced by Delegate Chu, by request.

A proposal (P. No. 435) entitled: "Relating to Habeas Corpus and Suspension of Laws," was introduced by Delegate Chu.

A proposal (P. No. 436) entitled: "Relating to the Right to Work," was introduced by Delegate Miller, by request.

A proposal (P. No. 437) entitled: "Relating to Apportionment Within Basic Island Units," was introduced by Delegate Miller.

A proposal (P. No. 438) entitled: "Relating to Deleting References to the Masculine Gender," was introduced by Delegate Izu.

A proposal (P. No. 439) entitled: "Relating to Pre-Constitutional Convention Committees," was introduced by Delegate Goodenow.

A proposal (P. No. 440) entitled: "Relating to the Election of Justices and Judges," was introduced by Delegate Campbell.

A proposal (P. No. 441) entitled: "Relating to Bonds; Debt Limitations," was introduced by Delegate McCall.

A proposal (P. No. 442) entitled: "Relating to Local Government," was introduced by Delegate McCall.

A proposal (P. No. 443) entitled: "Relating to Collective Bargaining and Civil Service Laws," was introduced by Delegate McCall.

A proposal (P. No. 444) entitled: "Relating to Pre-Constitutional Convention Committees," was introduced by Delegate Goodenow.

A proposal (P. No. 445) entitled: "Relating to Legislative Salaries," was introduced by Delegate Haunani Ching.

A proposal (P. No. 446) entitled: "Relating to Legislative Salaries," was introduced by Delegate Haunani Ching.

A proposal (P. No. 447) entitled: "Relating to Administrative Procedure," was introduced by Delegate Haunani Ching.

A proposal (P. No. 448) entitled: "Relating to Public Employees Right to Strike," was introduced by Delegate Ellis.

A proposal (P. No. 449) entitled: "Relating to Public Employees Right to Strike," was introduced by Delegate Ellis.

A proposal (P. No. 450) entitled: "Relating to an Annual State Budget," was introduced by Delegate Ellis.

A proposal (P. No. 451) entitled: "Relating to Education," was introduced by Delegate Nozaki.

A proposal (P. No. 452) entitled: "Relating to the Qualifications of Justices and Judges," was introduced by Delegate Chung.

A proposal (P. No. 453) entitled: "Relating to the Economic Security of the Elderly," was introduced by Delegate Dennis Ihara.

A proposal (P. No. 454) entitled: "Relating to the Rights of Citizens," was introduced by Delegate Dennis Ihara.

A proposal (P. No. 455) entitled: "Relating to Single-Member Legislative Districts," was introduced by Delegate Yamashita.

A proposal (P. No. 456) entitled: "Relating to the Preamble," was introduced by Delegate Yamashita.

A proposal (P. No. 457) entitled: "Relating to Local Government," was introduced by Delegate Teruo Ihara.

A proposal (P. No. 458) entitled: "Relating to Search and Seizure," was introduced by Delegate Hale.

A proposal (P. No. 459) entitled: "Relating to the Passage of Bills," was introduced by Delegate Hale.

A proposal (P. No. 460) entitled: "Relating to the Right of Privacy," was introduced by Delegate Hale.

A proposal (P. No. 461) entitled: "Relating to Rights of Citizens," was introduced by Delegate Hale.

A proposal (P. No. 462) entitled: "Relating to Fisheries," was introduced by Delegate Sterling.

A proposal (P. No. 463) entitled: "Relating to Discrimination in Civil Rights," was introduced by Delegate Dennis Ihara.

A proposal (P. No. 464) entitled: "Relating to Child Care Centers," was introduced by Delegate Silva.

A proposal (P. No. 465) entitled: "Relating to Ocean Resources," was introduced by Delegate Ledward.

ORDER OF THE DAY
REFERRAL OF PROPOSALS

The President made the following committee assignments of proposals that were introduced on Friday, July 21, 1978:

P. No. 375 was referred to the Committee on Education.

P. No. 376 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 377 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 378 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 379 was referred to the Committee on Local Government.

P. No. 380 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 381 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 382 was referred to the Committee on Legislature.

P. No. 383 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 384 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 385 was referred to the Committee on Hawaiian Affairs.

P. No. 386 was referred to the Committee on Education.

P. No. 387 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 388 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 389 was referred to the Committee on Executive.

P. No. 390 was referred to the Committee on Legislature.

P. No. 391 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 392 was referred to the Committee on Hawaiian Affairs.

P. No. 393 was referred to the Committee on Taxation and Finance.

P. No. 394 was referred to the Committee on Taxation and Finance.

P. No. 395 was referred to the Committee on Legislature.

P. No. 396 was referred to the Committee on Legislature.

P. No. 397 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 398 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 399 was referred to the Committee on Revision, Amendment and Other Provisions.

- P. No. 400 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 401 was referred to the Committee on Public Health and Welfare; Labor and Industry.
- P. No. 402 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 403 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 404 was jointly referred to the Committee on Ethics and the Committee on Revision, Amendment and Other Provisions.
- P. No. 405 was referred to the Committee on Hawaiian Affairs.
- P. No. 406 was referred to the Committee on Legislature.
- P. No. 407 was referred to the Committee on Revision, Amendment and Other Provisions.
- P. No. 408 was referred to the Committee on Legislature.
- P. No. 409 was referred to the Committee on Taxation and Finance.
- P. No. 410 was referred to the Committee on Public Health and Welfare; Labor and Industry.
- P. No. 411 was referred to the Committee on Environment, Agriculture, Conservation and Land.
- P. No. 412 was referred to the Committee on Legislature.
- P. No. 413 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 414 was referred to the Committee on Local Government.
- P. No. 415 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 416 was referred to the Committee on Environment, Agriculture, Conservation and Land.
- P. No. 417 was jointly referred to the Committee on Bill of Rights, Suffrage and Elections and the Committee on Legislature.
- P. No. 418 was referred to the Committee on Ethics.
- P. No. 419 was jointly referred to the Committee on Executive and the Committee on Legislature.
- P. No. 420 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 421 was referred to the Committee on Environment, Agriculture, Conservation and Land.
- P. No. 422 was referred to the Committee on Revision, Amendment and Other Provisions.
- P. No. 423 was referred to the Committee on Revision, Amendment and Other Provisions.
- P. No. 424 was referred to the Committee on Judiciary.
- P. No. 425 was referred to the Committee on Judiciary.
- P. No. 426 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 427 was referred to the Committee on Bill of Rights, Suffrage and Elections.

- P. No. 428 was referred to the Committee on Executive.
- P. No. 429 was referred to the Committee on Taxation and Finance.
- P. No. 430 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 431 was referred to the Committee on Education.
- P. No. 432 was referred to the Committee on Education.
- P. No. 433 was referred to the Committee on Education.

RE-REFERRAL OF PROPOSALS

The President re-referred the following proposals:

P. No. 327 was re-referred from the Committee on Revision, Amendment and Other Provisions to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 338 was re-referred from the Committee on Local Government to the Committee on Executive.

P. No. 364 was re-referred from the Committee on Education to the Committee on Education and the Committee on Taxation and Finance jointly.

P. No. 366 was re-referred from the Committee on Local Government to the Committee on Local Government and the Committee on Taxation and Finance jointly.

ADJOURNMENT

At 11:48 a.m., on motion by Delegate Dennis Ihara, seconded by Delegate Funakoshi and carried, the Convention adjourned until 11:30 a.m. Tuesday, July 25, 1978.

FIFTEENTH DAY

Tuesday, July 25, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11:30 a.m.

The President presided.

The Divine Blessing was invoked by the Reverend Brother Herman Gomes of St. Elizabeth's Church.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Anae and Ontai who were absent.

The President announced that the Journal of the Fourteenth Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORTS

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 16) informing the Convention that Proposal Nos. 434 through 465 and Stand. Com. Rep. No. 17 had been printed and distributed.

On motion by Delegate Campbell, seconded by Delegate Dyer and carried, Stand. Com. Rep. No. 16 was adopted.

Delegate Hamilton, for the Committee on Style, presented a report (Stand. Com. Rep. No. 17) recommending the adoption of Res. No. 3, relating to wording of the State Constitution.

At this time, a motion was made by Delegate Hale and seconded by Delegate Barr to defer action on Res. No. 3 until Wednesday, July 26, 1978. The motion to defer was put by the Chair and failed to carry.

On motion by Delegate Hamilton, seconded by Delegate Stone and carried, Stand. Com. Rep. No. 17 and Res. No. 3 were adopted.

INTRODUCTION OF PROPOSALS

On motion by Delegate Tam, seconded by Delegate de Costa and carried, the following proposals (P. Nos. 466 through 512) passed First Reading by title, were referred to the Committee on Budget, Accounts and Printing and were placed on the calendar for further consideration on Wednesday, July 26, 1978:

A proposal (P. No. 466) entitled: "Relating to the Elderly," was introduced by Delegate Rachel Lee.

A proposal (P. No. 467) entitled: "Relating to a Merit Nomination Commission," was introduced by Delegate Goodenow.

A proposal (P. No. 468) entitled: "Relating to the Lieutenant Governor," was introduced by Delegate Goodenow.

A proposal (P. No. 469) entitled: "Relating to Legislative Appropriations Procedures," was introduced by Delegate Ellis.

A proposal (P. No. 470) entitled: "Relating to Debt Limit," was introduced by Delegate Ellis.

A proposal (P. No. 471) entitled: "Relating to a Constitutional Convention," was introduced by Delegate Barnard.

A proposal (P. No. 472) entitled: "Relating to Apportionment Among Basic Island Units," was introduced by Delegate Blake.

A proposal (P. No. 473) entitled: "Relating to the Termination of Appointments," was introduced by Delegate Wurdeman.

A proposal (P. No. 474) entitled: "Relating to Tax Limitation," was introduced by Delegate Wurdeman.

A proposal (P. No. 475) entitled: "Relating to Local Government," was introduced by Delegate Wurdeman.

A proposal (P. No. 476) entitled: "Relating to the Appointment of the Superintendent of Education," was introduced by Delegate Blake.

A proposal (P. No. 477) entitled: "Relating to the Board of Education and School Board Districts," was introduced by Delegate Blake.

A proposal (P. No. 478) entitled: "Relating to the Hawaiian Homes Program," was introduced by Delegate Shon.

A proposal (P. No. 479) entitled: "Relating to Public Funded Campaigns," was introduced by Delegate Campbell.

A proposal (P. No. 480) entitled: "Relating to Tax Deduction for School Tuition," was introduced by Delegate Laura Ching.

A proposal (P. No. 481) entitled: "Relating to the Constitutional Convention," was introduced by Delegate DiBianco.

A proposal (P. No. 482) entitled: "Relating to Conservation and Development of Resources," was introduced by Delegate Chang.

A proposal (P. No. 483) entitled: "Relating to Marine Resources," was introduced by Delegate Chang.

A proposal (P. No. 484) entitled: "Relating to Local Government," was introduced by Delegate McCall, by request.

A proposal (P. No. 485) entitled: "Relating to Local Government," was introduced by Delegate McCall, by request.

A proposal (P. No. 486) entitled: "Relating to a Constitution Revision Commission," was introduced by Delegate Izu.

A proposal (P. No. 487) entitled: "Relating to a Constitutional Convention," was introduced jointly by Delegates Funakoshi and Pulham.

A proposal (P. No. 488) entitled: "Relating to the Board of Education," was introduced by Delegate Ledward.

A proposal (P. No. 489) entitled: "Relating to the Preservation of Conservation and Agricultural Lands, Parks and Recreational Areas," was introduced by Delegate Chang.

A proposal (P. No. 490) entitled: "Relating to Public Land Banking," was introduced by Delegate Chang.

A proposal (P. No. 491) entitled: "Relating to Right to Die," was introduced by Delegate Goodenow.

A proposal (P. No. 492) entitled: "Amending the Applicability of the State Code of Ethics," was introduced by Delegate Villaverde.

A proposal (P. No. 493) entitled: "Relating to the Hawaiian King or Queen," was introduced by Delegate Hayashida.

A proposal (P. No. 494) entitled: "Relating to Commonwealth Status," was introduced by Delegate Hayashida.

A proposal (P. No. 495) entitled: "Relating to Residency Requirements," was introduced by Delegate Hayashida.

A proposal (P. No. 496) entitled: "Relating to Judiciary," was introduced by Delegate Calvin Ching.

A proposal (P. No. 497) entitled: "Relating to an Energy Resource Agency," was introduced by Delegate Sutton.

A proposal (P. No. 498) entitled: "Relating to the Grand Jury," was introduced by Delegate Weatherwax, by request.

A proposal (P. No. 499) entitled: "Relating to a National Constitutional Convention," was introduced by Delegate Laura Ching.

A proposal (P. No. 500) entitled: "Relating to Codes of Ethics," was introduced by Delegate Campbell.

A proposal (P. No. 501) entitled: "Relating to Referendum," was introduced by Delegate Barnes.

A proposal (P. No. 502) entitled: "Relating to the Election of Justices and Judges," was introduced by Delegate Laura Ching.

A proposal (P. No. 503) entitled: "Relating to Privileges of Members of the Legislature," was introduced by Delegate Liu.

A proposal (P. No. 504) entitled: "Relating to Taxation," was introduced by Delegate Funakoshi, by request.

A proposal (P. No. 505) entitled: "Relating to Assessed Valuations," was introduced by Delegate Funakoshi, by request.

A proposal (P. No. 506) entitled: "Relating to the Rights of Man," was introduced by Delegate Hale.

A proposal (P. No. 507) entitled: "Relating to the Board of Education and Elected School Advisory Councils," was introduced by Delegate Hale.

A proposal (P. No. 508) entitled: "Relating to Public Employees," was introduced by Delegate Hale.

A proposal (P. No. 509) entitled: "Relating to the Power of the Board of Education," was introduced by Delegate Hale.

A proposal (P. No. 510) entitled: "Relating to a State Fiscal Officer," was introduced by Delegate Hale.

A proposal (P. No. 511) entitled: "Relating to the Commission on Legislative Salary," was introduced by Delegate Odanaka.

A proposal (P. No. 512) entitled: "Relating to Employment," was introduced by Delegate Chun.

ORDER OF THE DAY

REFERRAL OF PROPOSALS

The President made the following committee assignments of proposals that were introduced on Monday, July 24, 1978:

P. No. 434 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 435 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 436 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 437 was referred to the Committee on Legislature.

P. No. 438 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 439 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 440 was referred to the Committee on Judiciary.

P. No. 441 was referred to the Committee on Taxation and Finance.

P. No. 442 was referred to the Committee on Local Government.

P. No. 443 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 444 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 445 was referred to the Committee on Legislature.

P. No. 446 was referred to the Committee on Legislature.

P. No. 447 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 448 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 449 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 450 was referred to the Committee on Taxation and Finance.

P. No. 451 was referred to the Committee on Education.

P. No. 452 was referred to the Committee on Judiciary.

P. No. 453 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 454 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 455 was referred to the Committee on Legislature.

P. No. 456 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 457 was referred to the Committee on Local Government.

P. No. 458 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 459 was referred to the Committee on Legislature.

P. No. 460 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 461 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 462 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 463 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 464 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 465 was referred to the Committee on Environment, Agriculture, Conservation and Land.

RE-REFERRAL OF PROPOSAL

The President re-referred P. No. 333 from the Committee on Bill of Rights, Suffrage and Elections to the Committee on Public Health and Welfare; Labor and Industry.

ADJOURNMENT

At 11:41 a.m., on motion by Delegate Villaverde, seconded by Delegate Alcon and carried, the Convention adjourned until 11:30 a.m. Wednesday, July 26, 1978.

SIXTEENTH DAY

Wednesday, July 26, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11: 30 a.m.

The President presided.

The Divine Blessing was invoked by the Reverend Terry Watanabe of Our Lady of Good Counsel Church.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Blean, Ontai and Shon who were absent.

The President announced that the Journal of the Fifteenth Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 18) informing the Convention that Proposal Nos. 466 through 512 had been printed and distributed.

On motion by Delegate Dyer, seconded by Delegate Campbell and carried, Stand. Com. Rep. No. 18 was adopted.

INTRODUCTION OF PROPOSALS

On motion by Delegate Ellis, seconded by Delegate Waihee and carried, the following proposals (P. Nos. 513 through 543) passed First Reading by title, were referred to the Committee on Budget, Accounts and Printing and were placed on the calendar for further consideration on Thursday, July 27, 1978:

A proposal (P. No. 513) entitled: "Relating to Open Meetings," was introduced by Delegate Campbell.

A proposal (P. No. 514) entitled: "Relating to Local Government," was introduced by Delegate Hokama, by request.

A proposal (P. No. 515) entitled: "Relating to Bill of Rights," was introduced by Delegate Shinno.

A proposal (P. No. 516) entitled: "Relating to Sunshine," was introduced by Delegate Barnes.

A proposal (P. No. 517) entitled: "Relating to Citizen Participation," was introduced by Delegate Barnes.

A proposal (P. No. 518) entitled: "Relating to Resources; Conservation, Development and Use," was introduced by Delegate Takemoto.

A proposal (P. No. 519) entitled: "Relating to a Change in the Age of Majority," was introduced by Delegate Barr, by request.

A proposal (P. No. 520) entitled: "Relating to Rights of the Accused and Trial by Jury, Civil Cases," was introduced by Delegate Pulham.

A proposal (P. No. 521) entitled: "Relating to Preamble," was introduced by Delegate Yoshimura.

A proposal (P. No. 522) entitled: "Relating to the Budget and Legislative Appropriations and Procedures," was introduced by Delegate Kono.

A proposal (P. No. 523) entitled: "Relating to Codes of Ethics," was introduced by Delegate Okamura.

A proposal (P. No. 524) entitled: "Relating to Water Regulation and Control," was introduced by Delegate Chang.

A proposal (P. No. 525) entitled: "Relating to State Acquisition of Private Land," was introduced by Delegate Shon.

A proposal (P. No. 526) entitled: "Relating to the Elderly," was introduced by Delegate Harris.

A proposal (P. No. 527) entitled: "Relating to School Board Terms of Office," was introduced by Delegate Goodenow.

A proposal (P. No. 528) entitled: "Relating to Education," was introduced by Delegate Alcon.

A proposal (P. No. 529) entitled: "Relating to Public Moneys," was introduced by Delegate Lewis.

A proposal (P. No. 530) entitled: "Relating to Public Funding for Post-Secondary Private Education," was introduced by Delegate Lewis, by request.

A proposal (P. No. 531) entitled: "Relating to Boundaries," was introduced by Delegate Chong.

A proposal (P. No. 532) entitled: "Relating to Staggered Terms for the Senate," was introduced by Delegate Eastvold.

A proposal (P. No. 533) entitled: "Deleting the Office of Lieutenant Governor," was introduced by Delegate Eastvold.

A proposal (P. No. 534) entitled: "Relating to Environmental Protection," was introduced by Delegate Eastvold.

A proposal (P. No. 535) entitled: "Relating to the Power of the Board of Education," was introduced by Delegate Eastvold.

A proposal (P. No. 536) entitled: "Relating to a Healthful Environment," was introduced by Delegate Nakamura.

A proposal (P. No. 537) entitled: "Relating to Local Government Powers," was introduced by Delegate Hale.

A proposal (P. No. 538) entitled: "Relating to an Advisory Board of Education, School Advisory Councils and the Superintendent of Education," was introduced by Delegate Yamashita.

A proposal (P. No. 539) entitled: "Relating to the State Ethics Commission," was introduced by Delegate Yamashita.

A proposal (P. No. 540) entitled: "Relating to Regulation of Natural Resources," was introduced by Delegate Chang.

A proposal (P. No. 541) entitled: "Relating to Regional Boards of Education," was introduced by Delegate Chu.

A proposal (P. No. 542) entitled: "Relating to the Commission on Legislative Salaries," was introduced by Delegate Chu.

A proposal (P. No. 543) entitled: "Relating to the Auditor," was introduced by Delegate Kono.

ORDER OF THE DAY
REFERRAL OF PROPOSALS

The President made the following committee assignments of proposals that were introduced on Tuesday, July 25, 1978:

P. No. 466 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 467 was referred to the Committee on Executive.

P. No. 468 was referred to the Committee on Executive.

P. No. 469 was referred to the Committee on Taxation and Finance.

P. No. 470 was referred to the Committee on Taxation and Finance.

P. No. 471 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 472 was referred to the Committee on Legislature.

P. No. 473 was referred to the Committee on Executive.

P. No. 474 was referred to the Committee on Taxation and Finance.

P. No. 475 was referred to the Committee on Local Government.

P. No. 476 was referred to the Committee on Education.

P. No. 477 was referred to the Committee on Education.

P. No. 478 was referred to the Committee on Hawaiian Affairs.

P. No. 479 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 480 was referred to the Committee on Taxation and Finance.

P. No. 481 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 482 was jointly referred to the Committee on Environment, Agriculture, Conservation and Land and the Committee on Public Health and Welfare; Labor and Industry.

P. No. 483 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 484 was referred to the Committee on Local Government.

P. No. 485 was referred to the Committee on Local Government.

P. No. 486 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 487 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 488 was referred to the Committee on Education.

P. No. 489 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 490 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 491 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 492 was referred to the Committee on Ethics.

P. No. 493 was referred to the Committee on Hawaiian Affairs.

P. No. 494 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 495 was referred to the Committee on Executive.

P. No. 496 was referred to the Committee on Judiciary.

P. No. 497 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 498 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 499 was referred to the Committee on Legislature.

P. No. 500 was referred to the Committee on Ethics.

P. No. 501 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 502 was referred to the Committee on Judiciary.

P. No. 503 was referred to the Committee on Legislature.

P. No. 504 was referred to the Committee on Taxation and Finance.

P. No. 505 was referred to the Committee on Taxation and Finance.

P. No. 506 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 507 was referred to the Committee on Education.

P. No. 508 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 509 was referred to the Committee on Education.

P. No. 510 was referred to the Committee on Executive.

P. No. 511 was referred to the Committee on Legislature.

P. No. 512 was referred to the Committee on Public Health and Welfare; Labor and Industry.

ADJOURNMENT

At 11:40 a.m., on motion by Delegate Campbell, seconded by Delegate Waihee and carried, the Convention adjourned until 11:30 a.m. Thursday, July 27, 1978.

SEVENTEENTH DAY

Thursday, July 27, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11:30 a.m.

The President presided.

The Divine Blessing was invoked by Father Guillermo Gorospe of St. Theresa's Church.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Barr, Blean, Chang, Crozier, De Soto, DiBianco, Goodenow, Hokama, Teruo Ihara, Nakamura, Penebacker, Sutton, Takitani and Weatherwax who were excused and Delegates Dennis Ihara, Rachel Lee, Ontai, Souki and Wurdeman who were absent.

The President announced that the Journal of the Sixteenth Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 19) informing the Convention that Proposal Nos. 513 through 543 and Res. No. 8 had been printed and distributed.

On motion by Delegate Campbell, seconded by Delegate Stone and carried, Stand. Com. Rep. No. 19 was adopted.

INTRODUCTION OF PROPOSALS

On motion by Delegate Stone, seconded by Delegate Eastvold and carried, the following proposals (P. Nos. 544 through 573) passed First Reading by title, were referred to the Committee on Budget, Accounts and Printing and were placed on the calendar for further consideration on Friday, July 28, 1978:

A proposal (P. No. 544) entitled: "Relating to Historic Places," was introduced by Delegate Sterling.

A proposal (P. No. 545) entitled: "Relating to a Judicial Commission," was introduced by Delegate Tam.

A proposal (P. No. 546) entitled: "Relating to the Rights of the Accused," was introduced by Delegate Tam.

A proposal (P. No. 547) entitled: "Relating to Trial by Jury, Civil Cases," was introduced by Delegate Tam.

A proposal (P. No. 548) entitled: "Relating to the Appointment of Justices and Judges," was introduced by Delegate Tam.

A proposal (P. No. 549) entitled: "Relating to Excessive Punishment," was introduced by Delegate Tam.

A proposal (P. No. 550) entitled: "Relating to Native Hawaiians," was introduced by Delegate De Soto.

A proposal (P. No. 551) entitled: "Relating to Codes of Ethics," was introduced jointly by Delegates Funakoshi, Waihee, Taira and Campbell.

A proposal (P. No. 552) entitled: "Relating to Historic Sites," was introduced by Delegate Harris.

A proposal (P. No. 553) entitled: "Relating to the Preamble," was introduced by Delegate Harris.

A proposal (P. No. 554) entitled: "Relating to Preventive Programs for Mental and Physical Health Problems," was introduced by Delegate Harris.

A proposal (P. No. 555) entitled: "Relating to Public Health," was introduced by Delegate Harris.

A proposal (P. No. 556) entitled: "Relating to the Rights of Humans," was introduced by Delegate Harris.

A proposal (P. No. 557) entitled: "Relating to the Limitation of Taxation," was introduced by Delegate Andrews, by request.

A proposal (P. No. 558) entitled: "Relating to Compensation for Legislators," was introduced by Delegate Cabral.

A proposal (P. No. 559) entitled: "Relating to Public Sightliness and Good Order," was introduced by Delegate Eastvold.

A proposal (P. No. 560) entitled: "Relating to an Open Primary Election," was introduced by Delegate Eastvold.

A proposal (P. No. 561) entitled: "Amending the Power of the Board of Education," was introduced by Delegate Eastvold.

A proposal (P. No. 562) entitled: "Relating to Terms of Elected Officials," was introduced by Delegate Eastvold.

A proposal (P. No. 563) entitled: "Relating to the Secretary of State," was introduced by Delegate Eastvold.

A proposal (P. No. 564) entitled: "Relating to Natural Resources," was introduced by Delegate Teruo Ihara.

A proposal (P. No. 565) entitled: "Relating to Legislative Compensation," was introduced by Delegate Tamayori.

A proposal (P. No. 566) entitled: "Relating to Auditors," was introduced by Delegate Kono.

A proposal (P. No. 567) entitled: "Relating to Item Vetoes," was introduced by Delegate Donald Ching.

A proposal (P. No. 568) entitled: "Relating to Funding for Private Education," was introduced by Delegate Lewis, by request.

A proposal (P. No. 569) entitled: "Relating to the Rights of Mentally or Physically Handicapped Persons," was introduced by Delegate Okamura.

A proposal (P. No. 570) entitled: "Relating to Energy Resources," was introduced by Delegate Hornick.

A proposal (P. No. 571) entitled: "Relating to Transfer of Funds," was introduced by Delegate Kono.

A proposal (P. No. 572) entitled: "Relating to Environmental Protection," was introduced by Delegate Les Ihara.

A proposal (P. No. 573) entitled: "Relating to Elections," was introduced by Delegate Chun.

INTRODUCTION OF RESOLUTION

A resolution (Res. No. 8) relating to the budget was offered by Delegate Ledward.

The President thereupon referred Res. No. 8 to the Committee on Budget, Accounts and Printing.

ORDER OF THE DAY REFERRAL OF PROPOSALS

The President made the following committee assignments of proposals that were introduced on Wednesday, July 26, 1978:

P. No. 513 was referred to the Committee on Legislature.

P. No. 514 was referred to the Committee on Local Government.

P. No. 515 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 516 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 517 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 518 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 519 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 520 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 521 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 522 was referred to the Committee on Taxation and Finance.

P. No. 523 was referred to the Committee on Ethics.

P. No. 524 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 525 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 526 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 527 was referred to the Committee on Education.

P. No. 528 was referred to the Committee on Education.

P. No. 529 was referred to the Committee on Taxation and Finance.

P. No. 530 was jointly referred to the Committee on Taxation and Finance and the Committee on Education.

P. No. 531 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 532 was referred to the Committee on Legislature.

P. No. 533 was jointly referred to the Committee on Executive and the Committee on Legislature.

P. No. 534 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 535 was referred to the Committee on Education.

P. No. 536 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 537 was referred to the Committee on Local Government.

P. No. 538 was referred to the Committee on Education.

P. No. 539 was referred to the Committee on Ethics.

P. No. 540 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 541 was referred to the Committee on Education.

P. No. 542 was referred to the Committee on Legislature.

P. No. 543 was referred to the Committee on Taxation and Finance.

RE-REFERRAL OF PROPOSALS

The President re-referred the following proposals:

P. No. 67 was re-referred from the Committee on Legislature and the Committee on Taxation and Finance jointly to the Committee on Taxation and Finance.

P. No. 68 was re-referred from the Committee on Legislature; the Committee on Taxation and Finance; and the Committee on Revision, Amendment and Other Provisions jointly to the Committee on Legislature and the Committee on Revision, Amendment and Other Provisions jointly.

P. No. 226 was re-referred from the Committee on Legislature and the Committee on Taxation and Finance jointly to the Committee on Legislature.

P. No. 341 was re-referred from the Committee on Revision, Amendment and Other Provisions to the Committee on Hawaiian Affairs.

P. No. 438 was re-referred from the Committee on Revision, Amendment and Other Provisions to the Committee on Style.

At 11: 35 a.m. , the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 11: 38 a.m.

ADJOURNMENT

At 11: 40 a.m. , on motion by Delegate Anae, seconded by Delegate O'Toole and carried, the Convention adjourned until 11: 30 a.m. Friday, July 28, 1978.

EIGHTEENTH DAY

Friday, July 28, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11:30 a.m.

The President presided.

The Divine Blessing was invoked by the Reverend Eli Carter of Our Lady of Perpetual Help Church.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegate Lewis who was excused and Delegates Blean, Fernandes Salling, Nozaki and Takehara who were absent.

The President announced that the Journal of the Seventeenth Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 20) informing the Convention that Proposal Nos. 544 through 573 had been printed and distributed.

On motion by Delegate Dyer, seconded by Delegate Campbell and carried, Stand. Com. Rep. No. 20 was adopted.

INTRODUCTION OF PROPOSALS

On motion by Delegate Kimball, seconded by Delegate Odanaka and carried, the following proposals (P. Nos. 574 through 608) passed First Reading by title, were referred to the Committee on Budget, Accounts and Printing and were placed on the calendar for further consideration on Monday, July 31, 1978:

A proposal (P. No. 574) entitled: "Relating to a Unicameral Legislature," was introduced jointly by Delegates Blean and O'Toole.

A proposal (P. No. 575) entitled: "Relating to Executive and Administrative Offices and Departments," was introduced by Delegate Shon.

A proposal (P. No. 576) entitled: "Relating to Judicial Selection," was introduced jointly by Delegates Barr and Eastvold.

A proposal (P. No. 577) entitled: "Relating to an Appointed Attorney General," was introduced by Delegate Campbell.

A proposal (P. No. 578) entitled: "Relating to the Establishment of Chartered Home Rule Units," was introduced by Delegate Miller.

A proposal (P. No. 579) entitled: "Relating to Community Utilization of Public School Facilities," was introduced by Delegate Miller.

A proposal (P. No. 580) entitled: "Amending Board of Education Representation," was introduced by Delegate Alcon.

A proposal (P. No. 581) entitled: "Relating to Conservation Lands," was introduced by Delegate Harris.

A proposal (P. No. 582) entitled: "Relating to Agricultural Lands," was introduced by Delegate Harris.

A proposal (P. No. 583) entitled: "Relating to Agricultural Lands," was introduced by Delegate Harris.

A proposal (P. No. 584) entitled: "Relating to Civil Defense," was introduced by Delegate Harris, by request.

A proposal (P. No. 585) entitled: "Relating to Agricultural Lands," was introduced by Delegate Harris.

A proposal (P. No. 586) entitled: "Relating to Water Pollution," was introduced by Delegate Harris.

A proposal (P. No. 587) entitled: "Relating to Energy Resources," was introduced by Delegate Harris.

A proposal (P. No. 588) entitled: "Relating to the State Land Use Commission," was introduced by Delegate Harris.

A proposal (P. No. 589) entitled: "Relating to the Board of Regents of the University of Hawaii," was introduced by Delegate Hamilton, by request.

A proposal (P. No. 590) entitled: "Relating to Right to Work," was introduced by Delegate Ellis.

A proposal (P. No. 591) entitled: "Relating to Bill Titles," was introduced by Delegate Izu.

A proposal (P. No. 592) entitled: "Relating to Residential Qualifications of Legislators," was introduced by Delegate Uyehara.

A proposal (P. No. 593) entitled: "Relating to Reapportioning the Board of Education," was introduced by Delegate Fukunaga.

A proposal (P. No. 594) entitled: "Relating to Boundaries," was introduced by Delegate Chung.

A proposal (P. No. 595) entitled: "Relating to Zoning Changes," was introduced by Delegate Eastvold.

A proposal (P. No. 596) entitled: "Relating to an Elected Attorney General," was introduced by Delegate Eastvold.

A proposal (P. No. 597) entitled: "Relating to Age and Marital Status Discrimination," was introduced by Delegate Marion Lee.

A proposal (P. No. 598) entitled: "Relating to Jury Service," was introduced by Delegate Marion Lee.

A proposal (P. No. 599) entitled: "Relating to Use of Public Lands," was introduced by Delegate Marion Lee.

A proposal (P. No. 600) entitled: "Relating to Taxing Power," was introduced by Delegate Marion Lee.

A proposal (P. No. 601) entitled: "Relating to Childbearing Decisions," was introduced by Delegate Marion Lee.

A proposal (P. No. 602) entitled: "Relating to Right to Bear Arms," was introduced by Delegate Marion Lee.

A proposal (P. No. 603) entitled: "Relating to Rights of Accused," was introduced by Delegate Marion Lee.

A proposal (P. No. 604) entitled: "Relating to a Constitutional Convention," was introduced by Delegate Marion Lee.

A proposal (P. No. 605) entitled: "Relating to Publication of Tax Collections and Expenditures," was introduced by Delegate Marion Lee.

A proposal (P. No. 606) entitled: "Relating to Creation of Political Subdivisions," was introduced by Delegate Marion Lee.

A proposal (P. No. 607) entitled: "Relating to a Position Count Increase Limitation," was introduced by Delegate Marion Lee.

A proposal (P. No. 608) entitled: "Relating to the Budget," was introduced by Delegate Marion Lee.

ORDER OF THE DAY REFERRAL OF PROPOSALS

The President made the following committee assignments of proposals that were introduced on Thursday, July 27, 1978:

P. No. 544 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 545 was referred to the Committee on Judiciary.

P. No. 546 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 547 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 548 was referred to the Committee on Judiciary.

P. No. 549 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 550 was referred to the Committee on Hawaiian Affairs.

P. No. 551 was referred to the Committee on Ethics.

P. No. 552 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 553 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 554 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 555 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 556 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 557 was referred to the Committee on Taxation and Finance.

P. No. 558 was referred to the Committee on Legislature.

P. No. 559 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 560 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 561 was referred to the Committee on Education.

P. No. 562 was jointly referred to the Committee on Legislature and the Committee on Executive.

P. No. 563 was referred to the Committee on Executive.

P. No. 564 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 565 was referred to the Committee on Legislature.

P. No. 566 was referred to the Committee on Taxation and Finance.

P. No. 567 was referred to the Committee on Legislature.

P. No. 568 was referred to the Committee on Education.

P. No. 569 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 570 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 571 was referred to the Committee on Taxation and Finance.

P. No. 572 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 573 was referred to the Committee on Bill of Rights, Suffrage and Elections.

RE-REFERRAL OF PROPOSALS

The President re-referred the following proposals:

P. No. 67 was re-referred from the Committee on Taxation and Finance to the Committee on Taxation and Finance and the Committee on Executive jointly.

P. No. 84 was re-referred from the Committee on Taxation and Finance to the Committee on Taxation and Finance and the Committee on Executive jointly.

P. No. 224 was re-referred from the Committee on Taxation and Finance to the Committee on Taxation and Finance and the Committee on Executive jointly.

P. No. 316 was re-referred from the Committee on Taxation and Finance to the Committee on Taxation and Finance and the Committee on Executive jointly.

P. No. 353 was re-referred from the Committee on Taxation and Finance to the Committee on Taxation and Finance and the Committee on Executive jointly.

P. No. 393 was re-referred from the Committee on Taxation and Finance to the Committee on Taxation and Finance and the Committee on Executive jointly.

P. No. 394 was re-referred from the Committee on Taxation and Finance to the Committee on Taxation and Finance and the Committee on Executive jointly.

P. No. 414 was re-referred from the Committee on Local Government to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 438 was re-referred from the Committee on Style to the Committee on Revision, Amendment and Other Provisions.

ADJOURNMENT

At 11:45 a.m., on motion by Delegate Shon, seconded by Delegate Barnard and carried, the Convention adjourned until 11:30 a.m. Monday, July 31, 1978.

NINETEENTH DAY

Monday, July 31, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11:30 a.m.

The President presided.

The Divine Blessing was invoked by the Reverend Tetsuun Ama of the Honpa Hongwanji Mission of Hawaii.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Calvin Ching, Chun, Fushikoshi, Hashimoto, Kojima, Kono, McCall, Nakamura, Silva and Villaverde who were excused.

The President announced that the Journal of the Eighteenth Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 21) informing the Convention that Proposal Nos. 574 through 608 had been printed and distributed.

On motion by Delegate Hanaike, seconded by Delegate Hale and carried, Stand. Com. Rep. No. 21 was adopted.

INTRODUCTION OF PROPOSALS

On motion by Delegate Takitani, seconded by Delegate Lewis and carried, the following proposals (P. Nos. 609 through 835) submitted by 4:00 p.m., July 31, 1978 passed First Reading by title, were referred to the Committee on Budget, Accounts and Printing and were placed on the calendar for further consideration on Tuesday, August 1, 1978:

A proposal (P. No. 609) entitled: "Relating to the Election Process for Public Office," was introduced by Delegate Kimball.

A proposal (P. No. 610) entitled: "Relating to Due Process and Equal Protection," was introduced by Delegate Kimball, by request.

A proposal (P. No. 611) entitled: "Relating to Primary Elections," was introduced by Delegate O'Toole.

A proposal (P. No. 612) entitled: "Relating to the Public's Right to Know," was introduced by Delegate Izu.

A proposal (P. No. 613) entitled: "Relating to Legislative and Administrative Accountability and Incentive," was introduced by Delegate Peterson.

A proposal (P. No. 614) entitled: "Relating to the Budget," was introduced by Delegate Calvin Ching.

A proposal (P. No. 615) entitled: "Relating to Hawaiian Homes," was introduced by Delegate De Soto.

A proposal (P. No. 616) entitled: "Relating to the Election of the Board of Education," was introduced by Delegate Hamilton, by request.

A proposal (P. No. 617) entitled: "Relating to Qualifications for Elective Office," was introduced by Delegate Fernandes Salling.

A proposal (P. No. 618) entitled: "Relating to Press Regulation," was introduced by Delegate Hayashida.

A proposal (P. No. 619) entitled: "Relating to the Indirect Initiative," was introduced by Delegate Fernandes Salling.

A proposal (P. No. 620) entitled: "Relating to the Power of Counties," was introduced by Delegate Fernandes Salling.

A proposal (P. No. 621) entitled: "Relating to the Legislature," was introduced by Delegate Fernandes Salling.

A proposal (P. No. 622) entitled: "Relating to the Legislature," was introduced by Delegate Fernandes Salling.

A proposal (P. No. 623) entitled: "Relating to Legislative Salaries and Allowances," was introduced by Delegate Fernandes Salling.

A proposal (P. No. 624) entitled: "Relating to the Legislature," was introduced by Delegate Fernandes Salling.

A proposal (P. No. 625) entitled: "Relating to the Establishment of Health Care Services," was introduced by Delegate DiBianco.

A proposal (P. No. 626) entitled: "Regarding the Powers of the Legislative Auditor," was introduced by Delegate DiBianco.

A proposal (P. No. 627) entitled: "Relating to Political Power," was introduced by Delegate Stegmaier.

A proposal (P. No. 628) entitled: "Relating to Care of Handicapped," was introduced by Delegate Stegmaier, by request.

A proposal (P. No. 629) entitled: "Relating to Price Regulation," was introduced jointly by Delegates O'Toole and Stegmaier, by request.

A proposal (P. No. 630) entitled: "Relating to Taxes of Persons on Fixed Income," was introduced by Delegate Pulham.

A proposal (P. No. 631) entitled: "Relating to Districting and Apportionment," was introduced by Delegate Fernandes Salling.

A proposal (P. No. 632) entitled: "Relating to the Right to a Fair Hearing," was introduced by Delegate Kojima.

A proposal (P. No. 633) entitled: "Relating to Care of Handicapped," was introduced by Delegate Kaito.

A proposal (P. No. 634) entitled: "Relating to Ownership of Property by Aliens," was introduced by Delegate Goodenow.

A proposal (P. No. 635) entitled: "Relating to a Randomly Selected Attorney General," was introduced by Delegate Takitani.

A proposal (P. No. 636) entitled: "Relating to the Ownership of Land," was introduced by Delegate Takitani.

A proposal (P. No. 637) entitled: "Relating to Public Assistance," was introduced by Delegate Shon.

A proposal (P. No. 638) entitled: "Relating to Public Health," was introduced by Delegate Shon.

A proposal (P. No. 639) entitled: "Relating to the Right to Bear Arms," was introduced by Delegate Nozaki.

A proposal (P. No. 640) entitled: "Relating to Natural Resources," was introduced by Delegate Nozaki.

A proposal (P. No. 641) entitled: "Relating to a State Ethics Commission," was introduced by Delegate Nozaki.

A proposal (P. No. 642) entitled: "Relating to a Pension Fund for the Aged," was introduced by Delegate Nozaki.

A proposal (P. No. 643) entitled: "Relating to the Ombudsman," was introduced by Delegate Nozaki.

A proposal (P. No. 644) entitled: "Relating to Kuleana Lands," was introduced by Delegate Hayashida.

A proposal (P. No. 645) entitled: "Relating to Hawaiian Education," was introduced by Delegate Hayashida.

A proposal (P. No. 646) entitled: "Relating to Public Rights of Access," was introduced by Delegate Harris.

A proposal (P. No. 647) entitled: "Relating to Public Financing of Campaigns," was introduced by Delegate Villaverde.

A proposal (P. No. 648) entitled: "Relating to Equal Employment," was introduced by Delegate Villaverde.

A proposal (P. No. 649) entitled: "Relating to Special Tax Refunds to State Individual Income Taxpayers," was introduced by Delegate Chung.

A proposal (P. No. 650) entitled: "Relating to Access to the Courts," was introduced by Delegate DiBianco.

A proposal (P. No. 651) entitled: "Relating to the Establishment of a Human Organ Registry," was introduced by Delegate DiBianco.

A proposal (P. No. 652) entitled: "Relating to the Decriminalization of Marijuana," was introduced jointly by Delegates DiBianco and Funakoshi.

A proposal (P. No. 653) entitled: "Relating to Local Government," was introduced by Delegate Alcon, by request.

A proposal (P. No. 654) entitled: "Relating to County Government," was introduced by Delegate Alcon.

A proposal (P. No. 655) entitled: "Relating to the Apportionment of State Revenues to Political Subdivisions," was introduced by Delegate Alcon.

A proposal (P. No. 656) entitled: "Relating to District School Advisory Councils," was introduced by Delegate Fukunaga.

A proposal (P. No. 657) entitled: "Relating to Public Natural Resources," was introduced by Delegate Fukunaga.

A proposal (P. No. 658) entitled: "Relating to Natural Resources, Historical and Cultural Resources and Population Growth," was introduced by Delegate Fukunaga.

A proposal (P. No. 659) entitled: "Relating to Executive and Administrative Offices and Departments," was introduced by Delegate Fukunaga.

A proposal (P. No. 660) entitled: "Relating to Elections," was introduced by Delegate Chun.

A proposal (P. No. 661) entitled: "Relating to State Boundaries," was introduced by Delegate Sasaki.

A proposal (P. No. 662) entitled: "Relating to Sexual Orientation Discrimination," was introduced by Delegate Dyer, by request.

A proposal (P. No. 663) entitled: "Relating to Public Utilities," was introduced by Delegate Hayashida.

A proposal (P. No. 664) entitled: "Relating to Hawaii," was introduced by Delegate Hayashida.

A proposal (P. No. 665) entitled: "Relating to a General Plan for Hawaiian Home Lands," was introduced by Delegate Sutton.

A proposal (P. No. 666) entitled: "Relating to Bonds and Debt Limitations," was introduced jointly by Delegates Kono and Ishikawa.

A proposal (P. No. 667) entitled: "Relating to Mandatory Public Referenda for Capital Improvement Projects," was introduced by Delegate Kono.

A proposal (P. No. 668) entitled: "Relating to the Supreme Court's Decision Deadlines," was introduced by Delegate Sutton, by request.

A proposal (P. No. 669) entitled: "Relating to Circuit Court Divisions of Appeals," was introduced by Delegate Chu.

A proposal (P. No. 670) entitled: "Relating to Time Limitations on Matters before the Supreme Court," was introduced by Delegate Chu.

A proposal (P. No. 671) entitled: "Relating to Disqualifications for Voting," was introduced by Delegate Dyer.

A proposal (P. No. 672) entitled: "Relating to Hawaiian Language," was introduced by Delegate Sasaki.

A proposal (P. No. 673) entitled: "Relating to Hawaiian Affairs," was introduced by Delegate De Soto.

A proposal (P. No. 674) entitled: "Relating to Hawaiian Affairs," was introduced by Delegate De Soto.

A proposal (P. No. 675) entitled: "Relating to Hawaiian Affairs," was introduced by Delegate De Soto.

A proposal (P. No. 676) entitled: "Relating to Hawaiian Affairs," was introduced by Delegate De Soto.

A proposal (P. No. 677) entitled: "Relating to Agricultural Resources," was introduced by Delegate Hoe.

A proposal (P. No. 678) entitled: "Relating to Water Resources," was introduced by Delegate Hoe.

A proposal (P. No. 679) entitled: "Relating to Water Resources," was introduced by Delegate Hoe.

A proposal (P. No. 680) entitled: "Relating to the Board of Education," was introduced by Delegate Uyehara.

A proposal (P. No. 681) entitled: "Relating to the Right to Medical Care," was introduced by Delegate Les Ihara.

A proposal (P. No. 682) entitled: "Relating to Public Lands," was introduced by Delegate Les Ihara, by request.

A proposal (P. No. 683) entitled: "Relating to Residency," was introduced by Delegate Les Ihara, by request.

A proposal (P. No. 684) entitled: "Relating to Right of Minimum Standard of Living," was introduced by Delegate Les Ihara.

A proposal (P. No. 685) entitled: "Relating to Resources," was introduced by Delegate Les Ihara.

A proposal (P. No. 686) entitled: "Relating to Public Parkland," was introduced by Delegate Les Ihara.

A proposal (P. No. 687) entitled: "Relating to Local Government," was introduced by Delegate Alcon, by request.

A proposal (P. No. 688) entitled: "Relating to Education," was introduced by Delegate Alcon.

A proposal (P. No. 689) entitled: "Relating to Appointment of Justices and Judges," was introduced by Delegate Hale.

A proposal (P. No. 690) entitled: "Relating to Marine Resources," was introduced by Delegate Chong.

A proposal (P. No. 691) entitled: "Relating to the Rights and Responsibilities of the Media," was introduced by Delegate Iwamoto.

A proposal (P. No. 692) entitled: "Relating to Suffrage," was introduced by Delegate Sakima.

A proposal (P. No. 693) entitled: "Relating to Article XI Hawaiian Affairs," was introduced by Delegate De Soto.

A proposal (P. No. 694) entitled: "Relating to the Issuance of General Obligation Bonds," was introduced by Delegate Izu.

A proposal (P. No. 695) entitled: "Relating to Qualifications to Vote," was introduced by Delegate Hanaïke, by request.

A proposal (P. No. 696) entitled: "Relating to the Right of the People to Be Governed," was introduced by Delegate Hanaïke, by request.

A proposal (P. No. 697) entitled: "Relating to Limiting State Spending," was introduced jointly by Delegates Kono, Peterson and Ishikawa.

A proposal (P. No. 698) entitled: "Relating to the Conservation of Water," was introduced by Delegate Ikeda.

A proposal (P. No. 699) entitled: "Relating to the Conservation of Water," was introduced by Delegate Ikeda.

A proposal (P. No. 700) entitled: "Relating to the Conservation of Water," was introduced by Delegate Ikeda.

A proposal (P. No. 701) entitled: "Relating to Conservation," was introduced by Delegate Crozier.

A proposal (P. No. 702) entitled: "Relating to the Preamble," was introduced by Delegate Donald Ching.

A proposal (P. No. 703) entitled: "Relating to Executive and Administrative Offices and Departments," was introduced by Delegate Lacy, by request.

A proposal (P. No. 704) entitled: "Relating to Conservation and Development of Resources," was introduced by Delegate Chang.

A proposal (P. No. 705) entitled: "Relating to Primary Elections," was introduced by Delegate Sterling.

A proposal (P. No. 706) entitled: "Relating to Public Sightliness and Good Order," was introduced by Delegate Sterling.

A proposal (P. No. 707) entitled: "Relating to Public Sightliness and Good Order," was introduced by Delegate Sterling.

A proposal (P. No. 708) entitled: "Relating to the Ombudsman," was introduced by Delegate Chu.

A proposal (P. No. 709) entitled: "Relating to the Power of Taxation," was introduced by Delegate Chu.

A proposal (P. No. 710) entitled: "Relating to State Boards and Commissions Membership Selection Procedures," was introduced by Delegate Chu.

A proposal (P. No. 711) entitled: "Relating to Durational Residency Requirements," was introduced by Delegate Chu.

A proposal (P. No. 712) entitled: "Relating to Primary Elections," was introduced by Delegate Chu.

A proposal (P. No. 713) entitled: "Relating to a Merit Selection of the Attorney General," was introduced by Delegate Chu.

A proposal (P. No. 714) entitled: "Relating to Due Process and Equal Protection," was introduced by Delegate Chu.

A proposal (P. No. 715) entitled: "Relating to Legislative Procedure and Public Hearings," was introduced by Delegate Chu.

A proposal (P. No. 716) entitled: "Relating to Legislative Salaries and Benefits," was introduced by Delegate Iwamoto, by request.

A proposal (P. No. 717) entitled: "Relating to Public Education," was introduced by Delegate Teruo Ihara, by request.

A proposal (P. No. 718) entitled: "Relating to the Board of Education," was introduced by Delegate Teruo Ihara, by request.

A proposal (P. No. 719) entitled: "Relating to the Power of the Board of Education," was introduced by Delegate Teruo Ihara, by request.

A proposal (P. No. 720) entitled: "Relating to the Passages of Bills," was introduced by Delegate Teruo Ihara, by request.

A proposal (P. No. 721) entitled: "Relating to Designation of Natural Resources as State Treasures," was introduced by Delegate Dennis Ihara.

A proposal (P. No. 722) entitled: "Relating to Civil Service Commission," was introduced by Delegate Dennis Ihara.

A proposal (P. No. 723) entitled: "Relating to Resources," was introduced by Delegate De Soto.

A proposal (P. No. 724) entitled: "Relating to Agricultural Lands," was introduced by Delegate Takahashi.

A proposal (P. No. 725) entitled: "Relating to Judicial Advisory Committee," was introduced by Delegate Takahashi.

A proposal (P. No. 726) entitled: "Relating to Care of Handicapped," was introduced jointly by Delegates Fujimoto and Alcon.

A proposal (P. No. 727) entitled: "Relating to Government Organization and Operations Commission," was introduced by Delegate Peterson, by request.

A proposal (P. No. 728) entitled: "Relating to Government Salaries and Benefits Commission," was introduced by Delegate Peterson, by request.

A proposal (P. No. 729) entitled: "Relating to Care of the Developmentally Disabled, Mentally Ill and the Handicapped," was introduced by Delegate Okamura.

A proposal (P. No. 730) entitled: "Relating to the Legislature," was introduced by Delegate Cabral.

A proposal (P. No. 731) entitled: "Relating to Residential Leases of Real Property," was introduced by Delegate Chu.

A proposal (P. No. 732) entitled: "Relating to Expenditure Controls," was introduced by Delegate Lacy.

A proposal (P. No. 733) entitled: "Relating to Public Services by Contract," was introduced by Delegate Lacy.

A proposal (P. No. 734) entitled: "Relating to Codes of Ethics," was introduced by Delegate Okamura.

A proposal (P. No. 735) entitled: "Relating to Right to Security of Body," was introduced by Delegate Takemoto.

A proposal (P. No. 736) entitled: "Relating to Highways," was introduced by Delegate Takemoto.

A proposal (P. No. 737) entitled: "Relating to Special Public Authorities," was introduced by Delegate Takemoto.

A proposal (P. No. 738) entitled: "Relating to Elective Office," was introduced by Delegate Alcon.

A proposal (P. No. 739) entitled: "Relating to Taxation and Finance," was introduced by Delegate Funakoshi, by request.

A proposal (P. No. 740) entitled: "Relating to Natural Resources," was introduced by Delegate Chung.

A proposal (P. No. 741) entitled: "Relating to Search and Seizure," was introduced by Delegate Burgess.

A proposal (P. No. 742) entitled: "Relating to a Limit in the Growth of Appropriations," was introduced by Delegate Burgess.

A proposal (P. No. 743) entitled: "Relating to Preservation of Native Ecotypes," was introduced by Delegate Harris.

A proposal (P. No. 744) entitled: "Relating to Small Businesses," was introduced by Delegate Harris.

A proposal (P. No. 745) entitled: "Relating to Growth Management," was introduced by Delegate Harris.

A proposal (P. No. 746) entitled: "Relating to Development of Urban Lands," was introduced by Delegate Harris.

A proposal (P. No. 747) entitled: "Relating to Recall of Public Officials," was introduced by Delegate Wurdeman.

A proposal (P. No. 748) entitled: "Relating to Limitation on State Debt," was introduced by Delegate Lewis, by request.

A proposal (P. No. 749) entitled: "Relating to Public Purpose," was introduced by Delegate Lewis, by request.

A proposal (P. No. 750) entitled: "Relating to Legislative Appropriation Procedures," was introduced by Delegate Lewis, by request.

A proposal (P. No. 751) entitled: "Relating to Expenditure Controls," was introduced by Delegate Lewis, by request.

A proposal (P. No. 752) entitled: "Relating to the Board of Education," was introduced by Delegate Takehara, by request.

A proposal (P. No. 753) entitled: "Relating to the Board of Regents," was introduced by Delegate Wurdeman.

A proposal (P. No. 754) entitled: "Relating to the Board of Education," was introduced by Delegate Wurdeman.

A proposal (P. No. 755) entitled: "Relating to Taxation and Finance," was introduced by Delegate Waihee.

A proposal (P. No. 756) entitled: "Relating to Collective Bargaining Rights of Tenants," was introduced by Delegate Hayashida.

A proposal (P. No. 757) entitled: "Relating to Conservation and Development of Resources," was introduced by Delegate Chang.

A proposal (P. No. 758) entitled: "Relating to Environment," was introduced by Delegate Chang.

A proposal (P. No. 759) entitled: "Relating to Compensation of Constitutional Convention Delegates," was introduced jointly by Delegates Waihee and Hokama.

A proposal (P. No. 760) entitled: "Relating to Legislative Districting and Apportionment," was introduced by Delegate Chong, by request.

A proposal (P. No. 761) entitled: "Relating to Environment," was introduced by Delegate Chang.

A proposal (P. No. 762) entitled: "Relating to Hawaiian Affairs," was introduced by Delegate De Soto.

A proposal (P. No. 763) entitled: "Relating to Private Property," was introduced by Delegate Hayashida.

A proposal (P. No. 764) entitled: "Relating to Separate Boards of Higher Education," was introduced by Delegate Takitani.

A proposal (P. No. 765) entitled: "Relating to the Executive," was introduced by Delegate Odanaka.

A proposal (P. No. 766) entitled: "Relating to the Governor's Cabinet," was introduced by Delegate Odanaka.

A proposal (P. No. 767) entitled: "Relating to Limiting Government Spending Statement of Intent," was introduced by Delegate Marion Lee, by request.

A proposal (P. No. 768) entitled: "Relating to Nonrenewable Resources," was introduced by Delegate Harris.

A proposal (P. No. 769) entitled: "Relating to Exemptions from the Debt Limit," was introduced by Delegate Barr.

A proposal (P. No. 770) entitled: "Relating to State Moneys; Deposit Requirements," was introduced by Delegate Barr.

A proposal (P. No. 771) entitled: "Relating to Public Purpose," was introduced by Delegate Barr.

A proposal (P. No. 772) entitled: "Relating to Decent Housing," was introduced by Delegate Hayashida, by request.

A proposal (P. No. 773) entitled: "Relating to Criminal Prosecutions," was introduced by Delegate Funakoshi.

A proposal (P. No. 774) entitled: "Relating to the Mandatory Sentencing of Repeat Offenders," was introduced by Delegate Funakoshi.

A proposal (P. No. 775) entitled: "Relating to Goals and Priorities of Public Education," was introduced by Delegate Kimball, by request.

A proposal (P. No. 776) entitled: "Relating to the Establishment of a Constitutional Revision Commission," was introduced by Delegate Kimball.

A proposal (P. No. 777) entitled: "Relating to Judiciary," was introduced by Delegate Waihee.

A proposal (P. No. 778) entitled: "Relating to Revisions or Amendments of Rights," was introduced by Delegate Takemoto.

A proposal (P. No. 779) entitled: "Relating to Rights of Man," was introduced by Delegate Takemoto.

A proposal (P. No. 780) entitled: "Relating to Taxation and Finance," was introduced by Delegate Fernandes Salling.

A proposal (P. No. 781) entitled: "Relating to the Constitutional Convention," was introduced by Delegate Fernandes Salling.

A proposal (P. No. 782) entitled: "Relating to Taxation and Finance," was introduced by Delegate Fernandes Salling.

A proposal (P. No. 783) entitled: "Relating to Natural Resources," was introduced by Delegate De Soto.

A proposal (P. No. 784) entitled: "Relating to Available Lands," was introduced by Delegate Sterling.

A proposal (P. No. 785) entitled: "Relating to Available Lands," was introduced by Delegate Sterling, by request.

A proposal (P. No. 786) entitled: "Relating to the Judiciary," was introduced by Delegate Dennis Ihara.

A proposal (P. No. 787) entitled: "Relating to Selection of Party," was introduced by Delegate Dennis Ihara.

A proposal (P. No. 788) entitled: "Relating to the Collection of Statutes," was introduced by Delegate Chung.

A proposal (P. No. 789) entitled: "Relating to Revenue Estimates," was introduced by Delegate Hirata.

A proposal (P. No. 790) entitled: "Relating to the State Budget," was introduced by Delegate Hirata.

A proposal (P. No. 791) entitled: "Relating to the Restriction of Funds," was introduced by Delegate Hirata.

A proposal (P. No. 792) entitled: "Relating to Legislative Sessions," was introduced by Delegate Hirata.

A proposal (P. No. 793) entitled: "Relating to the Budget of the Board of Education," was introduced by Delegate Hirata.

A proposal (P. No. 794) entitled: "Relating to the Role of the Legislature in Education," was introduced by Delegate Hirata.

A proposal (P. No. 795) entitled: "Relating to the Powers of the Board of Education," was introduced by Delegate Hirata.

A proposal (P. No. 796) entitled: "Relating to Legislative Fiscal Management," was introduced by Delegate Hirata.

A proposal (P. No. 797) entitled: "Relating to Legislative Staff," was introduced by Delegate Hirata.

A proposal (P. No. 798) entitled: "Relating to the Debt Ceiling," was introduced by Delegate Hirata.

A proposal (P. No. 799) entitled: "Relating to Capital Improvement Appropriations," was introduced by Delegate Hirata.

A proposal (P. No. 800) entitled: "Relating to Grants-in-Aid to the Counties," was introduced by Delegate Hirata.

A proposal (P. No. 801) entitled: "Relating to the Ombudsman," was introduced by Delegate Hirata.

A proposal (P. No. 802) entitled: "Relating to Constitutional Conventions," was introduced by Delegate Hirata.

A proposal (P. No. 803) entitled: "Relating to Civil Service Hiring Process," was introduced by Delegate Ontai.

A proposal (P. No. 804) entitled: "Relating to Hawaiian Homes Land," was introduced by Delegate Ontai.

A proposal (P. No. 805) entitled: "Relating to Hawaiian Homes Lands," was introduced by Delegate Ontai.

A proposal (P. No. 806) entitled: "Relating to Hawaiian Homes Land," was introduced by Delegate Ontai.

A proposal (P. No. 807) entitled: "Relating to Growth Management," was introduced by Delegate Harris.

A proposal (P. No. 808) entitled: "Relating to Conservation," was introduced by Delegate Ontai.

A proposal (P. No. 809) entitled: "Relating to Conservation," was introduced by Delegate Laura Ching.

A proposal (P. No. 810) entitled: "Relating to the Recall of Elective Officers," was introduced by Delegate Laura Ching.

A proposal (P. No. 811) entitled: "Relating to Growth," was introduced by Delegate Laura Ching.

A proposal (P. No. 812) entitled: "Relating to Health," was introduced by Delegate Laura Ching.

A proposal (P. No. 813) entitled: "Relating to Conservation," was introduced by Delegate Laura Ching.

A proposal (P. No. 814) entitled: "Relating to Welfare and Unemployment Payments," was introduced by Delegate Harris, by request.

A proposal (P. No. 815) entitled: "Relating to Price Regulation," was introduced jointly by Delegates O'Toole and Stegmaier, by request.

A proposal (P. No. 816) entitled: "Relating to Advisory Initiative," was introduced by Delegate Stegmaier.

A proposal (P. No. 817) entitled: "Relating to the People of Hawaii," was introduced by Delegate Stegmaier, by request.

A proposal (P. No. 818) entitled: "Relating to Adequate Medical Care," was introduced by Delegate Hayashida, by request.

A proposal (P. No. 819) entitled: "Relating to the Bill of Rights and Public Assistance," was introduced by Delegate Hayashida, by request.

A proposal (P. No. 820) entitled: "Relating to Public Assistance," was introduced by Delegate Hayashida, by request.

A proposal (P. No. 821) entitled: "Relating to the Right to a Job, Union Benefits, Standing to Sue for Lack of Employment," was introduced by Delegate Hayashida, by request.

A proposal (P. No. 822) entitled: "Relating to Legalized Gambling," was introduced by Delegate Hayashida.

A proposal (P. No. 823) entitled: "Relating to Standards of Ethical Conduct," was introduced by Delegate Miller.

A proposal (P. No. 824) entitled: "Relating to Housing," was introduced by Delegate Hornick.

A proposal (P. No. 825) entitled: "Relating to Public Health and Welfare," was introduced by Delegate Hornick.

A proposal (P. No. 826) entitled: "Relating to Growth," was introduced by Delegate Hornick.

A proposal (P. No. 827) entitled: "Relating to Indirect Initiative and Optional Referendum," was introduced by Delegate Hornick.

A proposal (P. No. 828) entitled: "Relating to Initiative," was introduced by Delegate Stegmaier.

A proposal (P. No. 829) entitled: "Relating to Double Taxation of Corporate Dividends," was introduced by Delegate Peterson.

A proposal (P. No. 830) entitled: "Relating to the Unification of the Executive and Legislative Functions," was introduced jointly by Delegates Hayashida and Hagino.

A proposal (P. No. 831) entitled: "Relating to Land Resources," was introduced by Delegate Hoe.

A proposal (P. No. 832) entitled: "Relating to Nuclear Power," was introduced by Delegate Hoe.

A proposal (P. No. 833) entitled: "Relating to Registration, Voting," was introduced by Delegate Lacy, by request.

A proposal (P. No. 834) entitled: "Relating to Initiative and Referendum," was introduced by Delegate Ontai.

A proposal (P. No. 835) entitled: "Relating to Public Libraries," was introduced by Delegate Miller.

ORDER OF THE DAY
REFERRAL OF PROPOSALS

The President made the following committee assignments of proposals that were introduced on Friday, July 28, 1978:

P. No. 574 was referred to the Committee on Legislature.

P. No. 575 was referred to the Committee on Executive.

P. No. 576 was referred to the Committee on Judiciary.

P. No. 577 was referred to the Committee on Executive.

P. No. 578 was referred to the Committee on Local Government.

P. No. 579 was referred to the Committee on Education.

P. No. 580 was referred to the Committee on Education.

P. No. 581 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 582 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 583 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 584 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 585 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 586 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 587 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 588 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 589 was referred to the Committee on Education.

P. No. 590 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 591 was referred to the Committee on Legislature.

P. No. 592 was referred to the Committee on Legislature.

P. No. 593 was referred to the Committee on Education.

P. No. 594 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 595 was jointly referred to the Committee on Environment, Agriculture, Conservation and Land and the Committee on Bill of Rights, Suffrage and Elections.

P. No. 596 was referred to the Committee on Executive.

P. No. 597 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 598 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 599 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 600 was referred to the Committee on Taxation and Finance.

P. No. 601 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 602 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 603 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 604 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 605 was referred to the Committee on Taxation and Finance.

P. No. 606 was referred to the Committee on Local Government.

P. No. 607 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 608 was referred to the Committee on Taxation and Finance.

RE-REFERRAL OF PROPOSAL

The President re-referred P. No 567 from the Committee on Legislature to the Committee on Legislature and the Committee on Executive jointly.

ADJOURNMENT

At 11:42 a.m., on motion by Delegate Funakoshi, seconded by Delegate Waihee and carried, the Convention adjourned until 11:30 a.m. Tuesday, August 1, 1978.

TWENTIETH DAY

Tuesday, August 1, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11:30 a.m.

The President presided.

The Divine Blessing was invoked by Bishop Yoshiaki Fujitani of the Honpa Hongwanji Mission of Hawaii.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Alcon, Haunani Ching, Eastvold, Ellis, Fernandes Salling, Fukunaga, Fushikoshi, Hirata, Hokama, Iwamoto, Izu, Kono, Ledward, Lewis, McCall, Nishimoto, O'Toole, Sakima, Silva, Takahashi, Takitani, Tamayori, Uyehara and Villaverde who were excused.

The President announced that the Journal of the Nineteenth Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 22) informing the Convention that Proposal Nos. 609 through 835 had been printed and distributed.

On motion by Delegate Hanaike, seconded by Delegate Hale and carried, Stand. Com. Rep. No. 22 was adopted.

ORDER OF THE DAY REFERRAL OF PROPOSALS

The President made the following committee assignments of proposals that were introduced on Monday, July 31, 1978:

- P. No. 609 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 610 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 611 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 612 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 613 was referred to the Committee on Taxation and Finance.
- P. No. 614 was referred to the Committee on Taxation and Finance.
- P. No. 615 was referred to the Committee on Hawaiian Affairs.
- P. No. 616 was referred to the Committee on Education.
- P. No. 617 was jointly referred to the Committee on Bill of Rights, Suffrage and Elections and the Committee on Executive.
- P. No. 618 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 619 was jointly referred to the Committee on Bill of Rights, Suffrage and Elections and the Committee on Legislature.

P. No. 620 was jointly referred to the Committee on Local Government and the Committee on Environment, Agriculture, Conservation and Land.

P. No. 621 was referred to the Committee on Legislature.

P. No. 622 was referred to the Committee on Legislature.

P. No. 623 was referred to the Committee on Legislature.

P. No. 624 was referred to the Committee on Legislature.

P. No. 625 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 626 was referred to the Committee on Taxation and Finance.

P. No. 627 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 628 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 629 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 630 was referred to the Committee on Taxation and Finance.

P. No. 631 was referred to the Committee on Legislature.

P. No. 632 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 633 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 634 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 635 was referred to the Committee on Executive.

P. No. 636 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 637 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 638 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 639 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 640 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 641 was referred to the Committee on Ethics.

P. No. 642 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 643 was referred to the Committee on Legislature.

P. No. 644 was referred to the Committee on Revision, Amendment and Other Provisions.

- P. No. 645 was referred to the Committee on Education.
- P. No. 646 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 647 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 648 was referred to the Committee on Revision, Amendment and Other Provisions.
- P. No. 649 was referred to the Committee on Taxation and Finance.
- P. No. 650 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 651 was referred to the Committee on Public Health and Welfare; Labor and Industry.
- P. No. 652 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 653 was referred to the Committee on Local Government.
- P. No. 654 was referred to the Committee on Local Government.
- P. No. 655 was jointly referred to the Committee on Local Government and the Committee on Taxation and Finance.
- P. No. 656 was referred to the Committee on Education.
- P. No. 657 was referred to the Committee on Environment, Agriculture, Conservation and Land.
- P. No. 658 was referred to the Committee on Environment, Agriculture, Conservation and Land.
- P. No. 659 was referred to the Committee on Executive.
- P. No. 660 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 661 was referred to the Committee on Revision, Amendment and Other Provisions.
- P. No. 662 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 663 was referred to the Committee on Environment, Agriculture, Conservation and Land.
- P. No. 664 was jointly referred to the Committee on Revision, Amendment and Other Provisions and the Committee on Hawaiian Affairs.
- P. No. 665 was referred to the Committee on Hawaiian Affairs.
- P. No. 666 was referred to the Committee on Taxation and Finance.
- P. No. 667 was referred to the Committee on Taxation and Finance.
- P. No. 668 was referred to the Committee on Judiciary.
- P. No. 669 was referred to the Committee on Judiciary.
- P. No. 670 was referred to the Committee on Judiciary.
- P. No. 671 was referred to the Committee on Bill of Rights, Suffrage and Elections.
- P. No. 672 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 673 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 674 was referred to the Committee on Hawaiian Affairs.

P. No. 675 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 676 was jointly referred to the Committee on Revision, Amendment and Other Provisions and the Committee on Hawaiian Affairs.

P. No. 677 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 678 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 679 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 680 was referred to the Committee on Education.

P. No. 681 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 682 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 683 was referred to the Committee on Executive.

P. No. 684 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 685 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 686 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 687 was referred to the Committee on Local Government.

P. No. 688 was referred to the Committee on Education.

P. No. 689 was referred to the Committee on Judiciary.

P. No. 690 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 691 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 692 was referred to the Committee on Local Government.

P. No. 693 was referred to the Committee on Hawaiian Affairs.

P. No. 694 was referred to the Committee on Taxation and Finance.

P. No. 695 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 696 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 697 was referred to the Committee on Taxation and Finance.

P. No. 698 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 699 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 700 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 701 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 702 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 703 was referred to the Committee on Executive.

P. No. 704 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 705 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 706 was jointly referred to the Committee on Environment, Agriculture, Conservation and Land and the Committee on Public Health and Welfare; Labor and Industry.

P. No. 707 was jointly referred to the Committee on Environment, Agriculture, Conservation and Land and the Committee on Public Health and Welfare; Labor and Industry.

P. No. 708 was referred to the Committee on Executive.

P. No. 709 was referred to the Committee on Taxation and Finance.

P. No. 710 was referred to the Committee on Executive.

P. No. 711 was referred to the Committee on Legislature.

P. No. 712 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 713 was referred to the Committee on Executive.

P. No. 714 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 715 was referred to the Committee on Legislature.

P. No. 716 was referred to the Committee on Legislature.

P. No. 717 was referred to the Committee on Education.

P. No. 718 was referred to the Committee on Education.

P. No. 719 was referred to the Committee on Education.

P. No. 720 was referred to the Committee on Legislature.

P. No. 721 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 722 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 723 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 724 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 725 was referred to the Committee on Judiciary.

P. No. 726 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 727 was referred to the Committee on Local Government.

P. No. 728 was referred to the Committee on Taxation and Finance.

P. No. 729 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 730 was referred to the Committee on Legislature.

P. No. 731 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 732 was referred to the Committee on Taxation and Finance.

P. No. 733 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 734 was referred to the Committee on Ethics.

P. No. 735 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 736 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 737 was jointly referred to the Committee on Legislature and the Committee on Executive.

P. No. 738 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 739 was referred to the Committee on Taxation and Finance.

P. No. 740 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 741 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 742 was referred to the Committee on Taxation and Finance.

P. No. 743 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 744 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 745 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 746 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 747 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 748 was referred to the Committee on Taxation and Finance.

P. No. 749 was referred to the Committee on Taxation and Finance.

P. No. 750 was referred to the Committee on Taxation and Finance.

P. No. 751 was referred to the Committee on Taxation and Finance.

P. No. 752 was referred to the Committee on Education.

P. No. 753 was referred to the Committee on Education.

P. No. 754 was referred to the Committee on Education.

P. No. 755 was referred to the Committee on Taxation and Finance.

P. No. 756 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 757 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 758 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 759 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 760 was referred to the Committee on Legislature.

P. No. 761 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 762 was referred to the Committee on Hawaiian Affairs.

P. No. 763 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 764 was referred to the Committee on Education.

P. No. 765 was referred to the Committee on Executive.

P. No. 766 was referred to the Committee on Executive.

P. No. 767 was referred to the Committee on Taxation and Finance.

P. No. 768 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 769 was referred to the Committee on Taxation and Finance.

P. No. 770 was referred to the Committee on Taxation and Finance.

P. No. 771 was referred to the Committee on Taxation and Finance.

P. No. 772 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 773 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 774 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 775 was referred to the Committee on Education.

P. No. 776 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 777 was referred to the Committee on Judiciary.

P. No. 778 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 779 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 780 was jointly referred to the Committee on Taxation and Finance and the Committee on Local Government.

P. No. 781 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 782 was jointly referred to the Committee on Taxation and Finance and the Committee on Local Government.

P. No. 783 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 784 was referred to the Committee on Hawaiian Affairs.

P. No. 785 was referred to the Committee on Hawaiian Affairs.

P. No. 786 was referred to the Committee on Judiciary.

P. No. 787 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 788 was referred to the Committee on Legislature.

P. No. 789 was referred to the Committee on Taxation and Finance.

P. No. 790 was referred to the Committee on Taxation and Finance.

P. No. 791 was referred to the Committee on Taxation and Finance.

P. No. 792 was referred to the Committee on Legislature.

P. No. 793 was referred to the Committee on Taxation and Finance.

P. No. 794 was referred to the Committee on Legislature.

P. No. 795 was referred to the Committee on Education.

P. No. 796 was referred to the Committee on Legislature.

P. No. 797 was referred to the Committee on Legislature.

P. No. 798 was referred to the Committee on Taxation and Finance.

P. No. 799 was referred to the Committee on Taxation and Finance.

P. No. 800 was referred to the Committee on Taxation and Finance.

P. No. 801 was referred to the Committee on Legislature.

P. No. 802 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 803 was jointly referred to the Committee on Revision, Amendment and Other Provisions and the Committee on Public Health and Welfare; Labor and Industry.

P. No. 804 was referred to the Committee on Hawaiian Affairs.

P. No. 805 was referred to the Committee on Hawaiian Affairs.

P. No. 806 was referred to the Committee on Hawaiian Affairs.

P. No. 807 was jointly referred to the Committee on Environment, Agriculture, Conservation and Land and the Committee on Public Health and Welfare; Labor and Industry.

P. No. 808 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 809 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 810 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 811 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 812 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 813 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 814 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 815 was referred to the Committee on Revision, Amendment and Other Provisions.

P. No. 816 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 817 was jointly referred to the Committee on Bill of Rights, Suffrage and Elections and the Committee on Revision, Amendment and Other Provisions.

P. No. 818 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 819 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 820 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 821 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 822 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 823 was referred to the Committee on Ethics.

P. No. 824 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 825 was referred to the Committee on Public Health and Welfare; Labor and Industry.

P. No. 826 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 827 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 828 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 829 was referred to the Committee on Taxation and Finance.

P. No. 830 was jointly referred to the Committee on Legislature and the Committee on Executive.

P. No. 831 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 832 was referred to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 833 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 834 was referred to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 835 was referred to the Committee on Education.

RE-REFERRAL OF PROPOSAL

The President re-referred P. No. 567 from the Committee on Legislature and the Committee on Executive jointly to the Committee on Executive.

ADJOURNMENT

At 11:37 a.m., on motion by Delegate Taira, seconded by Delegate Waihee and carried, the Convention adjourned until 11:30 a.m. Wednesday, August 2, 1978.

TWENTY-FIRST DAY

Wednesday, August 2, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11:30 a.m.

The President presided.

The Divine Blessing was invoked by the Reverend Satoru R. Kawai of the Jodo Mission of Hawaii.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present, with the exception of Delegates Alcon, Hokama, Les Ihara, Iwamoto, Ledward, McCall, Nishimoto, O'Toole, Sakima, Takahashi, Uyehara and Villaverde who were excused.

The President announced that the Journal of the Twentieth Day had been signed by the Secretary and approved by the President.

ORDER OF THE DAY RE-REFERRAL OF PROPOSALS

The President re-referred the following proposals:

P. No. 645 was re-referred from the Committee on Education to the Committee on Education and the Committee on Hawaiian Affairs jointly.

P. No. 773 was re-referred from the Committee on Bill of Rights, Suffrage and Elections to the Committee on Revision, Amendment and Other Provisions.

P. No. 774 was re-referred from the Committee on Bill of Rights, Suffrage and Elections to the Committee on Revision, Amendment and Other Provisions.

ADJOURNMENT

At 11:36 a.m., on motion by Delegate Eastvold, seconded by Delegate Waihee and carried, the Convention adjourned until 11:30 a.m. Thursday, August 3, 1978.

TWENTY-SECOND DAY

Thursday, August 3, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11:30 a.m.

The President presided.

The Divine Blessing was invoked by the Reverend Satoru Hori of the Honpa Hongwanji Mission of Hawaii.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Burgess, Calvin Ching and Ontai who were excused and Delegates Cabral, Hanaïke and Hashimoto who were absent.

The President announced that the Journal of the Twenty-First Day had been signed by the Secretary and approved by the President.

ORDER OF THE DAY RE-REFERRAL OF PROPOSALS

The President re-referred the following proposals:

P. No. 206 was re-referred from the Committee on Legislature to the Committee on Legislature and the Committee on Taxation and Finance jointly.

P. No. 218 was re-referred from the Committee on Revision, Amendment and Other Provisions to the Committee on Revision, Amendment and Other Provisions and the Committee on Taxation and Finance jointly.

P. No. 227 was re-referred from the Committee on Education to the Committee on Education and the Committee on Taxation and Finance jointly.

P. No. 293 was re-referred from the Committee on Local Government to the Committee on Local Government and the Committee on Taxation and Finance jointly.

P. No. 307 was re-referred from the Committee on Local Government to the Committee on Local Government and the Committee on Taxation and Finance jointly.

P. No. 328 was re-referred from the Committee on Education to the Committee on Education and the Committee on Taxation and Finance jointly.

P. No. 369 was re-referred from the Committee on Local Government to the Committee on Local Government and the Committee on Taxation and Finance jointly.

P. No. 442 was re-referred from the Committee on Local Government to the Committee on Local Government and the Committee on Taxation and Finance jointly.

P. No. 457 was re-referred from the Committee on Local Government to the Committee on Local Government and the Committee on Taxation and Finance jointly.

P. No. 510 was re-referred from the Committee on Executive to the Committee on Executive and the Committee on Taxation and Finance jointly.

P. No. 514 was re-referred from the Committee on Local Government to the Committee on Local Government and the Committee on Taxation and Finance jointly.

P. No. 567 was re-referred from the Committee on Executive to the Committee on Executive and the Committee on Taxation and Finance jointly.

P. No. 663 was re-referred from the Committee on Environment, Agriculture, Conservation and Land to the Committee on Environment, Agriculture, Conservation and Land and the Committee on Public Health and Welfare; Labor and Industry jointly.

P. No. 727 was re-referred from the Committee on Local Government to the Committee on Local Government and the Committee on Executive jointly.

P. No. 731 was re-referred from the Committee on Public Health and Welfare; Labor and Industry to the Committee on Environment, Agriculture, Conservation and Land.

P. No. 750 was re-referred from the Committee on Taxation and Finance to the Committee on Taxation and Finance and the Committee on Executive jointly.

P. No. 751 was re-referred from the Committee on Taxation and Finance to the Committee on Taxation and Finance and the Committee on Executive jointly.

P. No. 778 was re-referred from the Committee on Revision, Amendment and Other Provisions to the Committee on Revision, Amendment and Other Provisions and the Committee on Bill of Rights, Suffrage and Elections jointly.

P. No. 789 was re-referred from the Committee on Taxation and Finance to the Committee on Taxation and Finance and the Committee on Executive jointly.

P. No. 791 was re-referred from the Committee on Taxation and Finance to the Committee on Taxation and Finance and the Committee on Executive jointly.

ADJOURNMENT

At 11:41 a.m., on motion by Delegate Takitani, seconded by Delegate Waihee and carried, the Convention adjourned until 11:30 a.m. Friday, August 4, 1978.

TWENTY-THIRD DAY

Friday, August 4, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11:30 a.m.

Vice-President Larry Uyehara presided.

The Divine Blessing was invoked by the Reverend Seiko Okahashi of the Honpa Hongwanji Mission of Hawaii.

The Chair declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Anae, Andrews, Cabral, Calvin Ching, Laura Ching, Haunani Ching, Chung, De Soto, Dyer, Hale, Hashimoto, Hoe, Kojima, Nakamura, Paty, Pulham, Sasaki, Shinno, Silva, Sterling, Weatherwax and Yoshimura who were excused.

The Chair announced that the Journal of the Twenty-Second Day had been signed by the Secretary and approved by the President.

ORDER OF THE DAY RE-REFERRAL OF PROPOSALS

The Chair re-referred the following proposals:

P. No. 728 was re-referred from the Committee on Taxation and Finance to the Committee on Executive, the Committee on Legislature and the Committee on Judiciary jointly.

P. No. 744 was re-referred from the Committee on Public Health and Welfare; Labor and Industry to the Committee on Local Government.

ADJOURNMENT

At 11:35 a.m., on motion by Delegate Yamashita, seconded by Delegate Waihee and carried, the Convention adjourned until 11:30 a.m. Monday, August 7, 1978.

TWENTY-FOURTH DAY

Monday, August 7, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11:30 a.m.

The President presided.

The Divine Blessing was invoked by the Reverend Curtis R. Zimmerman of St. Andrew's Cathedral.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Izu and Silva who were excused and Delegates Blean and Fujimoto who were absent.

The President announced that the Journal of the Twenty-Third Day had been signed by the Secretary and approved by the President.

ORDER OF THE DAY RE-REFERRAL OF PROPOSALS

The President re-referred the following proposals:

P. No. 9 was re-referred from the Committee on Revision, Amendment and Other Provisions to the Committee on Bill of Rights, Suffrage and Elections.

P. No. 288 was re-referred from the Committee on Revision, Amendment and Other Provisions to the Committee on Legislature.

P. No. 578 was re-referred from the Committee on Local Government to the Committee on Local Government and the Committee on Taxation and Finance jointly.

P. No. 644 was re-referred from the Committee on Revision, Amendment and Other Provisions to the Committee on Hawaiian Affairs and the Committee on Taxation and Finance jointly.

P. No. 672 was re-referred from the Committee on Revision, Amendment and Other Provisions to the Committee on Hawaiian Affairs.

ADJOURNMENT

At 11:43 a.m., on motion by Delegate Sutton, seconded by Delegate Okamura and carried, the Convention adjourned until 11:30 a.m. Tuesday, August 8, 1978.

TWENTY-FIFTH DAY

Tuesday, August 8, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11:30 a.m.

The President presided.

The Divine Blessing was invoked by the Reverend Norman Hammer of Prince of Peace Lutheran Church.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Ikeda and Nakamura who were excused.

The President announced that the Journal of the Twenty-Fourth Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORTS

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 23) informing the Convention that Stand. Com. Rep. No. 24 and Res. No. 8, RD. 1, had been printed and distributed.

On motion by Delegate Ishikawa, seconded by Delegate Lacy and carried, Stand. Com. Rep. No. 23 was adopted.

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 24) recommending the adoption of Res. No. 8, as amended in RD. 1. She then requested that action be deferred.

There being no objection, action on Stand. Com. Rep. No. 24 and Res. No. 8, RD. 1, relating to the budget, was deferred until Wednesday, August 9, 1978.

ORDER OF THE DAY RE-REFERRAL OF PROPOSALS

The President re-referred the following proposals:

P. No. 9 was re-referred from the Committee on Bill of Rights, Suffrage and Elections to the Committee on Bill of Rights, Suffrage and Elections and the Committee on Hawaiian Affairs jointly.

P. No. 68 was re-referred from the Committee on Legislature and the Committee on Revision, Amendment and Other Provisions jointly to the Committee on Legislature and the Committee on Taxation and Finance jointly.

P. No. 81 was re-referred from the Committee on Bill of Rights, Suffrage and Elections to the Committee on Bill of Rights, Suffrage and Elections and the Committee on Hawaiian Affairs jointly.

P. No. 94 was re-referred from the Committee on Ethics and the Committee on Revision, Amendment and Other Provisions jointly to the Committee on Ethics.

P. No. 125 was re-referred from the Committee on Judiciary to the Committee on Bill of Rights, Suffrage and Elections and the Committee on Judiciary jointly.

P. No. 187 was re-referred from the Committee on Revision, Amendment and Other Provisions and the Committee on Hawaiian Affairs jointly to the Committee on Hawaiian Affairs.

P. No. 294 was re-referred from the Committee on Bill of Rights, Suffrage and Elections to the Committee on Bill of Rights, Suffrage and Elections and the Committee on Environment, Agriculture, Conservation and Land jointly.

P. No. 295 was re-referred from the Committee on Bill of Rights, Suffrage and Elections to the Committee on Bill of Rights, Suffrage and Elections and the Committee on Environment, Agriculture, Conservation and Land jointly.

P. No. 404 was re-referred from the Committee on Ethics and the Committee on Revision, Amendment and Other Provisions jointly to the Committee on Ethics.

P. No. 424 was re-referred from the Committee on Judiciary to the Committee on Bill of Rights, Suffrage and Elections and the Committee on Judiciary jointly.

P. No. 501 was re-referred from the Committee on Bill of Rights, Suffrage and Elections to the Committee on Bill of Rights, Suffrage and Elections and the Committee on Environment, Agriculture, Conservation and Land jointly.

P. No. 646 was re-referred from the Committee on Bill of Rights, Suffrage and Elections to the Committee on Bill of Rights, Suffrage and Elections and the Committee on Environment, Agriculture, Conservation and Land jointly.

P. No. 664 was re-referred from the Committee on Revision, Amendment and Other Provisions and the Committee on Hawaiian Affairs jointly to the Committee on Hawaiian Affairs.

P. No. 676 was re-referred from the Committee on Revision, Amendment and Other Provisions and the Committee on Hawaiian Affairs jointly to the Committee on Hawaiian Affairs.

P. No. 758 was re-referred from the Committee on Bill of Rights, Suffrage and Elections to the Committee on Bill of Rights, Suffrage and Elections and the Committee on Environment, Agriculture, Conservation and Land jointly.

P. No. 779 was re-referred from the Committee on Bill of Rights, Suffrage and Elections to the Committee on Bill of Rights, Suffrage and Elections and the Committee on Hawaiian Affairs jointly.

P. No. 806 was re-referred from the Committee on Hawaiian Affairs to the Committee on Taxation and Finance and the Committee on Hawaiian Affairs jointly.

At 11:47 a.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 11:50 a.m.

ADJOURNMENT

At 11:51 a.m., on motion by Delegate Kono, seconded by Delegate Waihee and carried, the Convention adjourned until 11:30 a.m. Wednesday, August 9, 1978.

TWENTY-SIXTH DAY

Wednesday, August 9, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11:30 a.m.

The President presided.

The Divine Blessing was invoked by the Reverend Donald K. Johnson of the Lutheran Church of Honolulu.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present.

The President announced that the Journal of the Twenty-Fifth Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORTS

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 25) informing the Convention that Stand. Com. Rep. No. 26, Com. P. No. 1 and Res. No. 9 had been printed and distributed.

On motion by Delegate Ishikawa, seconded by Delegate Hayashida and carried, Stand. Com. Rep. No. 25 was adopted.

Delegate Okamura, for the Committee on Ethics, presented a report (Stand. Com. Rep. No. 26) recommending that the proposals enumerated in the report be filed; and submitting a committee proposal (Com. P. No. 1) for introduction and recommending its passage on First Reading. He then requested that action be deferred.

There being no objection, action on Stand. Com. Rep. No. 26 and Com. P. No. 1 was deferred until Friday, August 11, 1978.

INTRODUCTION OF RESOLUTION

A resolution (Res. No. 9) relating to conflicts of interest concerning public employees was offered by Delegate Ellis, who moved for its adoption.

The President responded that it was the Chair's intention to refer all resolutions to standing committees.

Delegate Ellis, on a point of parliamentary inquiry, indicated that under Robert's Rules of Order initiative rested with the initiator on the reading of the resolution. He pointed out that if the Chair wished to modify that procedure, he should do so formally rather than by edict.

The Chair stated that the resolution had been printed and distributed to all delegates, and it was not the intention of the Chair to permit resolutions to be read by delegates on their whim. He further stated that the resolution would be promptly referred, as had others, to committee. The Chair then declared the reading of Res. No. 9 to be out of order.

Delegate Ellis at this time appealed the ruling of the Chair. The question appealing the Chair's ruling was then put and the Chair's ruling sustained.

There being no objection, Res. No. 9 was referred to the Committee on Ethics.

At this time, Delegate Sakima introduced former Senator Fred Rohlring, who was recognized by the Convention.

ORDER OF THE DAY
RE-REFERRAL OF PROPOSALS

The President re-referred the following proposals:

P. No. 480 was re-referred from the Committee on Taxation and Finance to the Committee on Taxation and Finance and the Committee on Education jointly.

P. No. 607 was re-referred from the Committee on Revision, Amendment and Other Provisions to the Committee on Revision, Amendment and Other Provisions and the Committee on Taxation and Finance jointly.

DEFERRED MATTER

Stand. Com. Rep. No. 24 (Res. No. 8, RD. 1) (Committee on Budget, Accounts and Printing--Deferred from August 8, 1978):

Delegate Ledward, for the Committee on Budget, Accounts and Printing, moved for the adoption of Stand. Com. Rep. No. 24 and Res. No. 8, RD. 1, relating to the budget, seconded by Delegate Hayashida.

On a point of information, Delegate Hoe inquired whether the \$240,547 referred to in the resolution was in addition to the \$2.5 million convention budget.

Delegate Ledward replied in the negative, explaining that the aggregate sum of \$2.5 million included the \$240,547 which was funded by the legislature for specific purposes.

Delegate Hoe then inquired whether the \$200,000 earmarked for the citizen education program was to be expended by the Legislative Reference Bureau or the Committee on Submission and Information.

In response, Delegate Iwamoto stated that by approving the resolution, the Convention could, by way of recommendations of the Committee on Submission and Information, utilize these funds for the intended purposes.

The President reassured the Convention that the Legislative Reference Bureau was not concerned at this point and that it was the Chair's intention to work closely with the committee relative to the use of the funds.

There being no further discussion, the question of the adoption of Stand. Com. Rep. No. 24 and Res. No. 8, as amended in RD. 1, was put by the Chair and the motion carried.

At this time, Delegate Chong rose to inform the Convention that petitions containing over 20,000 signatures favoring the inclusion of initiative and referendum in the State Constitution had been presented to interested delegates earlier that day.

ADJOURNMENT

At 11:47 a.m., on motion by Delegate Burgess, seconded by Delegate Waihee and carried, the Convention adjourned until 11:30 a.m. Thursday, August 10, 1978.

TWENTY-SEVENTH DAY

Thursday, August 10, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11:30 a.m.

The President presided.

The Divine Blessing was invoked by Mrs. Dorothy Shimer of United Church of Christ.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegate Sasaki who was excused and Delegate Hirata who was absent.

The President announced that the Journal of the Twenty-Sixth Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORTS

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 27) informing the Convention that Stand. Com. Rep. No. 28 and Res. No. 7, RD. 1, had been printed and distributed.

On motion by Delegate Ishikawa, seconded by Delegate Lacy and carried, Stand. Com. Rep. No. 27 was adopted.

Delegate Nishimoto, for the Committee on Legislature, presented a report (Stand. Com. Rep. No. 28) recommending the adoption of Res. No. 7, as amended in RD. 1. He then requested that action be deferred.

There being no objection, action on Stand. Com. Rep. No. 28 and Res. No. 7, RD. 1, relating to a bicameral legislature, was deferred until Friday, August 11, 1978.

At this time Delegate Cabral, on a point of parliamentary inquiry, objected to the submission of Stand. Com. Rep. No. 28 on the grounds that it was improperly submitted to the Convention, and requested a ruling from the Chair.

The Chair thereupon ruled that Stand. Com. Rep. No. 28 and Res. No. 7, RD. 1, had been properly reviewed in the committee and that the committee had followed the proper procedures.

Delegate Cabral then appealed the ruling of the Chair and requested a ruling from the parliamentarian.

Upon inquiry by Delegate Donald Ching as to whether the original Stand. Com. Rep. No. 28 had a sufficient number of signatures, the Clerk informed the Convention that the original report did have sufficient concurring signatures.

The question appealing the ruling of the Chair was then put and the Chair's ruling sustained.

The President then announced that Stand. Com. Rep. No. 28 had been properly submitted and, as earlier stated, action would be deferred until August 11, 1978.

ADJOURNMENT

At 11:50 a.m., on motion by Delegate Waihee, seconded by Delegate Fukunaga and carried, the Convention adjourned until 11:30 a.m. Friday, August 11, 1978.

TWENTY-EIGHTH DAY

Friday, August 11, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11:30 a.m.

The President presided.

The Divine Blessing was invoked by the Reverend Richard DuFresne of the Community Church of Honolulu.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegate Ontai who was absent.

The President announced that the Journal of the Twenty-Seventh Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORTS

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 29) informing the Convention that Stand. Com. Rep. No. 30 and Com. P. No. 2 had been printed and distributed.

On motion by Delegate Ishikawa, seconded by Delegate Lacy and carried, Stand. Com. Rep. No. 29 was adopted.

Delegate Izu, for the Committee on Revision, Amendment and Other Provisions, presented a report (Stand. Com. Rep. No. 30) recommending that the proposals enumerated in the report be filed and that Sections 2 and 3 of Article XIII be retained without amendment; and submitting a committee proposal (Com. P. No. 2) for introduction and recommending its passage on First Reading. She then requested that action on it be deferred.

There being no objection, action on Stand. Com. Rep. No. 30 and Com. P. No. 2, relating to the state boundaries and motto, was deferred until Monday, August 14, 1978.

INTRODUCTION OF RESOLUTION

A resolution (Res. No. 10) urging financial disclosure statements by certain newspaper editors and publishers was offered jointly by Delegates Waihee and Taira.

The President thereupon referred Res. No. 10 to the Committee on Ethics.

ORDER OF THE DAY DEFERRED MATTERS

Stand. Com. Rep. No. 26 (Com. P. No. 1) (Committee on Ethics--Deferred from August 9, 1978):

On motion by Delegate Okamura, seconded by Delegate Kojima and carried, Stand. Com. Rep. No. 26 was adopted and the proposals enumerated within were filed; and Com. P. No. 1, relating to codes of ethics, passed First Reading by title and was placed on the calendar for further consideration on Monday, August 14, 1978.

Stand. Com. Rep. No. 28 (Res. No. 7, RD. 1) (Committee on Legislature--Deferred from August 10, 1978):

Delegate Nishimoto, for the Committee on Legislature, moved for the adoption of Stand. Com. Rep. No. 28 and Res. No. 7, RD. 1, relating to a bicameral legislature, seconded by Delegate Hokama.

Discussion being in order, Delegate Nishimoto, speaking for the motion, explained that it was necessary for the Committee on Legislature and several other standing committees to have the matter of a bicameral system considered at that time since this subject would be affecting the deliberations of this and other committees. He said that the Committee on Legislature would be considering such questions as the number of members of the legislature, the question of reapportionment, the terms of the members of the legislative body and the qualifications, salary and length of the legislative session, and that deliberations would be facilitated if the committee had some idea as to how the body as a whole would be going on the question of unicameralism v. bicameralism.

At this time, Delegate Cabral rose on a point of order, stating that the resolution did not address itself to the subject of unicameralism and requesting that reference to unicameralism not be used.

The Chair stated that the point was not sustained and reminded Delegate Cabral that Delegate Nishimoto still had the floor.

Delegate Nishimoto then continued that adoption of Res. No. 7 would in no way preclude the Committee on Legislature from discussing the unicameral/bicameral issue. He reiterated that the resolution was merely for the committee to get some idea as to where the Convention stood on the issue, as this would facilitate deliberations on other matters that depended on the type of legislature to be proposed.

At this time, Delegate Blean moved to recommit Stand. Com. Rep. No. 28 and Res. No. 7, RD. 1, to the Committee on Legislature, seconded by Delegate DiBianco.

Speaking for his motion to recommit, Delegate Blean stated that the resolution was improper and unnecessary and that the standing committee report was biased, inaccurate, incomplete and did not accurately reflect the deliberations of the Committee on Legislature. He stated that he shared with some of the delegates the embarrassment of wasting the assembly's time with a meaningless resolution that had been debated to an almost absurd extent for 3 hours previously--it being generally conceded that it had no meaning in the Convention.

In summarizing the deliberations of the Committee on Legislature, Delegate Blean noted that a subcommittee on unicameralism had been formed and would submit a joint unicameral proposal to the legislative committee on August 17, which would follow the guidelines established for every proposal submitted to the body.

Delegate Blean then stated that the wording of this resolution had been picked up verbatim from the one introduced in 1968, and he strongly objected to the implication that conditions in 1978 were identical to those in 1968. He said that the 1968 convention was essentially a reapportionment one and that because there was a reapportionment standing committee, an early determination of the issue was necessary to aid that body. He further stated that a reapportionment commission was now in existence in Hawaii and that it had been decided by consensus in the legislative committee that any issue, whether bicameral or unicameral, which concerned the details of reapportionment would be referred to that commission. He therefore concluded that the need for an early decision was moot.

The resolution, he continued, had been introduced before any unicameral proposals had reached the delegates' desks, indicating that the authors came with closed minds and not to openly discuss and debate the issue. He further stated that to support and adopt the resolution would be condoning a narrow-minded, lightweight approach to the heavy burdens placed upon the Convention; and that taking major issues and reducing them to one-line resolutions to be either passed or disapproved was a great danger and had ominous implications down the road. Pleading with the body to heed his warning, Delegate Blean stated that it was their duty to fully discuss issues and not to use shortcuts that would circumvent the democratic process.

At this time, Delegate Sterling rose to speak in favor of the motion, stating that he could not resolve the difference between the "Whereas" and the "Be it resolved" sections of the resolution.

Delegate Campbell then spoke in favor of the motion to recommit, stating that if the resolution was adopted the Convention would have taken substantive action affecting proposals regarding which there had been no decision-making as yet by the legislative committee. She said that the thrust of Stand. Com. Rep. No. 28 was to induce the delegates to make a decision in favor of the resolution and then, to allay their fears, it stated that their vote would in no way preclude the committee from dealing with and deciding upon the issue of bicameralism v. unicameralism at a later date. She cautioned the delegates to be mindful of the fact that this might be one of the most significant issues to be decided by the Convention and therefore urged a careful examination of the procedural aspects of the resolution and the effect it might have on the deliberations of the other committees.

Delegate Cabral, speaking in favor of the motion to recommit, indicated that inasmuch as the resolution was a part of the committee report, he would speak against the committee report as it was presented in a biased, slanted way that depicted an aura very detrimental to the Convention. He further stated that approval of Res. No. 7 would hamstring the total Convention.

Delegate DiBianco, on a point of parliamentary inquiry, inquired of the legislature committee chairman whether Stand. Com. Rep. No. 28 was an official statement formally adopted within the reporting body.

Delegate Nishimoto responded that it was, having been authorized by the committee from the signatures that were attached, 22 of which were affirmatively signed and just a few indicating "do not concur."

Delegate DiBianco then requested a ruling from the parliamentarian as to whether it was sufficient to formally adopt a committee report simply by circulating it among the committee members to sign, as he noted that some had signed "do not concur," "not proper," etc. He questioned whether that constituted formal adoption of a committee report, as reflected in Robert's Rules of Order.

The Chair then called a recess in order to confer with the parliamentarian.

At 11:54 a.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 12:02 p.m.

At this time the Chair stated that according to the parliamentarian the fact that a majority of the committee members did sign the report supporting the resolution--the prima facie evidence that they did concur--indicated that the resolution was properly before the house.

Delegate DiBianco thereupon appealed the ruling.

Speaking in support of the appeal, Delegate Blean pointed out that since their rules did not address standing committee report procedures, according to Convention Rule 33, Robert's Rules of Order "shall govern in all cases in which they are not inconsistent with the standing rules and orders of the Convention." He then quoted from Robert's Rules, referring to committee reports, that a committee report contained only what was "agreed to by the majority of the members present at a meeting" at which every member was notified, and concluded that unless they voted not to follow Robert's Rules, they had no choice but to follow what was there in black and white.

Delegate Hale then rose to speak in support of the appeal of the Chair's ruling. She stated that since Americans believed in a system of laws, were ruled by laws and believed that all people should be guaranteed rights under the Constitution, and since the delegates were there to lay the basis for laws in a constitution, that they should follow the rules governing that constitutional convention or go home.

At 12:08 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 12:18 p.m.

Delegate De Soto then rose on a point of personal privilege. She stated that, speaking for herself, she was saddened by some of the members who, in their exuberant effort to convey their opinions, felt it necessary to make personal comments about other members, and that underhanded innuendos did no good. Tempers, she observed, were short due to the time constraints and delegates should make their opinion or stance known without references to personal differences.

At this time Delegate DiBianco withdrew his appeal.

The Chair then announced that the issue before the house was the recommitment of Stand. Com. Rep. No. 28 and Res. No. 7, RD. 1, and that questions relative to the committee report, except in support of the motion to recommit, were not in order. He then called for further discussion on the motion.

Delegate Blake, on a point of information, asked if the committee chairman would explain about the report on unicameralism before the vote.

Delegate Nishimoto then explained that Delegate Blean had said the committee would be coming out with a minority and a majority report on the issue of unicameralism and bicameralism but that this was not correct; that the Committee on Legislature did have an ad hoc subcommittee looking into the question of unicameralism, whose report was to be submitted to the committee on Thursday, and that at that time the committee would look into the question of unicameralism v. bicameralism. But this report, he emphasized, would not be a part of the committee's total proposal package as it was a report only to the committee itself.

Delegate DiBianco then spoke in favor of the motion to recommit, stating that in his opinion this resolution was a very bad precedent, and that although the format was identical to that in 1968 this was without the reason or rationale which supported that resolution. He was, he said, very disturbed at the resolution format, there being no rules regarding resolutions, which could go from the Clerk's desk to committee with no power on the delegates' part to call it out of committee. He added that a resolution was biased according to one or the other delegate, and that a report was representative of the majority but not the minority, there being no benefit of the minority's thinking in a report. The vote, he explained, was on the resolution rather than the report of the committee, which was why he had withdrawn his motion.

Delegate DiBianco then continued that this was an awkward procedure with no rules to guide them, and that rules seemed to be established as they went along. He then referred to Robert's Rules of Order, citing the address that set the framework for the book, wherein it was stated that the object of rules was "to assist an assembly to accomplish the work for which it was designed, in the best possible manner." He further commented that the majority knew whether they had the votes, and that he couldn't understand their not wanting to follow the procedures as they were set up, or their rushing matters in haste and ignorance and in violation of rules that had been set up at the very beginning to which the Convention should be bound.

Delegate Taira then spoke in opposition to the motion to recommit. He said it was his understanding that the Committee on Legislature had had a series of comprehensive and open hearings, and that after due deliberation the decision by the majority had been to bring out a resolution recommending an early preliminary decision in favor of bicameralism and retention of Article III. This early decision, he continued, would give a sense of direction to other committees with issues that were closely connected, and he added that it would be decided at a later time whether Hawaii should have a unicameral or bicameral legislature. He then said he didn't see why they couldn't make the real decision then, that it was good to have debates but some indication should be given as to whether they thought one or the other kind of legislature was better for the State.

Delegate Blean then contended that this was merely rubber-stamping what had been done 10 years ago. He pointed out that the resolution had been introduced on July 17 but hadn't come out on their desks until August 11, and that one month indicated there was no such urgency.

Delegate Nishimoto, in response, explained that the delay was due to the committee's holding public hearings on the unicameral and bicameral issues, and that it had been felt unwise to bring out a resolution before completion of the hearings on both issues.

Delegate Dennis Ihara, speaking for the motion, stated that like many other delegates he was for a bicameral legislature. However, he noted, his objection was to the procedure and handling of the resolution, and that if they allowed this resolution, in all fairness they must allow others, which would hamper or prolong procedures.

Delegate O'Toole then spoke in favor of the motion, saying that there was no testimony for or against Res. No. 7, that the testimony was for or against unicameralism, and that therefore a proposal on unicameralism should have come out, or no proposal at all. He further stated that it was his understanding the full legislative package was supposed to come up for discussion in the Committee of the Whole on the 21st. He then pointed out that in 1968 the argument for getting a quick and early indication of the sentiment on bicameralism was valid because of reapportionment, but that this was not the main question at this time. He added that, according to the lieutenant governor's office, in 1981 the reapportionment issue, with either a unicameral or bicameral body, would be discussed.

Delegate Chun then rose to support the motion to recommit, stating that the resolution gave the impression that bicameralism would be approved and that if unicameralism passed, the committees would have to start all over. He then stated that he wanted the committees to go ahead and make quick decisions on the issue of bicameralism versus unicameralism.

Delegate Harris, speaking in favor of the motion, contended that they must not allow critical issues to be decided by resolution without proper hearings and fair debate and that every proposal should be decided based on its merit after hearings. They should not, he stated, allow proposals to be killed by railroading techniques such as this.

Delegate Hirata then spoke against the motion, saying that the reason for a resolution was to have it serve as useful guidance. The Committee on Legislature, he stated, would not make the issue moot and would definitely consider the question of a unicameral v. bicameral legislature. He added that the resolution would help not only the Committee on Legislature but also other committees in their deliberations. He then remarked that it would be senseless to come out with a proposal on unicameralism, present it to the body and have it voted down, adding that he was sure that in the deliberations both sides of the question would be examined. He stated that the chairman had allowed a subcommittee to be formed to present ideas on unicameralism, and that this was to serve as a guide for that as well as other committees. He then called for the main question--to accept or defeat the resolution--and added that they all had a lot of work and deadlines must be met. This was a motion, he said, to prolong the plenary session by stalling tactics and the body should vote on the resolution.

Delegate Uyehara, on a point of personal privilege, asked if the committee had had adequate time to discuss this concern on the unicameral and bicameral proposals that had come up.

Delegate Nishimoto responded that discussion had been held for 3 hours on the question of the resolution, and that committee members had been well aware that those issues were open for discussion. Unfortunately, he added, the discussion had been based mainly on the resolution itself and its propriety, and the concepts of unicameralism and bicameralism were still open for discussion.

Delegate Kimball, speaking for the motion to recommit, pointed out that resolutions should not be used to debate or decide issues, that there were no convention or committee rules on how to process a resolution, and that resolutions did not have the details necessary to make an objective decision on any issue. He then remarked that there were in Res. No. 7 inconsistencies between the "Whereas" and "Be it resolved" paragraphs.

A meaningful comparison of a unicameral with a bicameral legislature, he pointed out, could not be made without an examination of the vital parts, such as compositions of the houses, districting, sessions, terms, organization, passage of bills, etc. He mentioned that there were at that time proposals before the legislature committee addressing

various alternatives to the current bicameral system, and added that these proposals would be examined in detail. He then affirmed that the chairman of the legislature committee had authorized a subcommittee to develop a proposal on a unicameral legislature with all of the vital parts mentioned. Only then, he added, could the Convention discuss the merits or demerits of a proposed unicameral system and compare it meaningfully with the present bicameral system.

Delegate DiBianco then spoke in favor of the motion, observing that it was dangerous to use procedures about which there were no rules and nothing to guide. He then stated that nobody was trying to stall, and that it was not fair to say that those who demanded adherence to rules and to Robert's Rules of Order were stalling.

Delegate Goodenow, speaking in favor of the motion, expressed concern about the public's response, stating that she didn't feel the adoption of such a resolution would be understood. Referring to the individualism of each committee, she advised that they didn't need any guidelines, that they were all acting individually, especially the legislative committee.

Delegate Eastvold then inquired if the Chair was going to allow discussion on the merits of unicameralism. He asked how a delegate not privy to the committee's or any other discussion on the merits of unicameralism could make a decision. The Chair responded that the motion was whether to recommit, and that they could make that decision at a later time.

Delegate O'Toole, speaking for the motion to recommit, pointed out that by bringing up Res. No. 7, which reaffirmed a bicameral legislature, the idea of discussing a unicameral legislature was moot at that time.

Delegate Cabral then moved for a roll-call vote relative to Res. No. 7. The Chair ruled the motion out of order.

At this time Delegate Hokama rose to speak against the motion. He remarked that a majority of the members of the legislature committee saw fit that this resolution pass, and that it had passed under proper procedures whereby a majority decision was recorded. He said that the same tactics used on the committee level that failed were being used at that time.

Delegate Kono, speaking in favor of the motion, pointed out that the intent of the motion was to have a straw vote in order to expedite proceedings, and observed that this was a worthy intent. However, he said, the effect would stifle discussion and debate, which were important on an issue in which the public had expressed strong interest. He explained that the arguments in 1968 didn't have much merit now, that the reason for expediting then had been reapportionment. In 1968, he continued, the question of reapportionment took a full 3 months to resolve and required volumes of computerized evidence and significant public input, the decision being made on the basis of a proposal and allowing for full and free discussion. Even if this decision were made early in the Convention, he continued, it was not possible for them to reapportion districts and an early determination would have no effect.

Delegate Burgess, speaking in favor of the motion to recommit, said that while he appreciated the desire of the drafters of the resolution to have an early decision on the question of a bicameral or unicameral legislature, they should do it in a way that would not cut out the heart of democratic decision-making--that was, by full debate on the merits of each important issue before the delegates made their decision.

The committee chairman, he continued, had related that 3 hours had been spent discussing the merits of the resolution, that there had been no discussion at all on the merits of unicameralism v. bicameralism, and yet they were being asked to make a decision on the very question that the committee hadn't decided on. How, he asked, were constituents going to feel if they heard that this Convention, by resolution, had decided that issue before there had even been any debate, either for or against. The resolution, he concluded, should be recommitted and brought back after debate and free and open discussion.

Delegate Hironaka then asked the committee chairman, if they voted to adopt the resolution, if this would mean all discussion and debate on unicameralism v. bicameralism would stop.

Delegate Nishimoto responded that it did not mean all discussion would end, that the subcommittee was working on that question, and the committee report indicated that consideration would go on.

Delegate Hironaka then spoke against the recommittal, saying that it was not going to stop any discussion and that it would still allow a decision on unicameralism v. bicameralism after the committee hearings. He emphasized that it would not affect the final decision.

Delegate Kaapu, speaking against the motion to recommit, said he preferred to have the issue brought before the Convention in order to have an early determination and that he would have favored using the vehicle the unicameral advocates had wished--a proposal on unicameralism--which would have been reported out with a negative vote by the committee. It seemed, he continued, debate ought to be heard by the Convention before they voted, but it was not felt by the majority of the committee that that vehicle be used. He then mentioned that he had signed the report sending forth the resolution because it did not of itself preclude full, fair and open debate.

He noted that those who preferred the proposal route objected to discussion of the issue in the context of the resolution, and that unicameralism was an important issue and should be debated. But sending it back to committee, he concluded, would not facilitate getting an early indication by the committee, and regretfully he would vote against the motion to recommit.

Delegate Cabral, speaking as a member of the legislature committee, stated that his vote would be against Res. No. 7, against the use of a resolution in principle. Speaking in favor of the motion, he related that he was against the resolution because of the language in the report, and that he did not take exception to the fact that the resolution itself was deliberated in the committee, voted on and passed. Had that resolution been sent to the body to stand on its own merit, he emphasized, he would not support a motion to recommit, but the language in the report presented a biased outlook on it.

Delegate De Soto, on a point of inquiry, questioned whether, if the resolution were adopted, there would be no other consideration on unicameralism down the road.

Delegate Nishimoto explained that adoption would not mean that the unicameral issue was dead, that the issue would be considered. The subcommittee, he explained, was now in the process of formulating a unicameral proposal and the question would be coming up in the Committee of the Whole.

Delegate Hale then rose to speak for the motion. She reminded the delegates that whether or not the issue came up again was not the point. She stated that she personally was for bicameralism, but the point was that using the vehicle of a resolution for such an important issue was not proper as there was no provision in the rules for proper discussion on a resolution. To debate, she maintained, meant submitting it as a proposal and going into Committee of the Whole. She urged recommittal so that it could come out in proper order, under proper rules, and the public would not be misled.

Delegate Stegmaier then rose to speak against the motion, saying that it appeared the resolution would hurt the Convention, yet it had been the judgment of a majority of the legislative committee that a resolution was necessary and the compelling rationale had been the need to provide all relevant committees with a realistic context in which to proceed.

Delegate Silva then asked, if the resolution was adopted, whether the legislative committee would then come up with a proposal on unicameralism or bicameralism that could be debated on the floor, or if this would stop a proposal from coming from the committee.

The Chair answered that the committee chairman had indicated that full opportunity would be given for a discussion on unicameralism v. bicameralism.

Delegate Silva then spoke against the motion, stating that a majority would like the resolution passed, and to recommit it only meant that they would go back in meeting and then come out and say they would like it adopted. He then moved for its adoption.

Delegate DiBianco, on a point of inquiry, asked if, as indicated by the committee

chairman, there was to be full and open discussion on the resolution, why there was no minority report attached to it.

Delegate Waihee, in response, stated that the responsibility for a minority report belonged with the minority. Speaking against the motion, he observed that what they had was a resolution, not a proposal, and that it had no binding effect on any changes in the Constitution. He compared it to a poll, to determine what the delegates thought on a particular issue. He then remarked that he was disturbed by the constant references to a lack of debate, adding that a motion to refer if anything was a vehicle to cut off debate and that this was their opportunity to fully debate in front of the entire Convention the merits and the concept of unicameralism. The effect of recommitting, he concluded, would be to stop debate, and the Convention should have as free and open a debate as possible on the issue.

Delegate DiBianco, on a point of parliamentary inquiry, remarked that he would still like an answer from the committee chairman as to the minority report.

Delegate Nishimoto responded that it was not the chairman's responsibility to prepare a minority report, that the chairman prepared a report for the majority of the committee, and that since the committee went along with the resolution, it did not prepare a minority report.

Delegate Wurdeman, on a point of information, indicated that she was having problems with definitions. She inquired as to what was meant by the language, "Be it resolved by the Constitutional Convention... that a bicameral form of legislature be retained," taking all the arguments into consideration.

The underlying thing, Delegate Nishimoto answered, was that the document was a resolution, which by itself was not a proposal and not mandatory from the Convention. He then explained that this meant it was just a straw vote to give the Convention a guide as to where they were going, as far as that issue was concerned.

Delegate Sutton, on a point of information, asked if they could get a legal opinion on that, to which the Chair replied that legal opinion was not available at that time.

Delegate Hornick then stated that she expected the legislative committee to research the merits of bicameralism and unicameralism and report to the Committee of the Whole, after which she would be able to decide if she were for unicameralism or bicameralism. Speaking for the motion to recommit, she asked how at that point she could know whether she was for bicameralism or unicameralism, that she was waiting for the legislative committee to make its recommendation, to which she could respond. She remarked that it seemed they were asking for the Convention's recommendation and then they would say how the committee report would come out.

At 1:15 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 1:23 p.m.

The Chair then called for further discussion on the question to recommit Res. No. 7, RD. 1.

Speaking in favor of the motion, Delegate Kimball said that the resolution was intended to provide a guideline to the other standing committees, and that the areas of concern included those relating to the advice and consent on appointments and the required percentage of approval on specific legislative actions. He then observed that neither of these was a basic structure or policy decision, being more or less standardized procedures in these types of matters, which would in any case be reviewed by the other committees in the course of their deliberations.

Delegate Hagino then rose to speak against the motion to recommit. He noted that one of the arguments being used was that a delegate couldn't vote wisely on a question that had not been debated, and he reminded the delegates of the Con Con newspaper supplement, which most had replied to and in which nearly all had indicated whether they were for or against. He concluded that if they could make a judgment then, they could make a judgment today.

Delegate Liu, speaking in favor of the motion, observed that a previous speaker had aptly pointed out that the resolution was unnecessary, and if so, only a poll would be needed on their positions on the subject. He said he could thus see no reason for taking up the resolution, that there was a right way and a wrong way and the resolution was the wrong way.

Delegate Yamashita, noting that all the arguments had been heard, then moved for the previous question, seconded by Delegate Waihee.

Delegate Cabral then requested a roll-call vote.

The Chair stated that the previous question had been called for and it was nondebatable, and then advised Delegate Cabral that ten delegates were needed to support his motion for a roll-call vote.

The motion calling for the previous question was then put by the Chair and carried. The question to recommit Res. No. 7, RD. 1, was put and, there being ten seconds, roll call was ordered.

Roll call being in order, the motion to recommit failed to carry by a vote of 35 ayes, 65 noes and 2 excused; with Delegates Barr, Blean, Burgess, Cabral, Campbell, Chu, Chun, DiBianco, Eastvold, Ellis, Fernandes Salling, Funakoshi, Goodenow, Hale, Hamilton, Hanaike, Harris, Hoe, Hornick, Dennis Ihara, Kimball, Kono, Lacy, Rachel Lee, Liu, Marumoto, Miller, Odanaka, O'Toole, Peterson, Shon, Sterling, Takitani, Wurdeman and Yamashita voting aye; Delegates Alcon, Anae, Andrews, Barnard, Barnes, Blake, Calvin Ching, Donald Ching, Laura Ching, Haunani Ching, Chong, Chung, Crozier, de Costa, De Soto, Dyer, Fujimoto, Fukunaga, Fushikoshi, Hagino, Hashimoto, Hayashida, Hino, Hirata, Hironaka, Hokama, Les Ihara, Teruo Ihara, Ikeda, Ishikawa, Iwamoto, Izu, Kaapu, Kaito, Kojima, Ledward, Marion Lee, Lewis, McCall, Nakamura, Nishimoto, Nozaki, Okamura, Penebacker, Pulham, Sakima, Sasaki, Shinno, Silva, Stegmaier, Stone, Sutton, Taira, Takahashi, Takehara, Takemoto, Tam, Tamayori, Uyehara, Villaverde, Waihee, Weatherwax, Yoshimura and President Paty voting no; and Delegates Chang and Ontai being excused.

The Chair then announced that the question before the house was the main motion to adopt Res. No. 7, RD. 1.

Discussion being in order, Delegate Chu rose to speak against the resolution. She stated that, having listened to the views on whether this would prevent discussion on the unicameral v. bicameral question, she could not understand the purpose of bringing the resolution to the floor when the report itself specifically said that it would not preclude further discussion or be binding in any way. She said she had come to the Convention to consider the merits and demerits of the two systems, but that since she had not had the benefit of the committee's thinking on it, she was simply not going to vote.

Delegate Pulham then asked the Chair to clarify whether resolutions could now be introduced on those subjects not introduced prior to the deadline for proposals and if they would then go to the committees and be handled as that resolution had been and brought back on the floor. He stated that if a precedent was being set that would allow them all to introduce subjects by resolution and expect decisions, that he would then have to vote against the resolution.

The Chair reiterated that this was the intention for only this particular issue. He noted that the chairman of the legislature committee had stated they were really looking for a straw vote, and added that he doubted anybody there felt this was the way to do business. It was the committee reports, he added, that produced proposals and it was in that fashion they would expect to debate the issues before them.

Delegate Sterling then moved to amend the resolution by adding the word "temporarily" in the second paragraph before "resolved." The motion was seconded by Delegate DiBianco.

Delegate Hokama questioned whether the motion was proper at that time since the resolution and committee report had not yet been separated.

The Chair announced that the parliamentarian advised the motion was not in order, that it was not germane, and that the question was whether to adopt or not.

Delegate DiBianco, on a point of information, noted that the Chair had indicated it was the sense of the resolution to take a straw vote on the question of unicameralism v. bicameralism and that it would only occur on that one issue. He then questioned which rule said that only that issue would be handled by resolution, and asked if they would have to depend on the discretion of the Chair.

The Chair indicated it was the intention to proceed with the business of the Convention through the committee, observing that this was a separate issue and there was no rule other than the inquiry directed to the Chair and the Chair's intention therefrom.

Delegate Hale, on a point of information, questioned the parliamentarian's ruling on the motion by Delegate Sterling, asking why it was out of order and if there was therefore no way of amending a resolution.

The Chair answered that resolutions could be amended but that that amendment, he had been advised, was not in order.

Delegate Donald Ching then rose to speak in favor of the resolution, stating that he wanted to allay the fears of those who felt this was binding on the body as a whole. He explained that there was no need for Delegate Sterling's amendment as the action taken was only good on a day-to-day basis, and that if they were subsequently asked to take a different action, majority vote would again prevail, whatever action taken by the adoption being good only until the next action came along. He emphasized that the only thing being sought was a straw vote on how the body felt, so the committees could then go about their work.

Delegate Sterling, speaking in favor of the motion to adopt, observed that what had happened there that morning was one of the greatest arguments against unicameralism.

Delegate Sutton, referring to the provision in the ethics code on conflicts, mentioned that he had a family member in a bicameral legislature at that time, and that he did have a conflict.

Delegate Hale then rose to speak against the motion to adopt, stating that she was for a bicameral legislature but not being a member of the legislative committee she had had no chance to debate the issue. Whether or not it was brought up later, she continued, was moot since the public would know that the Convention had gone on record for a bicameral legislature. She then observed that if it had been the intent to take a straw vote, it could have been done by polling the delegates in their offices, and that this information had already been published. She further pointed out that this was not the proper vehicle, that it should have been submitted as a proposal, on which the Committee of the Whole would have afforded free and open debate; but that as a resolution it could come up only in plenary session, where there was only one chance to vote on a very substantive issue. Remark that she deplored the tactics used by the majority in the Convention to force through the majority opinion without allowing debate, she then observed that that resolution was not the proper form to debate unicameralism as it did not even address itself to the unicameral issue.

Speaking against the motion, Delegate Cabral expressed the hope that the members of the media would offer the public a caveat to de bene esse.

Delegate DiBianco pointed out, in response to the delegate who had said they needn't fear passage of the resolution because it was not binding, that the resolution was therefore useless. He then commented that this resolution seemed to have a unique position within the Convention, being the only proposal subject matter to come up labeled a resolution.

Delegate Pulham then remarked that he had previously supported Res. No. 7, being essentially a bicameralist, but that since this was a straw vote, on which they should indicate how they were feeling at that particular moment, he wanted to go on record then as favoring unicameralism, which Res. No. 7 was opposed to.

Delegate De Soto, speaking in favor of the motion, pointed out that a majority of the

committee members had indicated what their mana'o was, and that she respected their mana'o and consequently supported the motion to adopt Res. No. 7.

Delegate Rachel Lee then spoke against the motion. She explained that she had signed the report because the members had been made to understand that discussion on unicameralism and bicameralism would take place and the resolution would in no way be the final act.

Delegate Harris also spoke in opposition to the motion, maintaining that procedures there were improper and that he refused to vote on the matter.

Delegate Campbell then observed that, whether the vote was described as a straw vote or any other kind of vote, each delegate to the Convention owed it to the people who had elected him to make his decision based on knowledge. Not having been privy to the committee's hearings on unicameralism, she continued, she would like to know more before making any decision but she couldn't on the basis of the material in front of her. Therefore, she concluded, she was speaking against the resolution.

Delegate Hamilton also spoke against the resolution--not, he said, because of the straw vote but simply because he was convinced that the unicameral form of legislature was in the modern era very much superior to the bicameral. When the time was appropriate, he added, he would argue the case.

Delegate Barnes then rose to speak against Res. No. 7, observing that since they had voted not to recommit, the only alternative was for the committee to present the benefit of its thinking to those not on the committee. He added that he spoke against the resolution because where the public was split, it was their primary role to present the alternative on the ballot.

Speaking in favor of the resolution, Delegate Sterling suggested that they could debate the question of unicameralism right there on the resolution.

Delegate Blean then rose and stated that he felt Res. No. 7 was improper and not in accordance with the rules of the Convention. And, he added, he would not condone that action by voting on the issue.

Delegate Crozier then spoke for the resolution, first because he was for bicameralism and second as a vote of confidence in their fairness.

Speaking against the motion, Delegate Wurdeman stated that she believed the resolution was poorly worded. She added that she was also on record as being for a bicameral legislature.

At 1:55 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 2:02 p.m.

Delegate De Soto at this time moved for a roll-call vote. The Chair then questioned whether discussion was complete. Delegate Blake thereupon moved for the previous question, seconded by Delegate Donald Ching.

The motion calling for the previous question was then put by the Chair and the motion carried.

Roll call then being in order, the question on the adoption of Stand. Com. Rep. No. 28 and Res. No. 7, RD. 1, was put by the Chair and the motion carried by a vote of 68 ayes, 32 noes and 2 excused; with Delegates Alcon, Anae, Andrews, Barnard, Blake, Calvin Ching, Donald Ching, Laura Ching, Haunani Ching, Chong, Chun, Chung, Crozier, de Costa, De Soto, Dyer, Fernandes Salling, Fujimoto, Fukunaga, Funakoshi, Fushikoshi, Hagino, Hashimoto, Hayashida, Hino, Hirata, Hironaka, Hokama, Dennis Ihara, Les Ihara, Teruo Ihara, Ikeda, Ishikawa, Iwamoto, Izu, Kaapu, Kaito, Kojima, Kono, Ledward, Marion Lee, Lewis, McCall, Nakamura, Nishimoto, Nozaki, Okamura, Penebacker, Sakima, Sasaki, Shinno, Silva, Souki, Stegmaier, Stone, Sutton, Taira, Takahashi, Takehara, Takemoto, Tam, Tamayori, Uyehara, Villaverde, Waihee, Weatherwax, Yoshimura and President Paty voting aye; Delegates Barnes, Barr, Blean, Burgess, Cabral, Campbell, Chu, DiBianco,

Eastvold, Ellis, Goodenow, Hale, Hamilton, Hanaike, Harris, Hoe, Hornick, Kimball, Lacy, Rachel Lee, Liu, Marumoto, Miller, Odanaka, O'Toole, Peterson, Pulham, Shon, Sterling, Takitani, Wurdeman and Yamashita voting no; and Delegates Chang and Ontai being excused.

ADJOURNMENT

At 2:19 p.m., on motion by Delegate Waihee, seconded by Delegate Sutton and carried, the Convention adjourned until 11:30 a.m. Saturday, August 12, 1978.

TWENTY-NINTH DAY

Saturday, August 12, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11:30 a.m.

The President presided.

The Divine Blessing was invoked by the Reverend Lynette G. Schaefer of St. Peter's Episcopal Church.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Burgess, Donald Ching and Taira who were excused and Delegates Blake, Blean, Chun, Fernandes Salling, Kojima, Lacy, Lewis and Ontai who were absent.

The President announced that the Journal of the Twenty-Eighth Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORTS

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 31) informing the Convention that Stand. Com. Rep. No. 32 and Com. P. No. 3 had been printed and distributed.

On motion by Delegate Ishikawa, seconded by Delegate Hayashida and carried, Stand. Com. Rep. No. 31 was adopted.

Delegate Fukunaga, for the Committee on Executive, presented a report (Stand. Com. Rep. No. 32) recommending that the proposals enumerated in the report be filed, and submitting a committee proposal (Com. P. No. 3) for introduction and recommending its passage on First Reading. She then requested that action on it be deferred.

There being no objection, action on Stand. Com. Rep. No. 32 and Com. P. No. 3, relating to the executive, was deferred until Tuesday, August 15, 1978.

At 11:38 a.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 11:43 a.m.

At this time, Delegate Hale made a motion, seconded by Delegate DiBianco, to have the Committee on Rules consider the convention rules to clarify procedural questions concerning introduction and adoption of resolutions, introduction of committee proposals for First Reading, submission of minority reports, new business, recall of proposals from committee and such other matters as may be necessary for this Convention.

Delegate Waihee, on a point of order, suggested that the proper procedure for this motion would be for Delegate Hale to submit her request in the form of a resolution so that it might be referred to the proper committee.

Delegate Hale, speaking for her motion, expressed her deep concern relative to the lack of definitive guidelines regarding convention procedures. More specifically, she mentioned the lack of sufficient clarity in the convention rules in dealing with committee reports and committee proposals. She noted that Rule 46, for instance, did not mention anything about committee proposals for First Reading, except to say that they laid over for four days and were given Second Reading and consideration by the Committee of the Whole.

Although the Convention seemed to be following the pattern established by the 1968 convention, she continued, procedures regarding the introduction of committee reports as compared to the introduction of proposals were different at this Convention.

Delegate Hale also mentioned that there was no rule covering the introduction of resolutions, and she suggested the rules committee come up with some rules. Similarly, she said, the convention rules should include procedures for introducing minority reports as well as for introducing new ideas to the Convention. She continued that Rule 43, on recalling proposals from committees, should also be rewritten so that it could be more easily understood.

Delegate Takemoto rose to speak against the motion, pointing out that the proper vehicle for requesting rule changes should be a resolution rather than a motion on the floor.

Delegate Crozier then spoke in favor of the motion. He said that much of the confusion experienced by many of the delegates could be minimized if convention procedures were more clearly defined.

There being no further discussion, the question was put by the Chair and the motion failed to carry.

Delegate Hale then called for a division of the house.

At 11:48 a.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 11:52 a.m.

A division of the house having been requested, the question was again put by the Chair and failed to carry.

The President informed the Convention at this time that the rules committee chairman had apprised him earlier of the committee's willingness to consider requests for review of convention rules, provided the requests were submitted in writing.

Delegate Hale acknowledged the committee's offer and said that she would introduce a resolution on Monday, August 14, 1978.

ADJOURNMENT

At 12:06 p.m., on motion by Delegate Takemoto, seconded by Delegate Shinno and carried, the Convention adjourned until 7:00 p.m. Monday, August 14, 1978.

THIRTIETH DAY

Monday, August 14, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 7:00 p.m.

The President presided.

The Divine Blessing was invoked by Pastor Craig Klatt of the Aiea Seventh-day Adventist Church.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegate Burgess who was excused and Delegates Ontai and Sutton who were absent.

The President announced that the Journal of the Twenty-Ninth Day had been signed by the Secretary and approved by the President.

PETITION

A petition (Pet. No. 1) respectfully requesting that the President answer 17 questions enumerated therein was offered by 20 delegates and presented by the Clerk.

Delegate Kono, rising on a point of parliamentary inquiry, apologized for not having had enough time to circulate the petition to all delegates, and asked to speak to the intent of the petition.

Delegate Taira, on a point of order, stated that when a petition was presented to the Convention, it was the Chair's prerogative to either act on it or refer it to the proper committee or officer.

Delegate Kono again asked to speak on the petition.

At this time the Chair ruled that as a matter of principle and policy, Pet. No. 1 would be referred to the President's office and that he would personally respond to all delegates who had signed it.

Delegate Kono then announced that the petition had been circulated to the media and would probably appear in the newspaper the next day, and therefore he would like to give the Convention the rationale behind it.

Delegate Taira, on a point of order, stated that once the Chair had made a ruling on a point, the delegates could, if not satisfied, appeal the ruling of the Chair.

The Chair again ruled that the convention floor was not the proper place to debate the petition, and expressed regret that Delegate Kono's strong feelings on the matter had been played up by the media.

Delegate DiBianco, on a point of personal privilege, advised in support of the petition that it was not the intent of anyone to debate the matters contained in the petition but simply to urge the President to carefully consider the matters.

Delegate De Soto, also on a point of privilege, stated that she was deeply offended that the media had had the privilege of reading the petition before she as a delegate had had a chance to see it, and she thought this was a personal insult.

Delegate Kono apologized to the Convention, explaining to all delegates that this was due to unfortunate logistics on their part.

The Chair again announced his intention to sit down with all concerned and review the questions at a later time since he had not yet had a chance to read, much less respond to, the petition.

Delegate Kono then rose to appeal the ruling of the Chair. The question appealing the ruling was put and the Chair's ruling sustained.

STANDING COMMITTEE REPORTS

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 33) informing the Convention that Stand. Com. Rep. No. 34, Com. P. No. 4 and Res. No. 11 had been printed and distributed.

On motion by Delegate Crozier, seconded by Delegate Rachel Lee and carried, Stand. Com. Rep. No. 33 was adopted.

Delegate Izu, for the Committee on Revision, Amendment and Other Provisions, presented a report (Stand. Com. Rep. No. 34) recommending that the proposals enumerated in the report be filed, and submitting a committee proposal (Com. P. No. 4) for introduction and recommending its passage on First Reading.

The President thereupon placed Stand. Com. Rep. No. 34 and Com. P. No. 4, relating to the Preamble, general and miscellaneous provisions, revision and amendment, on the calendar for further consideration on Wednesday, August 16, 1978.

INTRODUCTION OF RESOLUTION

A resolution (Res. No. 11) requesting amendment of the Rules of the Convention to clarify the procedures therein was offered by Delegate Hale.

The President thereupon referred Res. No. 11 to the Committee on Rules.

At 7:15 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 7:17 p.m.

ORDER OF THE DAY DEFERRED MATTER

Stand. Com. Rep. No. 30 (Com. P. No. 2) (Committee on Revision, Amendment and Other Provisions--Deferred from August 11, 1978):

On motion by Delegate Izu, seconded by Delegate Kaito and carried, Stand. Com. Rep. No. 30 was adopted and the proposals enumerated within were filed; Sections 2 and 3 of Article XIII were recommended to be retained without amendment; and Com. P. No. 2, relating to the state boundaries and motto, passed First Reading by title and was placed on the calendar for further consideration on Wednesday, August 16, 1978.

GENERAL ORDER

Com. P. No. 1--RELATING TO CODES OF ETHICS:

Delegate Okamura moved that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 1, relating to codes of ethics, seconded by Delegate Calvin Ching.

The motion that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 1 was put by the Chair and carried.

The President appointed Delegate Barr to be Chairman of the Committee of the Whole.

At 7:18 p.m., the President vacated the Chair and Delegate Barr assumed the Chair for the Committee of the Whole.

At 11:01 p.m., Delegate Barr vacated the Chair and the President resumed the Chair.

Delegate Barr, for the Committee of the Whole, reported orally that the committee had completed deliberations on the matter referred to it and recommended passage on Second Reading of Com. P. No. 1, as amended, and that a written report would be filed later.

Delegate DiBianco, at this time, moved to recommit Com. P. No. 1, seconded by Delegate Hale. Speaking for the motion, Delegate DiBianco said that he did not object intrinsically to the ethics code but felt that some of the language in the proposal needed further clarification before it was referred to the Committee on Style.

Delegate Okamura then spoke against the motion, explaining that the Committee on Ethics had intentionally drafted the document as presented so that definitions could be left to the respective legislative bodies when they adopted their own ethics codes.

The motion to recommit Com. P. No. 1 was then put by the Chair and failed to carry.

On motion by Delegate Barr, seconded by Delegate Waihee and carried, the oral report of the Committee of the Whole was adopted.

At this time, Delegate Chong was recognized and made a brief statement congratulating the chairman and the members of the Committee on Ethics for a job well done.

ADJOURNMENT

At 11:12 p.m., on motion by Delegate Waihee, seconded by Delegate Taira and carried, the Convention adjourned until 11:30 a.m. Tuesday, August 15, 1978.

THIRTY-FIRST DAY

Tuesday, August 15, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11:30 a.m.

The President presided.

The Divine Blessing was invoked by Pastor Lyle Arakaki of the Japanese Seventh-day Adventist Church.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Fernandes Salling and Villaverde who were excused and Delegates Donald Ching, Hirata, Kojima, Peterson and Taira who were absent.

The President announced that the Journal of the Thirtieth Day had been signed by the Secretary and approved by the President.

ORDER OF THE DAY DEFERRED MATTER

Stand. Com. Rep. No. 32 (Com. P. No. 3) (Committee on Executive--Deferred from August 12, 1978):

On motion by Delegate Fukunaga, seconded by Delegate Souki and carried, Stand. Com. Rep. No. 32 was adopted and the proposals enumerated within were filed; and Com. P. No. 3, relating to the executive, passed First Reading by title and was placed on the calendar for further consideration on Thursday, August 17, 1978.

ADJOURNMENT

At 11:45 a.m., on motion by Delegate Nakamura, seconded by Delegate Goodenow and carried, the Convention adjourned until 4:30 p.m. Wednesday, August 16, 1978.

THIRTY-SECOND DAY

Wednesday, August 16, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 4:30 p.m.

The President presided.

The Divine Blessing was invoked by the Honorable Masu Dyer, delegate from the Twenty-Fifth District to the Constitutional Convention of Hawaii of 1978.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Fernandes Salling and Stegmaier who were excused and Delegate Takehara who was absent.

The President announced that the Journal of the Thirty-First Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORTS

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 35) informing the Convention that Stand. Com. Rep. No. 36, Com. P. Nos. 1, RD. 1, and 5, Res. No. 12 and Com. Whole Rep. No. 1 had been printed and distributed.

On motion by Delegate Crozier, seconded by Delegate Rachel Lee and carried, Stand. Com. Rep. No. 35 was adopted.

Delegate Fushikoshi, for the Committee on Public Health and Welfare; Labor and Industry, presented a report (Stand. Com. Rep. No. 36) recommending that the proposals enumerated in the report be filed, and that Section 4 of Article VIII and Sections 1 and 2 of Article XII be retained without amendment; and submitting a committee proposal (Com. P. No. 5) for introduction and recommending its passage on First Reading.

The President thereupon placed Stand. Com. Rep. No. 36 and Com. P. No. 5, relating to public health and welfare, on the calendar for further consideration on Friday, August 18, 1978.

INTRODUCTION OF RESOLUTION

A resolution (Res. No. 12) relating to the scheduling of convention meetings on Sundays was offered jointly by Delegates Peterson and Sterling.

The President thereupon referred Res. No. 12 to the Committee on Rules.

ORDER OF THE DAY

Stand. Com. Rep. No. 34, Com. P. No. 4--RELATING TO THE PREAMBLE, GENERAL AND MISCELLANEOUS PROVISIONS, REVISION AND AMENDMENT:

On motion by Delegate Izu, seconded by Delegate Kaito and carried, Stand. Com. Rep. No. 34 was adopted and the proposals enumerated within were filed; and Com. P. No. 4, relating to the Preamble, general and miscellaneous provisions, revision and amendment, passed First Reading by title and was placed on the calendar for further consideration on Friday, August 18, 1978.

SECOND READING

Com. Whole Rep. No. 1, Com. P. No. 1, RD. 1--RELATING TO CODES OF ETHICS:

Delegate Barr, for the Committee of the Whole, and Delegate Okamura, for the Committee on Ethics, presented a report (Com. Whole Rep. No. 1) recommending that Com. Whole Rep. No. 1 be adopted and Com. P. No. 1, as amended in RD. 1, pass Second Reading.

Discussion being in order, Delegate Hale moved for the adoption of Amendment No. 1, seconded by Delegate Cabral, which amended the first paragraph of section 1 of Com. P. No. 1, RD. 1, by substituting the following:

Section 5. The legislature and each political subdivision shall adopt a code of ethics, which shall apply to appointed and elected officers and employees of the State or the political subdivision, respectively, including members of the boards, commissions and other bodies.

Speaking for her motion, Delegate Hale made the following statement:

"I would just like to explain to the delegates what I've done. In 1968 the constitutional convention adopted a code of ethics and this is the language that is presently in our Constitution. Under this language, the State and the counties all have codes of ethics. It is my belief that this is as far as the Constitutional Convention should go. We were warned early in the game that our Constitution is a model because it has as little verbiage as it seems reasonable to have.

"There are 39 words in this section of the Constitution. The new proposal would make a section of 268 words. Many of these words are not clear--not clear to the delegates and therefore I am sure they will not be clear to the public. I'm very concerned that when we put our amendments before the people we put amendments they can understand and will vote for--because these, as we must all realize, are only recommendations. If on the one hand we are going to tell people that we have a model constitution because it does have concise language, and then on the other hand we are going to expand various sections in what I consider a not-very-meaningful way, there is a great possibility that the people will vote down our whole document, or certain parts of it.

"I have great faith in the people and their ability to understand and their integrity and willingness to study issues. But when the delegates here cannot even understand fully what is being proposed, I don't see how we can possibly go out and sell this concept to the people. I'd like to also point out that there were some very serious compromises made in making all of this verbiage. The chairman of the Committee on Ethics had two very good proposals--Proposal No. 94 which would have added nepotism as one of the concerns of the ethics commission and Proposal No. 734 which would have added judges and justices. Both of these were deleted from the recommendations of the committee, and other suggestions to make this a stronger ethics code were turned down in the Committee of the Whole.

"And therefore I don't really think we're going to fool the public, and I would rather not be a party to it. So in the interest of simplicity and in the interest of compromise, I'm suggesting that we just leave the language as it is, and that we adopt this amendment which will substitute the present language for the proposal. Thank you."

Delegate Okamura rose to speak against the amendment, pointing out that it would

take out every revision the ethics committee and the Committee of the Whole had recommended and leave no constitutional reforms in the area of ethics. He further pointed out that the same amendment had been fully debated in the Committee of the Whole and had been overwhelmingly rejected.

Delegate Harris also spoke strongly against the amendment, pointing out that the quality of a constitution was not measured by its scarcity of words. He further noted that there was no rationale for reverting to a less stringent regulation simply because the provisions were not as strong as some of the delegates would have liked.

There being no further discussion, the question to amend Com. P. No. 1, RD. 1, by Amendment No. 1 was put by the Chair. At this time Delegate Waihee requested a roll-call vote and the Chair, on determining that there were ten seconds, so ordered.

Roll call being in order, the motion failed to carry by a vote of 4 ayes, 93 noes and 5 excused; with Delegates Cabral, DiBianco, Hale and Hokama voting aye; Delegates Alcon, Anae, Andrews, Barnard, Barnes, Barr, Blake, Blean, Burgess, Campbell, Chang, Calvin Ching, Donald Ching, Laura Ching, Haunani Ching, Chong, Chu, Chun, Chung, Crozier, de Costa, De Soto, Dyer, Eastvold, Ellis, Fujimoto, Fukunaga, Funakoshi, Fushikoshi, Goodenow, Hagino, Hamilton, Hanaike, Harris, Hashimoto, Hayashida, Hino, Hirata, Hironaka, Hoe, Hornick, Dennis Ihara, Les Ihara, Teruo Ihara, Ikeda, Ishikawa, Iwamoto, Izu, Kaapu, Kaito, Kimball, Kojima, Kono, Lacy, Ledward, Marion Lee, Rachel Lee, Liu, Marumoto, McCall, Miller, Nakamura, Nishimoto, Nozaki, Odanaka, Okamura, O'Toole, Penebacker, Peterson, Pulham, Sakima, Sasaki, Shinno, Shon, Silva, Souki, Sterling, Stone, Sutton, Taira, Takahashi, Takemoto, Takitani, Tam, Tamayori, Uyehara, Villaverde, Waihee, Weatherwax, Wurdeman, Yamashita, Yoshimura and President Paty voting no; and Delegates Fernandes Salling, Lewis, Ontai, Stegmaier and Takehara being excused.

At this time, Delegate Burgess questioned the language in Com. P. No. 1, RD. 1, which now permitted members of ethics commissions to hold office in political organizations.

Delegate Taira, on a point of order, noted that the change in language was the result of many hours of debate in the Committee of the Whole. To question it at this time, he pointed out, was not in order.

The Chair thereupon reminded Delegate Burgess that if he intended to offer an amendment at that time, unless he had a good proposal a verbal motion would not be in order.

At 4:53 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 4:55 p.m.

There being no further discussion, Delegate Barr moved, seconded by Delegate Okamura, that Com. Whole Rep. No. 1 be adopted and Com. P. No. 1, RD. 1, pass Second Reading. The question was then put by the Chair and the motion carried.

GENERAL ORDER

Com. P. No. 2--RELATING TO STATE BOUNDARIES AND MOTTO:

Delegate Izu moved that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 2, relating to the state boundaries and motto, seconded by Delegate Kaito.

The motion that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 2 was put by the Chair and carried.

The President appointed Delegate Les Ihara to be Chairman of the Committee of the Whole.

At 4:58 p.m., the President vacated the Chair and Delegate Les Ihara assumed the Chair for the Committee of the Whole.

At 5:59 p.m., Delegate Les Ihara vacated the Chair and the President resumed the Chair.

Delegate Les Ihara, for the Committee of the Whole, reported orally that the committee had completed deliberations on the matter referred to it and recommended passage on Second Reading of Com. P. No. 2, and that a written report would be filed later.

On motion by Delegate Les Ihara, seconded by Delegate Izu and carried, the oral report was adopted.

Delegate Les Ihara then moved, inasmuch as the Committee of the Whole had thoroughly considered Com. P. No. 2 and as no amendments had been made in its deliberations, and there being no objection, that Com. P. No. 2 pass Second Reading without amendment, seconded by Delegate Tamayori.

Delegate Tam rose to speak in favor of the motion and asked that the Convention go on record that the approval of Com. P. No. 2 would authorize the prosecution of all crimes occurring in archipelagic waters of the State of Hawaii by the proper departments in the State or the county.

On a point of order, Delegate Waihee commented that such an interpretation would not be proper at Second Reading. The Chair ruled in agreement with Delegate Waihee.

There being no further discussion, the motion to pass Com. P. No. 2 on Second Reading was then put by the Chair and carried.

At this time, the President complimented Delegate Les Ihara for his performance as Chairman of the Committee of the Whole, and also extended thanks to the chairperson and members of the Committee on Revision, Amendment and Other Provisions for their work.

On a point of personal privilege, Delegate Alcon rose to inform the Convention that in one way he was very happy that his amendment had been voted down, as it indicated that there was no such thing as a minority or a majority when it came to issues and that everyone voted according to his conscience.

Delegate Les Ihara then rose to announce that a baby boy had been born to Delegate and Mrs. David Stegmaier that morning.

ADJOURNMENT

At 6:10 p.m., on motion by Delegate Waihee, seconded by Delegate Dyer and carried, the Convention adjourned until 1:00 p.m. Thursday, August 17, 1978.

THIRTY-THIRD DAY

Thursday, August 17, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 1:00 p.m.

The President presided.

The Divine Blessing was invoked by Pastor George Munson of the Diamond Head Seventh-day Adventist Church.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present.

The President announced that the Journal of the Thirty-Second Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 37) informing the Convention that Minority Rep. Nos. 1 and 2 had been printed and distributed.

On motion by Delegate Crozier, seconded by Delegate Hayashida and carried, Stand. Com. Rep. No. 37 was adopted.

ORDER OF THE DAY

Com. P. No. 3--RELATING TO THE EXECUTIVE:

Delegate Fukunaga moved that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 3, relating to the executive, seconded by Delegate Souki.

The motion that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 3 was put by the Chair and carried.

The President appointed Delegate Weatherwax to be Chairman of the Committee of the Whole.

At 1:07 p.m., the President vacated the Chair and Delegate Weatherwax assumed the Chair for the Committee of the Whole.

At 5:20 p.m., Delegate Weatherwax vacated the Chair and the President resumed the Chair.

Delegate Weatherwax, for the Committee of the Whole, reported orally that the committee had completed deliberations on the matter referred to it and recommended passage on Second Reading of Com. P. No. 3, and that a written report would be filed later.

On motion by Delegate Weatherwax, seconded by Delegate Fukunaga and carried, the oral report was adopted.

At this time, Delegate Cabral, on a parliamentary inquiry, inquired about the procedure for Minority Rep. Nos. 1 and 2, which were submitted relative to consideration of Com. P. No. 3 in the Committee of the Whole.

The Chair explained that minority reports were printed and distributed to each member of the Convention in the same manner as all other reports, and that the information contained in the reports would be recorded in the Convention Journal. It was assumed, the Chair added, that arguments relative to the reports had been presented in the Committee of the Whole.

Delegate Hale suggested that if possible minority reports and amendments should be made available to all delegates one day prior to being considered, to allow the delegates more time for review.

Delegate Goodenow rose on a point of inquiry and asked whether it was possible to vote on a minority report.

The Chair answered that a minority report might or might not be voted on, that a motion could be made for adoption if presented as an amendment to a committee proposal. A minority report, the Chair added, was not a right but a privilege which was rarely refused.

Delegate Goodenow then asked whether amendments to committee proposals could be presented in a minority report or whether they should be in the form of floor amendments, to which the Chair replied that the latter would be more appropriate.

At this time, Delegate Weatherwax rose to recommend that Com. P. No. 3 pass Second Reading without amendment inasmuch as the Committee of the Whole had thoroughly considered Com. P. No. 3 and no amendments had been made in its deliberations.

Delegate Barr rose on a point of personal privilege, saying that his integrity was being challenged since so often in the past the delegates had been assured that they would have two opportunities to speak on an issue--once in the Committee of the Whole and again at Second Reading. He then reminded the delegates that that chance had been taken away yesterday and was being taken away again by that motion. He therefore requested that Com. P. No. 3 not be scheduled for further consideration for 2 days.

Delegate Hale then moved, seconded by Delegate Crozier, that no further action be taken on the matter until the Committee of the Whole had presented its written report to the Convention.

At 5:34 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 5:38 p.m.

The President announced that the concerns expressed just prior to the recess had been resolved to the satisfaction of all parties and, there being no objection, the previous motion was withdrawn.

The Chair then thanked Delegate Weatherwax for his able job as Chairman of the Committee of the Whole.

ADJOURNMENT

At 5:44 p.m., on motion by Delegate Waihee, seconded by Delegate Funakoshi and carried, the Convention adjourned until 7:00 p.m. Friday, August 18, 1978.

THIRTY-FOURTH DAY

Friday, August 18, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 7:00 p.m.

The President presided.

The Divine Blessing was invoked by the Reverend Robert Shimoda of Central Union Church.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Chung, Teruo Ihara, Kono, Odanaka, Stone and Takitani who were excused and Delegates Blean, Donald Ching and Sutton who were absent.

The President announced that the Journal of the Thirty-Third Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORTS

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 38) informing the Convention that Stand. Com. Rep. No. 39, Com. P. No. 6 and Res. No. 13 had been printed and distributed.

On motion by Delegate Crozier, seconded by Delegate Dennis Ihara and carried, Stand. Com. Rep. No. 38 was adopted.

Delegate Teruo Ihara, for the Committee on Education, presented a report (Stand. Com. Rep. No. 39) recommending that the proposals enumerated in the report be filed, and that Section 4 of Article IX be retained without amendment; and submitting a committee proposal (Com. P. No. 6) for introduction and recommending its passage on First Reading. He then requested that action on it be deferred.

There being no objection, action on Stand. Com. Rep. No. 39 and Com. P. No. 6, relating to education, was deferred until Monday, August 21, 1978.

INTRODUCTION OF RESOLUTION

A resolution (Res. No. 13) providing for the use of nondiscriminatory nouns, pronouns and adjectives in the State Constitution was offered jointly by Delegates Dyer and Waihee.

The President thereupon referred Res. No. 13 to the Committee on Style.

ORDER OF THE DAY

Stand. Com. Rep. No. 36, Com. P. No. 5--RELATING TO PUBLIC HEALTH AND WELFARE:

On motion by Delegate Fushikoshi, seconded by Delegate Hayashida and carried, Stand. Com. Rep. No. 36 was adopted and the proposals enumerated within were filed; Section 4 of Article VIII and Sections 1 and 2 of Article XII were recommended to be retained without amendment; and Com. P. No. 5, relating to public health and welfare, passed First Reading by title and was placed on the calendar for further consideration on Monday, August 21, 1978.

Com. P. No. 4--RELATING TO THE PREAMBLE, GENERAL AND MISCELLANEOUS PROVISIONS, REVISION AND AMENDMENT:

Delegate Izu moved that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 4, relating to the Preamble, general and miscellaneous provisions, revision and amendment, seconded by Delegate Hirata.

The motion that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 4 was put by the Chair and carried.

The President appointed Delegate Les Ihara to be Chairman of the Committee of the Whole.

At 7:08 p.m., the President vacated the Chair and Delegate Les Ihara assumed the Chair for the Committee of the Whole.

At 11:01 p.m., Delegate Les Ihara vacated the Chair and the President resumed the Chair.

Delegate Les Ihara, for the Committee of the Whole, reported orally that the committee had completed deliberations on the matter referred to it and recommended passage on Second Reading of Com. P. No. 4 as amended, and that a written report would be filed later.

On motion by Delegate Les Ihara, seconded by Delegate Izu and carried, the oral report was adopted.

The President thereupon placed Com. P. No. 4 on the calendar for Second Reading on Monday, August 21, 1978.

At this time, Delegate De Soto rose, on a point of personal privilege, to apologize to the Clerk for the many roll-call votes. She stated that roll-call votes were requested on almost every issue up for vote, whether or not the votes seemed close.

On a point of information, Delegate Taira stated that he noticed handwritten amendments were still being submitted and inquired if the Chair could clarify the proper procedure on amendments.

The Chair reminded the delegates that amendments should be typed and given to the Clerk for distribution and consideration by the body. The Chair further stated that although amendments to an amendment could not be anticipated, the amendments themselves would not be accepted if not in proper form.

ADJOURNMENT

At 11:13 p.m., on motion by Delegate Waihee, seconded by Delegate Funakoshi and carried, the Convention adjourned until 11:30 a.m. Saturday, August 19, 1978.

THIRTY-FIFTH DAY

Saturday, August 19, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11:30 a.m.

The President presided.

The Divine Blessing was invoked by the Reverend Ruth Senter of Waialua United Church of Christ.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegate Sterling who was excused and Delegates Blean, Donald Ching, Laura Ching, Crozier, Eastvold, Marion Lee, Ontai, Stegmaier and Takitani who were absent.

The President announced that the Journal of the Thirty-Fourth Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 40) informing the Convention that Com. Whole Rep. Nos. 2 and 3 had been printed and distributed.

On motion by Delegate Ledward, seconded by Delegate Lacy and carried, Stand. Com. Rep. No. 40 was adopted.

At 11:45 a.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 11:50 a.m.

ORDER OF THE DAY

Com. Whole Rep. No. 2--RELATING TO STATE BOUNDARIES AND MOTTO:

Delegate Les Ihara, for the Committee of the Whole, and Delegate Izu, for the Committee on Revision, Amendment and Other Provisions, presented a report (Com. Whole Rep. No. 2) and recommended its adoption.

On motion by Delegate Les Ihara, seconded by Delegate Izu and carried, Com. Whole Rep. No. 2 was adopted, Com. P. No. 2 having passed Second Reading on August 16, 1978.

Com. Whole Rep. No. 3, Com. P. No. 3--RELATING TO THE EXECUTIVE:

Delegate Weatherwax, for the Committee of the Whole, and Delegate Fukunaga, for the Committee on Executive, presented a report (Com. Whole Rep. No. 3) recommending adoption of Com. Whole Rep. No. 3 and passage on Second Reading of Com. P. No. 3.

On motion by Delegate Taira, seconded by Delegate Goodenow and carried, action on Com. Whole Rep. No. 3 and Com. P. No. 3 was deferred until Monday, August 21, 1978.

ADJOURNMENT

At 11:59 a.m. , on motion by Delegate Silva, seconded by Delegate Taira and carried, the Convention adjourned until 7:00 p.m. Monday, August 21, 1978.

THIRTY-SIXTH DAY

Monday, August 21, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 7:00 p.m.

The President presided.

The Divine Blessing was invoked by the Honorable Famika Anae, delegate from the Twenty-Second District to the Constitutional Convention of Hawaii of 1978.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegate Laura Ching who was excused.

The President announced that the Journal of the Thirty-Fifth Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORTS

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 41) informing the Convention that Stand. Com. Rep. Nos. 42 through 44; Com. Whole Rep. No. 4; Com. P. Nos. 1, RD. 1, S. 1; 2, S. 1; 4, RD. 1, and 7; and Minority Rep. Nos. 3 and 4 had been printed and distributed.

On motion by Delegate O'Toole, seconded by Delegate Villaverde and carried, Stand. Com. Rep. No. 41 was adopted.

Delegate Sakima, for the Committee on Local Government, presented a report (Stand. Com. Rep. No. 42) recommending that the proposals enumerated in the report be filed and that Sections 1, 2, 4 and 5 of Article VII be retained without amendment; and submitting a committee proposal (Com. P. No. 7) for introduction and recommending its passage on First Reading.

The President thereupon placed Stand. Com. Rep. No. 42 and Com. P. No. 7, relating to local government, on the calendar for further consideration on Wednesday, August 23, 1978.

Delegate Hamilton, for the Committee on Style, presented reports (Stand. Com. Rep. Nos. 43 and 44) recommending the adoption of Stand. Com. Rep. Nos. 43 and 44 and passage on Third Reading of Com. P. Nos. 1, RD. 1, S. 1, and 2, S. 1.

The President thereupon placed Stand. Com. Rep. Nos. 43 and 44 and Com. P. No. 1, RD. 1, S. 1, relating to codes of ethics, and Com. P. No. 2, S. 1, relating to the state boundaries and motto, on the calendar for Third Reading on Wednesday, August 23, 1978.

ORDER OF THE DAY DEFERRED MATTERS

Stand. Com. Rep. No. 39 (Com. P. No. 6) (Committee on Education--Deferred from August 18, 1978):

On motion by Delegate Teruo Ihara, seconded by Delegate Takehara and carried, Stand. Com. Rep. No. 39 was adopted and the proposals enumerated within were filed; Section 4 of Article IX was recommended to be retained without amendment; and Com. P.

No. 6, relating to education, passed First Reading by title and was placed on the calendar for further consideration on Wednesday, August 23, 1978.

Com. Whole Rep. No. 3 (Com. P. No. 3) (Committee on Executive--Deferred from August 19, 1978):

Delegate Fukunaga moved, seconded by Delegate Taira, that Com. Whole Rep. No. 3 be adopted and Com. P. No. 3 pass Second Reading.

At 7:18 p. m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 7:25 p. m.

Delegate DiBianco, on a point of inquiry, asked whether the matter of the attorney general would be taken up again by the executive committee. The Chair responded that this was not his understanding.

Delegate DiBianco then observed that if this was the case, the office of the attorney general to be set forth in the Constitution would be decided by its passage on Second Reading. The Chair responded in the affirmative, whereupon Delegate DiBianco moved to amend the committee report.

The Chair stated that the question before the house was not the committee report but rather Com. P. No. 3.

Delegate Kaapu, on a point of information, stated that it was his understanding that the amendment for an appointive attorney general selected by a merit system had been circulated, though not in final form. He added that the matter, though it might not be taken up in committee, would be considered later when a committee report from the executive was brought before the house, and at that time amendments could be offered.

The Chair then stated that it was not his understanding that the executive committee would be reporting anything further. He then asked Delegate Fukunaga for clarification.

Delegate Fukunaga replied that the Committee on Executive had one further decision-making meeting, at which time a number of proposals relating to the executive department and administrative matters within the executive branch would be taken up.

The Chair then informed Delegate DiBianco that further discussion would be in order at the time when the executive committee report was taken up.

Delegate DiBianco stated that the executive committee would only be discussing the rearrangement of various departments within the executive, and he inquired whether Delegate Kaapu was correct and he could bring up the matter of the attorney general at that time.

Delegate Kaapu then stated that it was his understanding that Com. P. No. 3 did not contain a provision pertaining to the attorney general, and that amendments relating to that matter could be offered after the Committee of the Whole as amendments to it.

Delegate Waihee then requested a recess to clarify the matter.

At 7:30 p. m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 7:45 p. m.

At this time, on motion by Delegate Weatherwax, seconded by Delegate DiBianco and carried, action on Com. Whole Rep. No. 3 and Com. P. No. 3 was deferred until Thursday, August 24, 1978.

SECOND READING

Com. Whole Rep. No. 4, Com. P. No. 4, RD. 1--RELATING TO THE PREAMBLE, GENERAL AND MISCELLANEOUS PROVISIONS, REVISION AND AMENDMENT:

Delegate Les Ihara, for the Committee of the Whole, and Delegate Izu, for the Committee on Revision, Amendment and Other Provisions, presented a report (Com. Whole Rep. No. 4) recommending that Com. Whole Rep. No. 4 be adopted and Com. P. No. 4, as amended in RD. 1, pass Second Reading.

Discussion then being in order, Delegate Wurdeman moved for the adoption of Amendment No. 1, seconded by Delegate Hanaike, which amended Section 2 of Article XIV of the State Constitution, to read:

Membership in any employees' retirement system of the State or any political subdivision thereof shall be a contractual relationship, the accrued benefits of which shall not be diminished or impaired. The legislature shall not provide special benefits for any class of employees unless it is based upon occupational hazards.

Delegate Wurdeman, speaking for her amendment, stated:

"Fellow delegates, this is the third time I shall make a plea to this Convention to correct a gross inequity in the public employees' retirement system. I would like to do this because 12 delegates were absent at our last discussion and because I don't think everyone there understood it.

"Retirement is the inevitable end of our more productive years. When we look ahead, we like to believe we are preparing the financial cushion or reserve we shall need when we are no longer able to work. When we look back several years hence, we should have the satisfaction of knowing that we did everything to protect our future, and possibly the lean years that may come with retirement.

"A method by which those who are close to power obscure personal privilege from public view is to bury the source of their privilege in complex legislation. The public tends not to get outraged about subjects which do not readily fit into headlines or television newscasts. On the national level this trait can be seen in the many special interest tax loopholes that dot the Internal Revenue Code. Locally, a prime example is the special treatment which those close to power have legislated for themselves in the public employees' retirement system. Regular employees and elected officials and judges contribute the same amount to the system. This alone would appear to possibly be an abuse in how the goods come back. But closer inspection shows that this abuse becomes even greater.

"Those with service as judges or elected officials can retire at any age with 10 years of service. To add more inequity, they get back their entire contribution in the form of an annuity which is added to their pension. So for instance, if two people, one an elected official and the other a regular employee, put \$6 into a pension plan, the elected official or the judge would get back \$10--the regular employee only \$2.

"Currently, this system classifies state and county employees in three categories: first are the regular employees; second are those employees whose jobs involve danger to life, such as policemen or firemen; and third, the specially favored elected officials and judges. It is between the first and the third groups that the discriminatory nature of the system can be most clearly seen. Each pays that \$6 into the fund, but there the similarity ends. When retirement comes, the regular employee receives a benefit computed at a rate of 2 percent of the high average salary for each year of service. Thus, someone with 20 years of service who retires at \$20,000 annual pay would receive 40 percent of that amount, or \$8,000 annually. The favored group of elected officials and judges,

however, receives a benefit of 3.5 percent for each year's service. Thus our hypothetical employee, were he in the favored group, would receive a benefit of 70 percent of his high average salary, the other one only 40 percent. The taxpayers shoulder the difference.

"The affluence a society such as ours enjoys colors our expectation that retirement shall indeed make our remaining years comfortable and secure. The post-industrial stage the United States has attained is supposed to guarantee that we have more leisure hours, more fringe benefits and greater expectations about a higher standard of living or choices of lifestyle. Yet Hawaii, through complex revisions introduced in the employees' retirement system by decision-makers, would cheat us and threaten our future. Our retirement fund is being seriously depleted for the benefit of an influential class.

"I have no objection to adequate compensation for either judges or elected officials, because the American system encourages contributions toward a retirement system that will aid all when no longer able to work. An open government, however, requires that such compensation be public and not hidden in the complexities of a pension plan that is supposed to benefit all public employees. Please, delegates, help the silent majority out there who can't do anything about this retirement plan. Thank you."

Delegate Ellis then spoke in favor of the amendment, further explaining:

"Let me express to you what the situation actually is. The legislator getting a 3.5-percent return on his retirement payments in the form of the fund may carry that 3.5 percent over into administrative employment. As you probably know, we have many legislators who have moved into high salary executive and administrative positions in the State, and they are not paid 2 percent as other employees are. They carry along their 3.5 percent. So we're looking at a legislator with 10 years of service who, having made himself eligible for 3.5 percent, now carries that over when he goes into employment earning \$35,000, \$40,000 or \$42,000 a year, whereas public employees--and myself, as a retired public employee, when I am looking at a 2-percent return, the legislator has the distinct advantage of getting a 3.5-percent return--not 2 percent. So I strongly urge you to make the situation a little more equitable and in some fashion return it to the status quo in terms of equal payment for time served. Put the legislator on the same 2-percent basis as other people."

Delegate Izu, speaking against the amendment, pointed out that the 3.5-percent return of legislators that carried over into administrative work applied only to those years during which they were legislators and only if they had already vested 10 years. The return when in administrative work, she specified, would be at 2 percent. She then added that the matter had already been thoroughly discussed in the Committee of the Whole.

Delegate DiBianco then spoke in favor of the motion. He noted that at the last vote many of the delegates who presumably contributed into the system had voted against the amendment, and remarked that the inequity apparently didn't bother them. He then inquired as to whether those delegates who were legislators, on the city council or HGEA members had a conflict of interest and should not be allowed to vote.

The Chair in response reiterated that each delegate must vote his or her conscience when the time came.

Delegate DiBianco then referred to their code of ethics, which forbade voting when there was a conflict of interest, and he requested that the Chair refer the matter to the ethics committee.

At this time Delegate Weatherwax moved for the previous question, seconded by Delegate Haunani Ching.

Delegate Blean, on a point of parliamentary inquiry, asked whether a motion for the previous question required a two-thirds or a majority vote. The Chair responded that a majority vote was sufficient and referred to Rule 15 of the convention rules.

Delegate Lacy at this time requested verification of the rule, explaining that all his information indicated that a two-thirds vote was required. The Chair responded that although Robert's Rules might show a two-thirds vote as being in order, the convention rules, where applicable, would take precedence, and he again cited Rule 15.

On a point of parliamentary inquiry, Delegate Blean then referred to Convention Rule 36, requesting an interpretation.

At 8:04 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 8:13 p.m.

At this time, the Chair announced that a review of the rules showed nothing to substantiate the fact that a majority vote was not in order for the previous question, adding that that "may or may not be what the Convention intended, but that is what the rules as they are written--as interpreted by our parliamentarian--read."

Delegate Weatherwax then rose to withdraw his motion for the previous question. There being no objection, the motion was withdrawn.

Delegate Hale, speaking for the amendment, mentioned that she had done some research on the subject and then offered the following information:

"In order to make a wise decision, we need some historical perspective. We need to realize that in 1950 the standing committee report did not recommend this language in the Constitution. It had been suggested as a proposal and was referred to the taxation committee, and the taxation committee reported that it was not in favor of including anything in the Constitution regarding a retirement system. I'd like to read you why. 'It is the opinion of your Committee that to include such a provision in the Constitution would be unwise and unsound, for it would be committing the State forever, practically speaking, to continue the present benefits'--and remember this is in 1950--'and it is conceivable that some adjustments may become necessary at some future time. Further, it appears to be unsound as class legislation. Government employees are protected by law and it is the belief of your Committee that no provision should be placed in the Constitution which would interfere with the free action of the legislature who can take necessary action as the times may warrant, after they have had an opportunity to complete a careful review and analysis of the system and of the then financial condition of the State.' And during the debates Delegate Sakakihara, from the Big Island, who for years had been the chairman of the house finance committee, pointed out that 16 years before that time the legislature had failed to make its contribution to the employees' retirement system, and the whole system was in danger of falling down. The fear of the delegates in 1950 was such that they felt this could become an intolerable burden on the State.

"I did some further research on government statistics, and I found that in 1966 there was a total of \$31,500 in the state retirement system, and the State contributed \$10,945,000 to the system--county and State. In 1976, which are the latest figures we have, there were 44,500 members in the state retirement system, but the state contribution went up four times--\$45,861,000. I think that perhaps some of these delegates in 1950, were they watching our deliberations today, would say, 'I told you so.' This amendment is going to correct an inequity that was put upon the people of this State from 1969 on.

"I also had the Legislative Reference Bureau do some research for me, and this is what they found: 'Retirement allowance is based

upon a certain percentage--2, 2-1/2 or 3-1/2 percent--times the number of years of service. The 2-1/2 percent is for the hazardous occupations; elected officers receive 3-1/2 percent as an allowance, whereas general employees receive 2 percent, or 2-1/2 percent for police officers and so forth, who also pay more into the system. Thus, even though a general employee and an elected officer have the same average final compensation--for example, \$1,000 a month--and the same years of service--for example, for ten years--the elected officer would receive more. The general employee would receive 2 percent times ten years, or \$200 a month for life, whereas the elected officer would receive 3-1/2 percent, or \$350 a month for life. Since the retirement provision is for life, the elected officer would probably receive more in the long run; and since the officer is eligible to retire at an earlier age, the officer could retire after ten years of service (for example, at age 35) and receive benefits for 30 years, until he dies at age 65. The general employee may have to wait until age 55 to retire, and if he dies at the same age will have received benefits for only ten years.' It goes on to point out that if an employee works for 40 years for the State and county, he then might get 80 percent of his average final compensation, but it also says he would probably be so old that the total benefits received by him during his lifetime might be less than an elected officer, who would get a maximum of 75 percent.

"There is an inequity in having different benefits applicable to different public employees, especially since there is no maximum limitation, such as benefits limited to compensation made. Furthermore, although both the elected officer and the public employee contribute the same percentage of wages, and since the elected officer receives more in benefits, it is arguable that such benefits are eventually paid out of the share contributed by the general employee. In other words, those of you who are paying are going to get 2 percent to that 3-1/2 percent. It may be argued by your opponent that the proposed amendment would take away vested retirement benefits--this was given to me by the Legislative Reference Bureau--the amendment could not, constitutionally, take away vested retirement rights. This amendment is effective only as to future benefits. Their conclusion is that there is no valid reason to distinguish elected officers from general employees. In talking to some of the delegates, I find that they have a concern that our elected legislators, and maybe judges, are not getting enough money. I would have no objection--and I understand from reading the papers that the legislative committee will come out with some new plan to adjust legislators' salaries by way of a salary commission. This may be the way to do this. I do not have objections to paying people more, but I do have objections to the way in which this is done. The general public is not aware of it. I don't believe that the 45,000 employees in the state retirement system are fully aware of what is happening. I urge you, please, to vote your conscience and support this amendment. Thank you."

Delegate Souki, although acknowledging that there was some merit in the discussion, pointed out that this was a problem for the retirement system members to resolve, and not a constitutional matter.

Delegate Uyehara then spoke for the amendment, explaining that it was the intent to "grandfather" all those in the present system, including those entering office in September. But the inequities, he observed, would otherwise perpetuate the system and this was the purpose of the amendment--to change the inequities.

Delegate Barr then rose to make one observation against the amendment. Referring to the language prohibiting special benefits "for any class of employees unless it is based upon occupational hazards," he submitted that a crucial occupational hazard of an elected official was that he could lose an election.

Delegate de Costa, on a point of inquiry, questioned Delegate Hale as to the salary

of a policeman compared with that of a legislator, if the policeman made less than the \$12,000 salary of the legislator. Delegate Hale answered that she did not know.

At this time Delegate Liu rose to disclose a potential conflict of interest, as he was running for political office that fall.

Delegate Harris then declared that he also had a financial conflict in the matter, being a public employee and a candidate for office.

Delegate Wurdeman then rose to request a roll-call vote and, there being ten seconds, it was so ordered.

At this time Delegate Funakoshi requested that she be excused from voting as she also was running for office.

Delegate Marumoto then rose to state that as a candidate she felt she should declare a conflict of interest, but that since she was voting for the amendment she thought she should be permitted to vote.

Delegate Barr thereupon inquired if it was the intent of the Chair that all delegates who were candidates and public employees had a conflict of interest.

In response, the Chair stated that it was not his intent, explaining that each delegate had to view the question in his own mind and "if in conflict for whatever reason, he can either ask to be excused or abstain or whatever other course he chooses. The Chair is not ruling on that. It's a personal matter."

Delegate Barr then asked to be excused, and it was so noted by the Chair.

Delegate Kaapu commented that the newspapers had shown which delegates were candidates, public employees, etc., and that "if everyone in this body were to abstain from the vote, and those wishing to abstain were to vote for the amendment, I think that form of exercising good judgment and carrying out the public trust that we have would lead to a circus in terms of our proceedings." He then observed:

"I myself am a taxpayer like everybody else. If I were to reduce this discussion to an absurd degree, then I would like to declare myself in conflict because of that. I don't think that's the way we're going to get good proposals considered, and I don't think that we are obligated to pass only those things which do damage or which are felt to be disadvantageous to public officials in order to make them right. For that reason I intend to vote my conscience on this and all other matters. In my own legislative body, we are required to declare conflicts of interest when we have them. We are also entitled to vote on all matters and may only be excused by a vote of the entire body. That principle should hold here. If we all flee and run for cover every time something hot comes up, we are not discharging our duties to the public who elected us."

Delegate Harris rose to point out that according to their ethics code it was not necessary or even allowed for delegates to abstain from voting because of a financial interest. All that was required, he explained, was that the delegate disclose his interest and then vote, which was what he intended to do.

Delegate Donald Ching then rose to declare that he had no conflict of interest, observing that his term of office ended on November 7, when the amendment if passed would go into effect, after which he did not know what the future held for him.

Delegate DiBianco, on a point of information, verified Delegate Harris' statement on delegate disclosure in conflicts of interest, quoting from subsection (2) of Section 5 of their ethics code. He then declared that since he was a candidate but hadn't won yet, he had no conflict.

Delegate Chu then rose to voice her support as she felt the state legislature would

not deal with the matter. She then disclosed that she was a candidate for office but as she was voting in favor of the amendment did not feel there was a conflict.

Delegate Barr then asked, based on this reasoning, if he could recapture his vote, to which the Chair replied that it was his choice.

Delegate Wurdeman then rose to make a final point, stating:

"I am a part of the pension plan at present. I was a part of the pension plan before I became an elected official. I'm really trying to stop this perpetuation in the system."

On a point of inquiry, Delegate Hamilton asked if all the delegates had conflicts because they would qualify for 3-1/2 percent by serving in the Convention. Delegate Hale responded that they did not qualify as it was first necessary to serve 10 years.

Delegate Ontai then rose to declare his conflict as he was one of the "notorious 31" running for elective office, adding that he felt he was qualified to vote on the matter.

Delegate Chung then declared that he too was a candidate. Referring to a newspaper cartoon in which the Convention was depicted "with a lot of Mickey Mouse goings on," he commented that it was ridiculous for them to be afraid.

Delegate De Soto thereupon rose and announced:

"Mr. Chairman, I would like to inform you, sir, that I am a proud member of the HGEA. I work hard for my money. This amendment in no way jeopardizes my retirement--should we live through this farce. So consequently I want you to know that I am an HGEA member and I feel that I am not in conflict. Mahalo."

At this time Delegate Nakamura stated:

"To dispose of the necessity for each of the 31 potential candidates for office to get up and disclose his interest, may the record reflect that there are 31 of us who are potential members of the legislature--so that each of us won't have to get up and we can get on with the vote."

There being no further discussion, the question to amend Com. P. No. 4, RD. 1, by Amendment No. 1 was put by the Chair. Roll call being in order, the motion failed to carry by a vote of 45 ayes, 54 noes and 3 excused; with Delegates Alcon, Anae, Barnes, Blake, Blean, Burgess, Cabral, Campbell, Chu, Chun, Chung, Crozier, De Soto, DiBianco, Dyer, Eastvold, Ellis, Fernandes Salling, Fujimoto, Goodenow, Hale, Hamilton, Hanaike, Harris, Hoe, Hornick, Dennis Ihara, Kimball, Kono, Lacy, Rachel Lee, Liu, Marumoto, Miller, Odanaka, O'Toole, Peterson, Sterling, Sutton, Takehara, Takitani, Tam, Uyehara, Wurdeman and Yamashita voting aye; Delegates Andrews, Barnard, Barr, Chang, Calvin Ching, Donald Ching, Haunani Ching, Chong, de Costa, Fukunaga, Fushikoshi, Hagino, Hashimoto, Hayashida, Hino, Hirata, Hironaka, Hokama, Les Ihara, Teruo Ihara, Ikeda, Ishikawa, Iwamoto, Izu, Kaapu, Kaito, Kojima, Ledward, Marion Lee, Lewis, McCall, Nakamura, Nishimoto, Nozaki, Okamura, Ontai, Penebacker, Sakima, Sasaki, Shinno, Shon, Silva, Souki, Stegmaier, Stone, Taira, Takahashi, Takemoto, Tamayori, Villaverde, Waihee, Weatherwax, Yoshimura and President Paty voting no; and Delegates Laura Ching, Funakoshi and Pulham being excused.

Delegate Wurdeman then rose on a point of personal privilege to thank the delegates for listening a third time.

At this time Delegate Pulham moved for the adoption of Amendment No. 2, seconded by Delegate Chu, which amended section 3 of Com. P. No. 4, RD. 1, to read:

Insofar as practicable, all [All] governmental writing meant for the public, in whatever language, should be plainly worded, avoiding the use of technical terms.

Speaking for the amendment, Delegate Pulham made the following statement:

"Mr. Chairman and fellow delegates, I would thank you for your support of this plain language proposal and I would hope that by offering the amendment tonight, that in saying, 'Insofar as practicable,' this will bring it in line with the Oregon constitutional amendment, taking into account our unique language capabilities here in this State--and also for those delegates who felt that the original amendment might interfere with the paperwork distributed by the university and other governmental agencies having a unique purpose. By saying, 'Insofar as practicable,' we are saying that there are those cases in which non-plain language is unique and necessary for that particular problem. This pretty well covers the situation. I would just again ask your support for this proposal."

Delegate Chu then moved to amend the amendment by deleting the section in its entirety, seconded by Delegate Takemoto.

Delegate Waihee, on a point of order, indicated that this would be "an amendment to an amendment to an amendment."

The Chair then ruled that Delegate Chu's motion was out of order and that action on the amendment would be in order.

At 8:45 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 8:48 p.m.

Delegate Burgess rose to speak against the amendment. He pointed out that the new language violated the purpose of the provision in the first place, which was to make government writing more simply worded, noting, "'Insofar as practicable' is an atrocious phrase and has no part in any governmental writing."

Delegate Hagino, speaking for the amendment, said that he had raised the same objection and that Delegate Pulham had assured him that the style committee would take care of it.

Delegate Lacy, also speaking for the amendment, mentioned that his objection had been to the "technical" wording as it was almost impossible to be able to write it, adding that Delegate Pulham had taken care of that.

Delegate Chu then rose to speak against the amendment, explaining that the additional language would not solve the problems and would in fact just add another phrase for the courts to have to deal with. She pointed out that the provision should not be given constitutional status at all as it was vague and subject to constitutional attack, and would be more appropriately dealt with by statute or executive order. She further pointed out that it might infringe upon the right of free speech as there was no specific definition of "governmental writing." It also, she continued, depended on whose standards were to be applied, as far as what was "plainly worded" or what a "technical term" was. The word "practicable," she added, could also cause problems as to who it applied to, how it was practicable, etc.

Speaking for the amendment, Delegate Villaverde read from a letter he had received from the Big Island, which supported the plain language provision.

Delegate Pulham, speaking last for his amendment, observed:

"I'm very touched by the letter that Delegate Villaverde read. We're dealing with the language 'insofar as practicable' and, although I respect very much the views of my colleague and delegate who is an attorney, I think that her words will probably be the best testimony we could get that we do need this provision. I realize it's going to be hassled out by other attorneys and in court, and I say to you--so be it. The people need it. I would prefer to be heard on this measure in a roll-call vote, if you would indulge me this once."

There being no further discussion, the question to amend Com. P. No. 4, RD. 1, by Amendment No. 2 was put by the Chair, and a determination made that there were ten seconds.

Roll call being in order, the motion was carried by a vote of 73 ayes, 26 noes and 3 excused; with Delegates Alcon, Anae, Andrews, Barnard, Calvin Ching, Donald Ching, Haunani Ching, Chong, Chung, Crozier, de Costa, De Soto, DiBianco, Dyer, Eastvold, Fernandes Salling, Fujimoto, Fukunaga, Funakoshi, Fushikoshi, Hagino, Hale, Hamilton, Hanaike, Harris, Hirata, Hironaka, Hoe, Hokama, Hornick, Dennis Ihara, Ikeda, Ishikawa, Kaapu, Kojima, Kono, Lacy, Ledward, Liu, Marumoto, McCall, Miller, Nakamura, Nishimoto, Odanaka, Ontai, O'Toole, Penebacker, Peterson, Pulham, Sakima, Sasaki, Shinno, Shon, Silva, Souki, Stegmaier, Sterling, Stone, Sutton, Taira, Takahashi, Takehara, Takitani, Tam, Tamayori, Uyehara, Villaverde, Waihee, Wurdeman, Yamashita, Yoshimura and President Paty voting aye; Delegates Barnes, Barr, Blake, Blean, Burgess, Cabral, Campbell, Chang, Chu, Chun, Ellis, Goodenow, Hashimoto, Hayashida, Hino, Teruo Ihara, Iwamoto, Izu, Kaito, Kimball, Marion Lee, Rachel Lee, Lewis, Nozaki, Okamura, and Takemoto voting no; and Delegates Laura Ching, Les Ihara and Weatherwax being excused.

At this time, Delegate Barr remarked, "Before the vote is reported, I'd just like to exercise my right to enter in the journal that my 'no' reflects my disgust that we took time for a roll-call vote."

The President announced that the motion was carried and then called for a short recess.

At 9:03 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 9:12 p.m.

Delegate Chu moved for the adoption of Amendment No. 3, seconded by Delegate Harris, which amended section 3 of Com. P. No. 4, RD. 1, by deleting the section in its entirety.

Delegate Tam, on a point of parliamentary procedure, questioned whether the amendment was in order since it negated what they had spent the last half hour doing. In response, the Chair explained that the motion was in order on the basis that an amendment had been made to the section and that until it was passed the delegate had the right to reserve judgment on whether to delete.

Discussion being in order, Delegate Takemoto rose and made the following statement:

"I speak in favor of the motion to delete this plain language section since there are many problems in determining what is plain language and what is not plain language. What standards are we to use? The comprehension level of a person in kindergarten? A high school student? A college graduate? Or will we establish a blue-ribbon commission to ascertain what is plain language and what is not?"

"The attempt to regulate and to determine standards for writing in the political arena is not new; it has existed since the Counter-Reformation, when the politically powerful attempted to set minimum standards for writing. The first instance known to me was in Italy, followed a century later in France. In 1682 the leaders in Florence decided to purify the Italian language by establishing an academy for language. The academy developed criteria for writing, emphasizing structure and proper vocabulary. The emphasis on form rather than content resulted in the non-growth of the Italian language. It voided spontaneity and enthusiasm. It forced poets, writers, intellectuals and government officials to foresake originality and meaning for good grammar, form and sentence structure. It was also used as a means of censorship and repression, with the academy aiding in a position of persecuting those who would not follow the official line. For example, the great astronomer Galileo was branded a heretic for his original thesis that the earth revolved around the sun. One of the accusations included the charge that he

had violated the dictates of language stipulated by the academy.

"Thus, the attempt to regulate the written word has been tied to political considerations. It has been used as a tool for attacking freethinkers, scholars, intellectuals and the common man. It has been used historically to censor and stifle expression and originality. It can be used again, even today, as a repressive measure. Thus, a plain language amendment could be used today as a means of intimidation, especially of state employees. It could be employed as the rationale for demoting, denying promotion or even dismissing an employee who disagreed with a supervisor, for not following the 'official' line of today. It would in essence create a state bureaucracy of grammar teachers.

"In conclusion, fellow delegates, by placing this plain language amendment in the Constitution, we are regulating language, forcing linguistics into the procrustean bed of politics where it does not belong--stated plainly, attempting to regulate the English language and using it as a political tool."

Delegate Lewis then made the following statement:

"Mr. President, I rise to speak in favor of the amendment. Our Constitution has been cited as a model because of its brevity. Although I fully subscribe to the intent of this provision, I feel very strongly that this type of language does not belong in the Constitution of the State of Hawaii. Hawaii has received much favorable commentary by constitutional observers across the country. The inclusion of an amendment like this will, I submit, not be received with the same favorable commentary from these constitutional critics. I request that all the delegates vote in favor of this amendment to delete this provision."

At this time Delegate Tam moved for the previous question, seconded by Delegate Souki. The motion calling for the previous question was put by the Chair and carried.

There being no further discussion, the question to amend Com. P. No. 4, RD. 1, by Amendment No. 3 was put by the Chair and, by a vote of 35 ayes and 64 noes, failed to carry.

At this time, Delegate Harris rose on a point of inquiry, to confirm that it was the Chair's ruling that only a majority vote was required to move the previous question. In response, the Chair affirmed the ruling, adding that it would be reexamined at a later date but that there was nothing in their rules to substantiate the two-thirds vote.

Delegate Harris then appealed the ruling of the Chair. Delegate Blean rose to request discussion on the appeal, to which the Chair declared that it was not debatable and the vote was in order.

Delegate DiBianco, on a point of information, questioned this, noting:

"I think that the rule regarding appeals is that they are debatable. If the ruling itself would be debatable and since what we have here is a ruling on our rules, and our rules of course are freely debatable, would not the appeal be debatable? I wonder if the parliamentarian could answer that?"

The Chair, noting that Delegate DiBianco's point was well taken, observed that they could debate the basis of the ruling.

Delegate Lacy then rose to state:

"I ask your indulgence to follow with me on Rule 15, which I agree is just a motion--a majority would have been the proper thing to have decided. But if you read Rule 36 carefully: 'When a question is under con-

sideration'--at the time we made the ruling there was a question under consideration--'. . . a motion to close debate at a specified time is permissible; it is not debatable but is amendable and shall require two-thirds vote of the delegates present.' If we never have to require a two-thirds vote, I don't understand the reason for that rule."

Delegate Takemoto then proposed:

"Mr. President, may I suggest that we follow what exists with the ruling of the Chair, and any complaints or problems delegates may have with the rules, I suggest that they come to the rules committee meeting on Wednesday and discuss them and perhaps try to amend them if they feel it necessary."

Delegate Hale then asked if the appeal could be referred to the rules committee rather than voted on, to which the Chair responded that it had to be taken up at that time and called for further discussion.

Delegate Burgess rose to offer the following suggestion:

"Since there really is no motion or vote that is being appealed, I think, in effect, what the movant is asking is that the Chair issue an advisory opinion--almost like going to court for an advisory opinion. There isn't really an issue before us at this point. There may well not be any further need to have this point determined tonight. The Chair has already indicated that it can be looked into after tonight. In the interest of expediting, I would ask that the matter be deferred until tomorrow, or the next time it comes up as an important issue."

Delegate Harris then offered to withdraw his appeal "if it's clear that that is not the final decision of the Chair."

On the Chair's assurance that the matter would be examined more in depth before meeting again the following day, Delegate Harris withdrew his appeal.

Delegate DiBianco then moved that the matter be referred to the rules committee.

At this time Delegate Donald Ching, on a point of order, submitted that before the motion to appeal could be withdrawn, it had to have the consent of the assembly. He then added that he did not consent to its withdrawal.

Delegate Kaapu then rose and expressed his agreement with Delegate Burgess, remarking:

"We had already taken up the business, it had been acted upon, the vote had been taken. Subsequent to that Delegate Harris raised a question concerning what had already happened. In line with that, there was an appeal of the general idea of what the Chair was doing. There had not been a motion for which the Chair had ruled, and there was no appeal of any particular ruling of the Chair at that time. I think that the suggestion of a practical way is in order."

Repeating that the motion to appeal the Chair's ruling was still pending before the body, Delegate Donald Ching then urged that they vote on it.

At this time Delegate Hale asked if a motion to refer the matter to the rules committee was in order, to which the Chair replied that the motion to appeal was still on the floor and must be taken up first.

Delegate Hale then spoke against the Chair's decision, stating:

"I would like to say that the Chair made an honest decision and, backed up by the parliamentarian, was necessarily put in the position today of standing up for his ruling. However, I think the intention of

a motion for the previous question is to cut off debate. Robert's Rules of Order is very clear that when any discussion is going to be cut off, it's going to take a two-thirds vote of the assembly to do it. If it didn't, you'd have an absolute rule by a majority, which would not take into consideration a minority opinion or a very close division of the house. That's the reason Robert's Rules of Order was written that way. I'm sorry that this had to come to this kind of a decision--I think we'd have a much better feeling in this body if we didn't have the vote to uphold or not uphold the Chair based on signals from a majority. But I really think that we should consider the purpose in moving for the previous question, which is to cut off debate. If that is our purpose, then I see no reason for our complex rules of going to Second Reading in addition to the Committee of the Whole. Those of you who have read and studied the debates in 1950 and 1968 will certainly realize that many decisions that were made in the Committee of the Whole were changed when they came up at Second Reading. We cannot change decisions unless we're going to have free and full debate. Whether it's a question of leaving here at 9:30 tonight or at 12:30 tonight--we're being paid by the taxpayers to do a good job. I would appeal to you--don't cut off debate that easily."

Delegate Blean then made the following observation:

"I find this ruling most distressing. I came here to play by the rules. I say my piece and I count the votes. If I win, fine; if I lose, fine. But this interpretation is the most dangerous precedent I have seen established in this Convention to date. The whole virtue of a democracy is how we treat the minority--the unpopular opinion which is not shared by the majority. This ruling established tonight is essentially that we are going to cut off minority opinion, we're going to cut off unpopular opinions. To establish that precedent in a body that is here to write a constitution to protect minority rights is just dead wrong."

Delegate Crozier rose on a point of personal inquiry to ask if they sustained the appeal, "are we just going with the majority for tonight and then the rules committee will take care of it for next week?"

The vote to sustain, the Chair responded, would not necessarily preclude examination of the rules by an action of individual delegates.

At 9:31 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 9:33 p.m.

At this time Delegate Kaapu repeated his earlier statement that the appeal was on a moot matter that had already been voted upon, explaining, "There was no appeal at the time the Chair made its ruling. No other vote was taken on the question. We've gone past it. What we're doing here is improper. I inquire of the parliamentarian whether that's true or not."

It was proper, the Chair ruled, to withdraw a motion provided there was no objection, but a motion could not be withdrawn if there was one objection.

In response, Delegate Kaapu argued:

"Mr. President, that was not the point of my parliamentary inquiry. The whole question of appealing was not on any ruling the Chair had made, except in a previous motion that had already been voted upon and passed. I'm just wondering if indeed the appeal of the Chair itself was out of order, and therefore any subsequent motions pertaining to it are themselves out of order as well."

The Chair responded that, although the point was well taken, it was felt that Delegate Harris' motion was in order at the time.

Delegate Harris then rose to protest:

"If that is the ruling, I would like to speak to my appeal. I believe this is an outrage--the greatest outrage we've seen yet in this Convention. One of the mainstays of democracy is the production of minorities. I think that it's clear to every one of us that the move for the previous question is a two-thirds vote. That was the intent, in my understanding, of the rules committee when they wrote that. I sat through those meetings. That's a clear reading of the rules as they are today. To change that now and to run by tyranny of the majority I truly believe is an outrage. I believe the public will view it as such."

Delegate Hale thereupon requested that the Chair "appeal to the good sense and fair play of Delegate Ching to withdraw his objection."

Delegate Donald Ching, in response, commented:

"Mr. President, I don't have to be appealed to. I think that some of us on this floor ought to think twice before we jump up and yell and scream and appeal the ruling of the Chair. We've had so many appeals on the ruling of the house--in all the years I've been in the legislature I've never heard as many appeals as I've heard in the month and a half that we've been here. It's about time that we stop and think twice before we jump up and"--

At this point, Delegate Harris rose to object. The Chair thereupon ruled that Delegate Ching had the floor and would proceed. Delegate Donald Ching then continued:

"I think that maybe we ought to all think twice about what we do on this floor, instead of making a big sham of this whole Convention. I've sat here quietly, minding my p's and q's. But enough is enough."

Delegate Crozier then rose to speak for the motion, requesting that the Chair settle the problem at that time. The Chair in response advised that, as indicated earlier, the matter would be referred to the rules committee.

Delegate De Soto, on a point of personal privilege, expressed her feeling that some of the delegates were attempting to destroy the proceedings, stating:

"There are definite efforts by some of the members of this body to destroy the integrity and the proceedings of this Convention, with the hope perhaps that when it is put on the ballot everything will be struck down--and will discredit all of our activities here. I think it infringes on my personal rights."

Delegate Chu then rose to state her objection that she had not been given the opportunity to speak last on her motion, pointing out that she had reserved that right.

Delegate DiBianco at this time voiced his concern about the public's reaction if the Chair's ruling were sustained, urging the delegates to "consider the manner in which this debate is taking place and what the public is going to think about us if they find out that the minority's right to speak has been cut off."

On a point of inquiry, Delegate Barr asked whether, if the Chair were overruled, it would have the effect of making a new rule requiring a two-thirds vote. The Chair replied that it would still have to be reviewed by the rules committee.

Delegate Chun, speaking for the motion, commented that anybody "with 52 votes can come in, lay their proposal on the table, move for the previous question and then vote on it. There would be no discussion at all. We can go home next week."

Delegate Blean, speaking in favor of the motion, noted that if the ruling were upheld, it would be "one of the blackest days in the State of Hawaii's democratic history."

On a point of parliamentary inquiry, Delegate Chang referred to the question Delegate Kaapu had raised, as to whether following the appeal of the Chair's ruling there would be a pending motion, and observed:

"Is there a pending motion for the previous question? If there is not, I don't believe there is, as Delegate Kaapu said, a legitimate appeal of the ruling of the Chair, but merely a parliamentary inquiry which, as Robert's Rules of Order Newly Revised states, is not subject to an appeal since it is an opinion and not a ruling. A ruling can only be made on an immediately pending question. That is, I believe, the question Delegate Kaapu raised."

The Chair, agreeing with the viewpoint, recognized Delegate Kaapu, who suggested, "Since the Chair has ruled that Delegate Harris' motion is in order, perhaps one way to solve that is--I'd like to appeal the ruling of the Chair that his motion is in order."

Delegate Donald Ching then stated that, on the basis of this new evidence, he would withdraw his objection.

The Chair then stated that if there were no objections the appeal would be withdrawn, adding that it was his intention to refer the matter to the rules committee.

There being no further discussion, Delegate Les Ihara then moved, seconded by Delegate Izu, that Com. Whole Rep. No. 4 be received and placed on file and Com. P. No. 4, RD. 1 as amended, pass Second Reading. The question was put by the Chair and the motion carried.

GENERAL ORDER

Com. P. No. 5--RELATING TO PUBLIC HEALTH AND WELFARE:

Delegate Fushikoshi moved that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 5, relating to public health and welfare, seconded by Delegate Silva.

The motion that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 5 was put by the Chair and carried.

The President appointed Delegate Uyehara to be Chairman of the Committee of the Whole.

At 9:45 p.m., the President vacated the Chair and Delegate Uyehara assumed the Chair for the Committee of the Whole.

At 11:53 p.m., Delegate Uyehara vacated the Chair and the President resumed the Chair.

Delegate Uyehara, for the Committee of the Whole, reported orally that the committee had risen, reported progress and begged leave to sit again.

The President accepted the oral report and announced that the Committee of the Whole would resume its deliberations on Tuesday, August 22, 1978.

ADJOURNMENT

At 11:55 p.m., on motion by Delegate Cabral, seconded by Delegate Hale and carried, the Convention adjourned until 7:00 p.m. Tuesday, August 22, 1978.

THIRTY-SEVENTH DAY

Tuesday, August 22, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 7:00 p.m.

The President presided.

The Divine Blessing was invoked by the Honorable C. Randall Peterson, delegate from the Fourteenth District to the Constitutional Convention of Hawaii of 1978.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegate Nakamura who was excused.

The President announced that the Journal of the Thirty-Sixth Day had been signed by the Secretary and approved by the President.

ORDER OF THE DAY

Com. P. No. 5--RELATING TO PUBLIC HEALTH AND WELFARE:

On motion by Delegate Fushikoshi, seconded by Delegate Villaverde and carried, the Convention resolved itself into a Committee of the Whole to further consider Com. P. No. 5.

The President appointed Delegate Uyehara to be Chairman of the Committee of the Whole.

At 7:15 p.m., the President vacated the Chair and Delegate Uyehara assumed the Chair for the Committee of the Whole.

At 10:27 p.m., Delegate Uyehara vacated the Chair and the President resumed the Chair.

Delegate Uyehara, for the Committee of the Whole, reported orally that the committee had completed its deliberations on the matter referred to it and recommended passage on Second Reading of Com. P. No. 5 as amended, and that a written report would be filed later.

The President thereupon placed Com. P. No. 5 on the calendar for Second Reading on Thursday, August 24, 1978.

On motion by Delegate Uyehara, seconded by Delegate Fushikoshi and carried, the oral report was adopted.

At this time, the President commended Delegate Uyehara for a most effective and able job as Chairman of the Committee of the Whole, and Delegate Fushikoshi and his hard-working committee for a job well done.

ADJOURNMENT

At 10:31 p.m., on motion by Delegate Waihee, seconded by Delegate Taira and carried, the Convention adjourned until 7:00 p.m. Wednesday, August 23, 1978.

THIRTY-EIGHTH DAY

Wednesday, August 23, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 7:00 p.m.

The President presided.

The Divine Blessing was invoked by Bishop Ofisi Pututau of the Waikiki Ward of the Church of Jesus Christ of Latter-Day Saints.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Donald Ching, DiBianco and McCall who were excused and Delegates Ellis and Hanaike who were absent.

The President announced that the Journal of the Thirty-Seventh Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORTS

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 45) informing the Convention that Stand. Com. Rep. No. 46 and Minority Rep. No. 5 had been printed and distributed.

On motion by Delegate O'Toole, seconded by Delegate Crozier and carried, Stand. Com. Rep. No. 45 was adopted.

Delegate Nishimoto, for the Committee on Legislature, presented a report (Stand. Com. Rep. No. 46) recommending that the proposals enumerated within the report be filed and submitting a committee proposal (Com. P. No. 8) for introduction and recommending its passage on First Reading.

The President thereupon placed Stand. Com. Rep. No. 46 and Com. P. No. 8, relating to the legislature, on the calendar for further consideration on Friday, August 25, 1978.

ORDER OF THE DAY

Stand. Com. Rep. No. 42, Com. P. No. 7--RELATING TO LOCAL GOVERNMENT:

On motion by Delegate Sakima, seconded by Delegate Alcon and carried, Stand. Com. Rep. No. 42 was adopted and the proposals enumerated within were filed; Sections 1, 2, 4 and 5 of Article VII was recommended to be retained without amendment; and Com. P. No. 7, relating to local government, passed First Reading by title and was placed on the calendar for further consideration on Friday, August 25, 1978.

THIRD READING

Stand. Com. Rep. No. 43, Com. P. No. 1, RD. 1, S. 1--RELATING TO CODES OF ETHICS:

On motion by Delegate Hamilton, seconded by Delegate Stone and carried, Stand. Com. Rep. No. 43 was adopted and Com. P. No. 1, RD. 1, S. 1, relating to codes of ethics, passed Third Reading by a vote of 82 ayes, 2 noes and 18 excused; with Delegates Alcon, Anae, Barnard, Barnes, Blake, Blean, Burgess, Cabral, Campbell, Chong, Chu, Chun, Chung,

Crozier, de Costa, De Soto, Dyer, Eastvold, Fernandes Salling, Fujimoto, Fukunaga, Funakoshi, Goodenow, Hagino, Hamilton, Harris, Hayashida, Hino, Hirata, Hironaka, Hoe, Hornick, Dennis Ihara, Teruo Ihara, Ikeda, Ishikawa, Kaapu, Kaito, Kimball, Kojima, Kono, Lacy, Ledward, Marion Lee, Rachel Lee, Lewis, Liu, Marumoto, Miller, Nakamura, Nishimoto, Nozaki, Odanaka, Okamura, O'Toole, Penebacker, Peterson, Pulham, Sakima, Sasaki, Shinno, Shon, Silva, Souki, Stegmaier, Sterling, Stone, Taira, Takahashi, Takehara, Takemoto, Takitani, Tam, Tamayori, Uyehara, Villaverde, Waihee, Weatherwax, Wurdeman, Yamashita, Yoshimura and President Paty voting aye; Delegates Barr and Hale voting no; and Delegates Andrews, Chang, Calvin Ching, Donald Ching, Laura Ching, Haunani Ching, DiBianco, Ellis, Fushikoshi, Hanaike, Hashimoto, Hokama, Les Ihara, Iwamoto, Izu, McCall, Ontai and Sutton being excused.

Stand. Com. Rep. No. 44, Com. P. No. 2, S. 1--RELATING TO STATE BOUNDARIES AND MOTTO:

On motion by Delegate Hamilton, seconded by Delegate Stone and carried, Stand. Com. Rep. No. 44 was adopted and Com. P. No. 2, S. 1, relating to the state boundaries and motto, passed Third Reading by a vote of 90 ayes and 12 excused; with Delegates Alcon, Anae, Andrews, Barnard, Barnes, Barr, Blake, Blean, Burgess, Cabral, Campbell, Haunani Ching, Chong, Chu, Chun, Chung, Crozier, de Costa, De Soto, Dyer, Eastvold, Fernandes Salling, Fujimoto, Fukunaga, Funakoshi, Fushikoshi, Goodenow, Hagino, Hale, Hamilton, Harris, Hayashida, Hino, Hirata, Hironaka, Hoe, Hokama, Hornick, Dennis Ihara, Les Ihara, Teruo Ihara, Ikeda, Ishikawa, Iwamoto, Kaapu, Kaito, Kimball, Kojima, Kono, Lacy, Ledward, Marion Lee, Rachel Lee, Lewis, Liu, Marumoto, Miller, Nakamura, Nishimoto, Nozaki, Odanaka, Okamura, O'Toole, Penebacker, Peterson, Pulham, Sakima, Sasaki, Shinno, Shon, Silva, Souki, Stegmaier, Sterling, Stone, Taira, Takahashi, Takehara, Takemoto, Takitani, Tam, Tamayori, Uyehara, Villaverde, Waihee, Weatherwax, Wurdeman, Yamashita, Yoshimura and President Paty voting aye; and Delegates Chang, Calvin Ching, Donald Ching, Laura Ching, DiBianco, Ellis, Hanaike, Hashimoto, Izu, McCall, Ontai and Sutton being excused.

GENERAL ORDER

Com. P. No. 6--RELATING TO EDUCATION:

Delegate Teruo Ihara moved that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 6, relating to education, seconded by Delegate Takehara.

The motion that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 6 was put by the Chair and carried.

The President appointed Delegate Goodenow to be Chairman of the Committee of the Whole.

At 7:52 p.m., the President vacated the Chair and Delegate Goodenow assumed the Chair for the Committee of the Whole.

At 11:48 p.m., Delegate Goodenow vacated the Chair and the President resumed the Chair.

Delegate Goodenow, for the Committee of the Whole, reported orally that the committee had risen, reported progress and begged leave to sit again.

The President accepted the oral report and announced that the Committee of the Whole would resume its deliberations the next day.

ADJOURNMENT

At 11:53 p.m., on motion by Delegate Izu, seconded by Delegate Taira and carried, the Convention adjourned until 12:01 a.m. Thursday, August 24, 1978.

THIRTY-NINTH DAY

Thursday, August 24, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 12:01 a.m.

The President presided.

The Divine Blessing was invoked by the Honorable Thomas H. Hamilton, delegate from the Eighth District to the Constitutional Convention of Hawaii of 1978.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present.

The President announced that the Journal of the Thirty-Eighth Day would be deferred.

ORDER OF THE DAY

Com. P. No. 6--RELATING TO EDUCATION:

On motion by Delegate Teruo Ihara, seconded by Delegate Ledward and carried, the Convention resolved itself into a Committee of the Whole to further consider Com. P. No. 6, relating to education.

The President appointed Delegate Goodenow to be Chairman of the Committee of the Whole.

At 12:07 a.m., the President vacated the Chair and Delegate Goodenow assumed the Chair for the Committee of the Whole.

At 12:40 a.m., Delegate Goodenow vacated the Chair and the President resumed the Chair.

Delegate Goodenow, for the Committee of the Whole, reported orally that the committee had risen, reported progress and begged leave to sit again.

The President accepted the oral report and announced that the Committee of the Whole would resume its deliberations later that day.

At 12:43 a.m., the Convention stood in recess until 6:00 p.m. that evening.

EVENING SESSION

The Convention reconvened at 6:00 p.m.

STANDING COMMITTEE REPORTS

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 47) informing the Convention that Stand. Com. Rep. Nos. 48 and 49; Com. Whole Rep. No. 5; Com. P. Nos. 4, RD. 2, S. 1, and 5, RD. 1; and Res. No. 14 had been printed and distributed.

On motion by Delegate O'Toole, seconded by Delegate Crozier and carried, Stand. Com. Rep. No. 47 was adopted.

Delegate Hamilton, for the Committee on Style, presented a report (Stand. Com. Rep. No. 48) recommending the adoption of Stand. Com. Rep. No. 48 and passage on Third Reading of Com. P. No. 4, RD. 2, S. 1.

The President thereupon placed Stand. Com. Rep. No. 48 and Com. P. No. 4, RD. 2, S. 1, relating to the Preamble, general and miscellaneous provisions, revision and amendment, on the calendar for Third Reading on Monday, August 28, 1978.

Delegate Hamilton, for the Committee on Style, presented a report (Stand. Com. Rep. No. 49) recommending the adoption of Res. No. 13, RD. 1, providing for the use of nondiscriminatory nouns, pronouns and adjectives in the State Constitution, and requested that action be deferred to Friday, August 25, 1978.

There being no objection, action on Stand. Com. Rep. No. 49 and Res. No. 13, RD. 1, was deferred until Friday, August 25, 1978.

INTRODUCTION OF RESOLUTION

A resolution (Res. No. 14) requesting the state legislature to review and redress the problems of the public libraries as part of the department of education, was offered jointly by Delegates Lacy and Goodenow.

The President thereupon referred Res. No. 14 to the Committee on Education.

At 6:12 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 6:13 p.m.

ORDER OF THE DAY DEFERRED MATTER

Com. Whole Rep. No. 3 (Com. P. No. 3) (Committee on Executive--Deferred from August 21, 1978):

Delegate Fukunaga moved for the adoption of Com. Whole Rep. No. 3 and passage on Second Reading of Com. P. No. 3, seconded by Delegate Taira.

The President called for discussion and, noting that Delegate Barnes was not present, recognized Delegate Crozier.

Speaking on behalf of Delegate Barnes, Delegate Crozier moved for the adoption of Amendment No. 1, seconded by Delegate Funakoshi, which added a new section to Com. P. No. 3, to read:

Section . There shall be an attorney general, who shall perform such duties as may be prescribed by law and who shall be the chief legal officer of the state.

The attorney general shall have the same qualifications as the governor and, in addition, shall have been admitted to practice law before the supreme court of the state for a period of at least five years. The attorney general shall be elected at the same time, for the same term and in the same manner as the governor, and removal shall be by the same manner as for the governor. In the event a vacancy occurs during a term, succession to office shall be as prescribed by law.

The President then called for discussion and recognized Delegate Hale.

Speaking for the amendment, Delegate Hale urged the delegates to seriously consider

giving the people a chance to decide whether they wanted an elected attorney general. She pointed out that people felt alienated from government because they didn't have much input into the process. She then noted:

"The attorney general is our chief prosecuting attorney for the State, and as such he has power over county attorneys. But in some counties, as in the County of Hawaii, the county attorney is elected, and I don't feel an appointed attorney should have power over an elected attorney on the county level. But if the attorney general were elected, then I would have no qualms about this situation. It is true that one of the jobs of the attorney general is to advise the governor and the legislature, but there is no reason the governor can't hire counsel on his own staff to give him the legal advice that he needs, and the main job then of the attorney general would be to see that the laws of the State are properly carried out. So I would hope that you give consideration to this proposal."

Delegate DiBianco, speaking for the amendment, urged those delegates who had earlier voted against an elected attorney general to support this amendment, pointing out that they were only deciding whether to put it on the ballot for the people to decide. He further stated that according to the polls there was strong support in the community.

Delegate Fukunaga then rose to speak against the amendment. She pointed out that the basic issue was how one perceived the role of attorney general--whether he should function primarily as an advisor to the governor and the executive departments or should act as a "watchdog" on the executive. The proponents of the amendment, she observed, saw a need for the attorney general to act as a watchdog, but she did not. She then stated:

"Our present Constitution provides for various checks on abuse of the executive power; presently the legislature, the county governments, the judiciary and the electorate fulfill this role. We could add another watchdog, with the title of attorney general. Then we might need to elect another watchdog to watch our new attorney general, and on. At what point do we stop and trust that the electorate has chosen someone who will do his or her job and do it well?"

"The assumption that we need more elected officials to watch our elected officials shows a basic mistrust of the electorate's ability to choose trustworthy individuals to fill public office. I personally have faith that when the electorate chooses a governor or a legislator, they understand the power they are giving that individual and their vote is an expression of trust in that individual. In those rare instances where that trust is misplaced, I firmly believe that our present system of checks and balances can and will work. Thank you."

Delegate Barnes, apologizing for his earlier absence, then spoke for his amendment, stating:

"My first point is that over 60 percent of the people in the State do favor an elected attorney general and we strongly feel that this should be placed on the ballot, as was mentioned earlier.

"There were two points raised in the committee report that people who support an elected attorney general could accept. One of these is that the function of the attorney general is to advise the various agencies within the executive branch; and it would seem that an elected attorney general could very easily appoint deputy attorney generals who were familiar with these agencies to handle that portion of the job, unless the elected attorney general could advise the various executive agencies just as easily as an appointed could and still carry out the strong public consumer advocacy role we would desire.

"Secondly, we would have no objection to some type--perhaps a 3- or 4-year hiatus, or a cooling-off period, after the term of an

attorney general when he could not run for higher office. In other words, some mechanism such as this could be provided so that our attorney general would not be directly perceived as a threat to the incumbent governor at that time, and we would then get candidates who were clearly interested in the job of attorney general as a representative of the people.

"I hope some of the delegates who originally indicated their interest in having an elected attorney general but on the last vote went the other way and who now seem to be having second thoughts on this issue have had time now to fully digest all the arguments. And again, we hope you will give the people a chance to vote on this. Thank you."

Speaking for the amendment, Delegate Blean indicated that, according to the polls and his constituents, a majority of the people in the State favored an elected attorney general. As delegates to the Convention, he maintained, they had a duty to put the issue on the ballot, whether they favored it or not.

Delegate Tamayori then spoke against the amendment, observing:

"There is no assurance that any elected attorney general will strive to maintain true impartiality, detachment and faithfulness to the law; there is, however, an assurance in a change of constituency that any person elected or appointed to this position, if such person is so motivated, can abuse the powers vested in that role. Whether the attorney general does so to secure reappointment or election does not give favor to the act itself. Again, lest we forget, the code of ethics, the canons, the courts and other agencies of the State and the legislature exist, should citizens or a citizen desire a redress of grievances. Thank you."

Delegate Souki, speaking against the amendment, observed that the public wanted the State as efficient as possible, for which there must be good teamwork, no adversary relationship or the potential for one, and where there could be total confidence, for advice, assistance and counsel. The appointive system, he concluded, should be retained to provide this efficient management.

Delegate Kaapu then spoke against the amendment--not, he explained, because an elective system didn't work since in some cases it did, but because there was a better way to achieve the ends for those advocating both the elective and the appointed systems. He then explained:

"Those who want the appointive system to continue say that the attorney general should be compatible with the governor and the legislature and this is achieved by the fact that the governor appoints and the legislature confirms, through senate approval, which must also approve the attorney general's removal. The cons--against the existing system--are that the office may become political, the attorney general may become supportive of the governor at the expense of the people, and that public confidence because of that potential suffers with respect to his opinions and actions.

"However, there are also faults with an elected attorney general, as well as some pros which I would first like to mention. First of all, I think we would all agree that he would have to be independent since he would have to run for office on his own account. And he is also accountable to the people directly by the elective process. But in spite of these persuasive, favorable aspects, there are some dangers: the elected attorney general presents a potential evil, which would be contrary to the best interests of the public also, in that the office could fall into the hands of a demagogue, who would render opinions and pursue cases, his eyes gleaming with an evil lust for political opportunity, who, with election in mind, would pander to and excite the baser instincts of the human animal, which in vestigial form still lurk within us all. I ask

you to spare us the limitations and doubts of the direct appointive method and the evil specter of the elected demagogue attorney, by supporting a method which gets the best points and prevents the worse points of both of these."

The Chair called for further discussion and, there being none, put the question to amend Com. P. No. 3 by Amendment No. 1 providing for an elected attorney general.

Roll call then being in order, the motion failed to carry by a vote of 35 ayes, 56 noes and 11 excused; with Delegates Barnes, Barr, Blake, Blean, Burgess, Cabral, Campbell, Chu, Crozier, DiBianco, Dyer, Eastvold, Ellis, Fernandes Salling, Hale, Hamilton, Hanaike, Harris, Hoe, Hornick, Kimball, Kono, Lacy, Rachel Lee, Liu, Marumoto, Miller, O'Toole, Peterson, Pulham, Shon, Stegmaier, Takemoto, Takitani and Wurdeman voting aye; Delegates Alcon, Andrews, Barnard, Chang, Calvin Ching, Donald Ching, Chong, Chung, de Costa, De Soto, Fujimoto, Fukunaga, Funakoshi, Fushikoshi, Hagino, Hashimoto, Hayashida, Hino, Hirata, Hironaka, Hokama, Les Ihara, Teruo Ihara, Ikeda, Ishikawa, Iwamoto, Izu, Kaapu, Kaito, Kojima, Ledward, Marion Lee, Lewis, McCall, Nakamura, Nishimoto, Nozaki, Odanaka, Okamura, Sakima, Sasaki, Shinno, Silva, Souki, Sterling, Stone, Taira, Takahashi, Takehara, Tamayori, Uyehara, Villaverde, Waihee, Weatherwax, Yoshimura and President Paty voting no; and Delegates Anae, Laura Ching, Haunani Ching, Chun, Goodenow, Dennis Ihara, Ontai, Penebacker, Sutton, Tam and Yamashita being excused.

At this time Delegate Kaapu moved for the adoption of Amendment No. 2, seconded by Delegate Alcon, which added a new section to Com. P. No. 3, to read:

ATTORNEY GENERAL ESTABLISHMENT; QUALIFICATIONS

Section . There shall be an attorney general who shall serve as the chief legal officer of the State for a term of four years, concurrent with the governor. No person shall be eligible for the office of attorney general unless that person shall have been admitted to the practice of law before the supreme court of this State for at least five years. The attorney general shall perform such duties as may be prescribed by law.

No person holding the office of attorney general shall be eligible to become a candidate for election to any state or political subdivision elective office while holding the office of attorney general.

SELECTION; MERIT SELECTION COMMISSION

There shall be a merit selection commission composed of nine members to nominate persons to serve as the attorney general. Within thirty days of a vacancy or notification of vacancy, the merit selection commission shall be established consisting of three members appointed by the governor, the initial appointments to be for terms of two, four and six years respectively; the senate and the house of representatives shall each appoint one member for a term of two years; the supreme court shall appoint two members for an initial term of four and six years respectively; and members in good standing of the bar of the State shall elect two of their number in an election conducted by the supreme court or its delegate, the initial election to be for terms of four and six years respectively.

The commission shall propose a list of not less than six nominees to fill any vacancy in the office of the attorney general. The governor shall appoint one person from this list to fill the office of the attorney general with the advice and consent of the senate.

Each commission shall establish its own rules and procedures in a manner prescribed by law.

If a judicial selection commission is established by this constitution, it shall perform the functions of the merit selection commission and there shall be no such commission.

Speaking for his amendment, Delegate Kaapu explained that this alternative had first been proposed in the Committee of the Whole and provided for the merit appointment of an attorney general by the governor from a panel of nominees submitted by a commission. Due to some technical problems, he continued, he had at that time suggested that the judicial selection commission be used as the nomination body for the attorney general, but this had been impossible at the time as the judicial commission had not yet been considered by the Convention. Since then, he added, there had been other suggestions and there were now before the assembly three amendments that addressed merit selection of the attorney general. He then discussed the differences between the amendments, as follows:

"The amendment I have submitted involves the use of the judicial commission to submit names to the governor from which, after reviewing the list of persons already screened for competence, high community regard and legal expertise, he would choose one, hopefully that person who reflected the high quality of the legal profession and also had the personal quality necessary to work compatibly within the administration. My amendment, however, requires senate confirmation of the nominee, as is now prescribed by law, and removal of course would be by the current process. The amendment submitted by my neighbor, Delegate Marumoto, contains all the same provisions except that the governor's selection would not require senate confirmation.

"The other amendment, which was submitted by Delegate Goodenow in collaboration with Delegate Blake, has good merit in its present form. It would require that the nominating commission be composed of representatives selected by each of the county councils for a total of four, one by the Hawaii bar association and one each by the two houses of the legislature. This body would be convened at the time there was a vacancy and would dissolve upon the filling of that vacancy, whereas the other two amendments, would, since they use the judicial commission, not require dissolution of the panel.

"And that in essence describes the three methods being proposed and I think any one of them would serve well. There are some limitations, but these are greatly overcome by the fact that we would avoid those pitfalls I mentioned earlier. It would allow for a greater degree of public confidence, it would allow for senate review since the legislature must also be served, and it would, by the preliminary screening, assure the public that those being considered by the governor are not necessarily of his own nomination but are recognized by a broad cross section of the community as having exceptional merit. Therefore I speak in favor of the amendment--in fact, of any one of the three."

Delegate Fukunaga, speaking against the amendment, pointed out the following areas of concern:

"First of all, the commission plan places control for the attorney general's selection in the hands of a limited number of people. For those of you who have been urging the election of attorney general, I suggest that you think about this point very carefully. The commission plan removes the selection process one step further from the electorate: the commission is not elected, it is appointed.

"Secondly, a nominating commission diffuses responsibility for the selection of the attorney general. The governor can point to the commission as giving him a list of few worthy nominees and the commission can point to the governor as the final decision-maker.

"I think it should also be noted that no other state presently has this type of commission plan for the selection of attorney general, although similar plans exist for judicial selection. Although Hawaii has often been in the forefront in making progressive changes, I would be very hesitant to experiment with such a crucial office. For these reasons I oppose the amendment. Thank you."

Delegate Waihee then spoke against the amendment, explaining that initially the idea of using an independent body to select the nominees had interested him, but that he had subsequently found it was not workable. He then continued:

"Now I have two problems with the amendments using a merit selection commission, the first one being, if this is the same commission that we have established for the selection of judges--and in my opinion we have done such a fine job on it that it guarantees this commission would be so independent that using it as the basis of selecting the nominees for attorney general would, in my opinion, negate any of the good points of having an attorney general working with the governor. In other words, they would have no connection; the attorney general would not be part of the governor's team at all, and if so, in my humble opinion we should have elected the attorney general.

"I think what we have here is just nine people really electing the attorney general, and if we were to go this route we should have given it to the voters as a whole. So having decided not to do that, I think that we ought to stay with the present appointive system."

Delegate Marumoto, speaking for the motion, argued that the explanation that the selection commission would produce an independent attorney general was not a very good reason for voting down the amendment. She pointed out that they needed an independent attorney general and the commission would be ongoing and would produce fine attorney generals as well as judges.

Delegate Liu then spoke in favor of the motion. Referring to a previous speaker's statement that the merit commission plan would put the selection of the attorney general in the palms of a few people, he pointed out that presently it was in the palm of one person.

There being no further discussion, the question of amending Com. P. No. 3 by Amendment No. 2 was put by the Chair. At this time Delegate Marumoto requested a roll-call vote and the Chair, on determining that there were ten seconds, so ordered. Delegate Tam, on a point of clarification, then asked if they would be voting on the concept of merit selection or on each amendment separately. The Chair explained that, based on Delegate Kaapu's remarks, in effect they were voting on the concept, and that if the concept were approved the question of how the commission would be developed would be in order.

Roll call being in order, the motion failed to carry by a vote of 38 ayes, 53 noes and 11 excused; with Delegates Alcon, Barnes, Blake, Blean, Burgess, Cabral, Campbell, Laura Ching, Chu, Chung, Crozier, De Soto, DiBianco, Dyer, Eastvold, Ellis, Fernandes Salling, Hale, Hamilton, Harris, Hoe, Hornick, Kaapu, Lacy, Marion Lee, Rachel Lee, Liu, Marumoto, Miller, Nozaki, Odanaka, O'Toole, Peterson, Shon, Sterling, Takitani, Wurdeman and President Paty voting aye; Delegates Andrews, Barnard, Barr, Chang, Calvin Ching, Donald Ching, Chong, de Costa, Fujimoto, Fukunaga, Funakoshi, Fushikoshi, Hagino, Hanaike, Hashimoto, Hayashida, Hino, Hirata, Hironaka, Hokama, Les Ihara, Teruo Ihara, Ishikawa, Iwamoto, Izu, Kaito, Kimball, Kojima, Kono, Ledward, Lewis, McCall, Nakamura, Nishimoto, Okamura, Pulham, Sakima, Sasaki, Shinno, Silva, Souki, Stegmaier, Stone, Taira, Takahashi, Takehara, Takemoto, Tamayori, Uyehara, Villaverde, Waihee, Weatherwax and Yoshimura voting no; and Delegates Anae, Haunani Ching, Chun, Goodenow, Dennis Ihara, Ikeda, Ontai, Penebacker, Sutton, Tam and Yamashita being excused.

There being no further amendments, the President called for discussion on Com. P. No. 3 and recognized Delegate Kimball.

Delegate Kimball then spoke against its passage on Second Reading, expressing the following concerns:

"Com. P. No. 3 does not address the basic political problem that Hawaii has experienced with respect to the relationship between the governor and the lieutenant governor. Three alternatives have come before this Convention: (1) to elect a governor and lieutenant governor as a team, (2) to assign the lieutenant governor executive power and functions, and (3) to abolish that office. We have not developed or adopted

any of those alternatives and have failed to address the problem that faces Hawaii. Our failure to address this problem, I believe, if we approve Com. P. No. 3, will jeopardize the Convention's other work that we present to the voters, because we have failed to address a basic problem in one of our basic branches of government. Thank you."

Delegate Hale also spoke against the motion, indicating that her reasons were basically the same as those outlined by Delegate Kimball. She then requested a roll-call vote.

Delegate O'Toole, speaking against the motion, referred to the concerns already cited and then suggested that the lieutenant governor's office should be expanded and separated from the governor's during the general election.

There being no further discussion, the question on the adoption of Com. Whole Rep. No. 3 and passage on Second Reading of Com. P. No. 3 was put by the Chair. On determining that there were ten seconds and roll call then being in order, the motion carried by a vote of 72 ayes, 20 noes and 10 excused; with Delegates Alcon, Andrews, Barnard, Barnes, Blake, Campbell, Chang, Calvin Ching, Donald Ching, Laura Ching, Chong, Chung, Crozier, de Costa, De Soto, Dyer, Fernandes Salling, Fujimoto, Fukunaga, Funakoshi, Fushikoshi, Hagino, Hamilton, Hanaike, Hashimoto, Hayashida, Hino, Hirata, Hironaka, Hoe, Hokama, Hornick, Les Ihara, Teruo Ihara, Ishikawa, Iwamoto, Izu, Kaapu, Kaito, Kojima, Ledward, Marion Lee, Lewis, McCall, Nakamura, Nishimoto, Nozaki, Odanaka, Okamura, Pulham, Sakima, Sasaki, Shinno, Shon, Silva, Souki, Stegmaier, Sterling, Stone, Taira, Takahashi, Takehara, Takemoto, Tamayori, Uyehara, Villaverde, Waihee, Weatherwax, Wurdeman, Yamashita, Yoshimura and President Paty voting aye; Delegates Barr, Blean, Burgess, Cabral, Chu, DiBianco, Eastvold, Ellis, Hale, Harris, Kimball, Kono, Lacy, Rachel Lee, Liu, Marumoto, Miller, O'Toole, Peterson and Takitani voting no; and Delegates Anae, Haunani Ching, Chun, Goodenow, Dennis Ihara, Ikeda, Ontai, Penebacker, Sutton and Tam being excused.

SECOND READING

Com. Whole Rep. No. 5, Com. P. No. 5, RD. 1--RELATING TO PUBLIC HEALTH AND WELFARE:

Delegate Uyehara, for the Committee of the Whole, and Delegate Fushikoshi, for the Committee on Public Health and Welfare; Labor and Industry, presented a report (Com. Whole Rep. No. 5) recommending that Com. Whole Rep. No. 5 be adopted and Com. P. No. 5, as amended in RD. 1, pass Second Reading.

The President, after reviewing the order of the amendments, called for discussion.

Delegate Odanaka moved for the adoption of Amendment No. 1, seconded by Delegate Funakoshi, which amended section 2 of Com. P. No. 5, RD. 1, to read:

Section 2. The State shall have power to provide for treatment, [and] rehabilitation and domiciliary care of handicapped persons.

Speaking for her amendment, Delegate Odanaka stated:

"I disagree with the committee report's contention that domiciliary care is included in the definition of treatment and rehabilitation. It is a vital state service for patients who are beyond either treatment or rehabilitation and their families. The language as proposed may allow the legislature in a fiscal crisis to cut off funds for such facilities as Waimano home, the state mental hospital and facilities for leprosy patients. So I am simply adding the words 'domiciliary care' and leaving the balance of the committee's proposal unchanged."

Delegate Fushikoshi rose to speak against the amendment, arguing:

"Domiciliary care refers to care provided to elderly or handicapped persons who are unable to live independently and therefore require placement in nonmedical institutions, such as an adult family care home or a personal care home, the former licensed by the department of social services and the latter by the department of health.

"The authority to place and provide payment for such care is clearly established by the State's statute in Chapter 346, which gives the department of social services this authority. Provision and payment for domiciliary care is a function of public assistance and the constitutional authority is already established in Article VIII, Section 3, on public assistance. Therefore, deletion of 'domiciliary care' in section 2 does not potentially reduce any services or care to the handicapped, nor is this the intended purpose of this deletion. Thank you."

Delegate Shon, on a point of information, asked if the committee chairman could specifically confirm that the language would not adversely affect the care of leprosy patients.

Delegate Fushikoshi replied that all were included in that particular wording.

Delegate Hale, speaking in favor of the amendment, remarked that from the reasons given in the committee report she couldn't justify the deletion. Quoting from the committee report on eliminating "specific categories of handicaps so that the legislature would not be constrained in its actions," she then pointed out that the chairman had indicated certain statutes that included domiciliary care but they were writing a constitution, not a statute. Questioning whether there were legal ramifications not explained in the committee report, she stated:

"I would hesitate to take out words that were obviously put in for a purpose, and statutes that have been drawn under the previous Constitution might eventually not be constitutional. I'm not sure what we're doing and I really can't see any reason for taking out the 'domiciliary care' from the original constitutional language. Therefore, unless there is a very good reason for taking it out--and the only reason they gave was that they wanted to 'broaden the philosophical statement... to include all categories of handicaps,' but I don't see that. It seems to me that Delegate Odanaka's proposal would be broader than the specific language recommended by the committee, and therefore I'd like to speak in favor of her proposal."

Delegate Campbell then asked the committee chairman whether the statute he had cited--Chapter 346 of the Hawaii Revised Statutes--predated or postdated the constitutional language "domiciliary care."

Delegate Fushikoshi requested a short recess to check on it.

At 7:08 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 7:10 p.m.

Noting that the researcher was still checking on Delegate Campbell's question, Delegate Fushikoshi then explained:

"In regard to Delegate Odanaka's amendment, the phrase 'domiciliary care' was taken out because treatment and rehabilitation define this word 'domiciliary.'"

At this time, Delegate De Soto questioned whether removing the words "domiciliary care" from Section 2 of Article VIII would "release the responsibility of the State to provide same." She mentioned that earlier she had heard that it was already provided for in Section 3, and added that she was concerned because "there are many people in care

homes whose families do not meet the low-income criteria that is required for public assistance."

Delegate Fushikoshi, in response, confirmed that it was taken care of and assured:

"They are not being cast aside. They are taken care of, because 'rehabilitation' and this word 'treatment' cover that word 'domiciliary,' meaning that basically under this particular statement those people in care homes are going to be covered, so it's no problem."

Delegate Hale then requested legal opinion as to whether care homes would specifically be covered, because "domiciliary to me means keeping them confined in a certain place and rehabilitation could be in a private home or outside."

The Chair remarked that it could be assumed the language had been cleared with the language staff prior to presentation.

Delegate Chung then stated:

"The word 'domicile,' according to the dictionary, first is a 'place of residence' of an individual or family; 'a place with which a person has settled connections' for determination of his civil status, etc. But we interpreted domiciliary care, when we discussed this with Mr. Yuen, the director of the health department--domiciliary care is part of the program, or subprogram, which is inherently necessary to carry out treatment or rehabilitation goals, such as mini-hospitals. Delegate Odanaka mentioned her concern about Waimano Training School possibly being closed in an economic crisis. Well, Waimano home is an inherent program for the care of those patients there. I don't see how the program can exist without such a domiciliary place, and likewise the state hospital, or the Halawa jail for public safety. You've got to have a place for incarceration and a jail or prison is totally part of the program for the treatment or control of a certain problem. And I believe the words 'treatment' and 'rehabilitation' are the broad statements under which the type of programs to fulfill the goals are referred and this is why Mr. Yuen felt that this word may be omitted. Thank you."

Delegate Souki, while sympathizing with Delegate Odanaka's concerns, explained:

"Under the state health planning administration, they do consider these factors--the factor of domiciliary care, which is providing care for the convalescent, the intermediate and the care home--and they do have a state plan now to provide care for such and my understanding, because I'm very close to this, is that most of the goals have been met. But they do have a state plan to provide for the care and well-being of senior citizens and the handicapped for that kind and type of care. So I believe by the mere fact that you eliminate that word 'domiciliary,' it will still not affect the intent of the Constitution, which is to provide treatment and rehabilitation and what can be carried on statutorily."

Delegate De Soto then rose to speak in favor of the amendment, stating:

"There are too many if's and maybe's and suppositions in this case, and at the cost of being labeled a bleeding heart I think that domiciliary care is not only institutional care but also--the State has continuously over the years paid private homes to take care of people who are handicapped and who do not meet the criteria for staying in an institution-type setting, wherein the State pays people to take care of them. And because it's so obscure at this point, I'm really hesitant to delete this word, because it has not been fully explained as far as I'm concerned, and as long as it's not clearly explained I will have to support the proposition to amend. Thank you."

In response to Delegate De Soto's concern, Delegate Fushikoshi explained that Section 1 of Article VIII specified that the State "shall provide for the protection and promotion of the public health." And, he added, since it was an ongoing program, the State would provide that.

Referring to the question that Delegate Campbell had earlier asked, he answered that "this came after the constitutional convention."

In other words, Delegate Campbell requested, the statute was enacted after the word "domiciliary" was already in there?

Delegate Fushikoshi, in response, stated, "Yes, it came during that constitutional convention when they first had that--they had that worded in."

Delegate Campbell then restated, "My question is simply this, Delegate Fushikoshi. Were the words 'domiciliary care' in the Constitution before that section to which you made reference was enacted?"

Delegate Fushikoshi thereupon responded, "No, it came after."

Delegate de Costa then rose to speak against the motion, explaining that by the deletion the committee was "just getting rid of one of those hard words to pronounce, the rest means the same."

Delegate Rachel Lee then spoke in favor of the amendment. Referring to the assistance program for the elderly which the Convention had approved, she noted:

"What bothers me are the words 'rehabilitation' and 'treatment.'

Now, when we are speaking of the elderly, they are not ever going to be rehabilitated and their illness is chronic. You cannot treat them with medication. They will need a shelter where they can be given care. Are we going to regress, when the 1968 convention put the words in there? Are we, 1978 delegates, going to take that word away? If we do, we are regressing. We have to be very sure that there is still a definite responsibility if we remove the word.

"I am also concerned because anything that is statutory can be removed. Anytime the State goes broke or has financial difficulties, they'll be looking for avenues to cut expenses, and I'm afraid they may find a good excuse to do it in this case. Fellow delegates, let's not regress, let's keep the words in there. Thank you."

Speaking against the amendment with some reservations, Delegate Shon pointed out that this section was not a mandate, that it said the State "shall have the power to provide." He explained:

"If this were a mandate, a policy statement, then I would feel considerably more uneasy about removing the word, but since the State clearly has the power to provide now and this is a reaffirmation of that power, and the definitions of treatment and rehabilitation do seem to include domiciliary care, then I urge you to vote against the amendment."

Delegate Hale, speaking for the amendment, pointed out that the committee had recommended taking away the mandate and had changed it from "shall provide for the protection and promotion of the public health" to "shall have power to..." But, she continued, with the amendment they had adopted, the term "shall provide" had been put back. She then pointed out:

"In the justification of the standing committee report, it seems to be quite a concern of the public health committee that we don't want to mandate the legislature because we don't want to tell them how to spend their moneys. I call your attention to the paragraph under Section 1 where it says: 'The amended section will no longer

mandate the legislature to fund public health.' Now this was in Section 1, and that was their justification. It goes on to say that all 'funding and programs for public health require legislative appropriations,' and consequently 'your Committee decided that the legislature will be best suited to determine what proportion of state revenues should go to public health.'

"Now I maintain that if you take out these very important words 'domiciliary care,' you are indicating to the legislature that perhaps this is not an important area. We have put 'shall have power to' in this article of the Constitution in almost every other section, and it was felt necessary that we still have power over the environment and the culture and all of that. And I feel that we should not regress, as Delegate Lee says, that we shall have power--very definitely constitutionally, have power to provide for domiciliary care. I would like to point out the state plan that was developed was developed under the Constitution of 1968, and we are attempting now to change those words so the state plan--we don't know, we haven't competent legal counsel here today to advise us right now, definitely, about this.

"I would also like to point out, in regard to this particular section, the committee was concerned about taking out the words 'mentally or physically handicapped' because they did not want to limit the kinds of power that the State would have, and this amendment also takes out those same concerns. In the committee report it says: 'Your Committee decided that it was important to eliminate specific categories of handicaps so that the legislature would not be constrained in its actions.' It goes on to state that the committee 'did not intend to remove any type of handicapped persons from consideration,' but they decided to delete the phrase 'domiciliary care' because 'the phrase was already included under the definition of treatment and rehabilitation.' I have had enough experience--when the hospitals and the care of pensioners and old people were under the power of the county--to realize that we're getting into dangerous areas when we talk about domiciliary care and geriatrics treatment centers and so forth--and they may be 'hydrobolic' words, Delegate de Costa, but sometimes--as we decided, sometimes technical words are necessary.

"And the final conclusion of the committee, at the end of that paragraph: 'Finally, your Committee felt that these two changes would appropriately streamline Section 2.' I don't think it's our purpose to streamline if we're going to streamline basic needs of our people in the field of health and welfare and care, and I would urge you to seriously consider going back to the original wording--just leaving out the 'mentally or physically,' which goes along with the committee's intent--and adopt this amendment for those reasons. Thank you."

Delegate Funakoshi, on a point of inquiry, asked if in addition to mentally ill patients this would also include the criminally insane. Delegate Odanaka replied in the affirmative.

There being no further discussion, the motion to amend Com. P. No. 5, RD. 1, by Amendment No. 1 was put by the Chair and failed to carry by a vote of 39 ayes and 44 noes. Delegate Hale then requested a division of the house, and on a rising vote the motion again failed by a vote of 42 ayes and 47 noes.

At this time Delegate Odanaka moved for the adoption of Amendment No. 2, seconded by Delegate Wurdeman, which amended section 3 of Com. P. No. 5, to read:

The State shall have the power to provide financial and medical assistance and social services for persons unable to maintain a standard of living compatible with decency and health. [, medical assistance and

social services for persons who are found to be in need of and are eligible for such assistance and services as provided by law.]

The Chair explained that since this was a substitute amendment, it was in order first to address any amendments to the present section 3. There being no amendments, Delegate Odanaka was recognized.

Speaking for her amendment, Delegate Odanaka then stated:

"As I understand it, the Constitution is a place for establishing human rights. Among these, as the previous language stated, is the right to be able to maintain a lifestyle 'compatible with decency and health.' Such a broad, general yet effective statement is the proper way to stress the need and compel the establishment of such program.

"By the way the committee has rewritten this section, they replaced this basic statement and definition by too many terms, with the statement a legalistic term that compels the legislature to set their own definition of that need, depending on the fiscal situation. What this says is that if you have a need, but a few legislators don't think they can afford your type of need, you'll be at a loss. Also, the committee's stated rationale that the language would protect the State from being sued runs counter to the concept of a constitution. From the beginning, the purpose of a constitution was to provide the people with legal protection from their government and a means to make government more accountable to them. The motive for including language in the Constitution merely to protect the government from the legal wrath of the public runs counter to all that a constitution is supposed to be."

Delegate Fushikoshi then spoke against the amendment, stating:

"Your Committee decided to change the language describing those who will receive assistance because as a practical matter the legislature or the federal government now sets the qualifications for all types of assistance. The Department of Social Services and Housing expressed concern in oral and written testimony with the terms 'decency' and 'health.' Because these terms are very vague and might allow lawsuits against the State, your Committee felt the new language was needed so that the legislature can develop precise definitions to determine eligibility. For these reasons, Mr. President, I recommend that this amendment be voted down."

Delegate Hale, on a point of inquiry, asked if there had been any specific lawsuits against the State and if the State had had to pay, under the present language. Offhand, Delegate Fushikoshi replied, he didn't know.

Delegate De Soto then inquired as to what the committee intended to do by removing the existing language. In response, Delegate Fushikoshi explained that the new language broke down the types of assistance into specific areas, enabling the legislature to know exactly what areas were involved.

Delegate De Soto then spoke in favor of the motion, observing:

"We took one sentence that said the State 'shall have power to provide assistance for persons unable to maintain a standard of living compatible with decency and health.' And now we've turned it into something else with another intent, and it is my opinion that--do we again leave it to the design of the legislature and those who interpret this constitutional provision?

"For the same reason that I rose to speak earlier--and I

told my staff that I would not also speak tonight--however, I have to speak in favor of the motion. What we have done is make it very easy again for the poor people of the State of Hawaii to have to depend on interpretation and intent. I think that this Constitutional Convention has a first priority to provide for the poor and those who cannot have a decent life because they don't have income. I think that what this does is very sad. All of government's workings to date, historically, have been to put the poor people on the side and now we have too many poor and unemployed who require health and domiciliary care. And we overlook these people and leave it up to bureaucracies or bureaucrats to interpret. Isn't it our intention to provide for these people? Then let's say so. Or are we going to leave it to the whim of a legislator or a government official to interpret in the best interests of his particular department?

"I think that this would truly hurt the poor people out there and I ask all of you to consider this, and I ask Delegate Fushikoshi to forgive me. I respect his opinion very much but I feel so strongly on this that it would really truly--because I have had experiences dealing with social workers, department of welfare and the whole system, in Waianae especially. We suffer because we leave things up to interpretation. I think that we should be specific in these kinds of areas. Thank you."

At 7:43 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 7:48 p.m.

At this time Delegate De Soto rose and stated:

"Mr. President, I'd like to report, sir, that my questions and my fears have been allayed. Legal counsel, social workers, welfare recipients have testified in favor of this committee proposal, and that it is specific and meets their requirements. So, with that I rest my case."

Delegate Fushikoshi then made the following statement:

"Mr. President, may I relay this message to my good friend, Delegate De Soto. The welfare recipients are not going to be left out because if you look at the wording, it says 'who are found to be in need,' so we make sure that these people will be taken care of--those who prove to be in need."

Delegate Hale rose to speak for the amendment, maintaining:

"I would like to say that I do think Delegate Odanaka's amendment is a very good amendment. I see no reason to change the words that have been carrying this State forward in a very progressive public assistance program for 10 years, on the basis of some vague idea that maybe somebody in the future is going to sue the State. And that is the reasoning in the committee report; the committee concluded that the present language qualifying persons who are 'unable to maintain a standard of living compatible with decency and health' might some-day be construed to permit lawsuits against the State. And I submit that is not a good reason to change language that has stood this State in good stead for the last 10 years, and I would hope that we would keep the original language. And that's all we're doing."

Speaking against the amendment, Delegate Dennis Ihara explained that, besides the testimony given by all the welfare recipients, the language was amended by the committee more as a housecleaning chore, to define the various kinds of assistance as well as who would be eligible.

Delegate Ishikawa, speaking against the amendment, offered further clarification:

"We believe it is a housekeeping matter because in 1975, approximately, the statutes were changed to remove that word 'decency,' and the mere fact that we're being emotionally upset about this kind of language is the reason why the statutes were changed in 1975. And what we're doing now is making sure the Constitution also reflects that in the entitlement programs, where it is in the purview of the legislature to set the standards, that the people who will receive these services are those who are eligible by statute, to relieve all doubt as to other people questioning whether they're also eligible for these services and assistance. I believe this is really a housekeeping matter."

Delegate de Costa then spoke against the amendment, stating:

"I'll make it real fast. It states there that it helps the needy and not the greedy. Really, that's what it boils down to. And they had trouble in 1975, they had a court order, not to sue or whatever--so vote this thing down. It was told by the DSSH and all them guys. Thank you."

Also speaking against the motion, Delegate Chung advised:

"The committee has consulted with Andrew Chang, the director of the Department of Social Services and Housing, and he has strongly recommended that we make the amendment as we have proposed, so that we'd be in keeping with all the complex federal regulations and rules that have to do with federal funding. And by using this language, it will be easier to establish need and eligibility as against the standards of decency and the standards of health. These are beautiful words but very broad and vague, and this is why the committee went along and made the amendment. Thank you."

Delegate Odanaka again spoke in support of her amendment, commenting:

"I want to stress once more that the committee's stated rationale that this language would protect the State from being sued runs counter to the concept of our Constitution, and I really cannot accept ever replacing the rights of humans with the rights of the department of social services."

There being no further discussion, the question to amend Com. P. No. 5, RD. 1, by Amendment No. 2 was put by the Chair. At this time Delegate Odanaka requested a roll-call vote and the Chair, on determining ten seconds, so ordered.

Roll call being in order, the motion failed to carry by a vote of 17 ayes, 79 noes and 6 excused; with Delegates Barnes, Blean, Burgess, Cabral, Campbell, DiBianco, Goodenow, Hale, Hornick, Lacy, Rachel Lee, Marumoto, Miller, Nozaki, Odanaka, Sterling and Stone voting aye; Delegates Alcon, Andrews, Barnard, Barr, Blake, Chang, Calvin Ching, Donald Ching, Laura Ching, Chong, Chu, Chung, Crozier, de Costa, De Soto, Dyer, Eastvold, Ellis, Fernandes Salling, Fujimoto, Fukunaga, Funakoshi, Fushikoshi, Hagino, Hamilton, Hanaïke, Harris, Hashimoto, Hayashida, Hino, Hirata, Hironaka, Hoe, Hokama, Dennis Ihara, Les Ihara, Teruo Ihara, Ishikawa, Iwamoto, Izu, Kaapu, Kaito, Kimball, Kojima, Kono, Ledward, Marion Lee, Liu, McCall, Nakamura, Okamura, Ontai, O'Toole, Penebacker, Peterson, Pulham, Sakima, Sasaki, Shinno, Shon, Silva, Souki, Stegmaier, Sutton, Taira, Takahashi, Takehara, Takemoto, Takitani, Tam, Tamayori, Uyehara, Villaverde, Waihee, Weatherwax, Wurdeman, Yamashita, Yoshimura and President Paty voting no; and Delegates Anae, Haunani Ching, Chun, Ikeda, Lewis and Nishimoto being excused.

Delegate Taira then moved for the adoption of Amendment No. 3, seconded by Delegate De Soto, which amended section 4 of Com. P. No. 5, RD. 1, to read:

The State shall have the power to conserve and develop objects and places of historic or cultural interest, provide for public sightli-

ness and physical good order, and for that purpose private property shall be subject to reasonable regulation.

Speaking for his amendment, Delegate Taira made the following statement:

"I'd like to point out that in Com. P. No. 5 the words 'conserve and develop its natural beauty, objects and places of historic or cultural interest' were removed from Section 5.

"When this was discovered, a great number of people--including many of my colleagues here in this Convention, who are very close to the scene when it comes to making sure that our places of historic and cultural interest are discovered quickly and action taken to have them preserved, whether private or public property--felt that removing the words 'objects and places of historic or cultural interest' from this paragraph left many of our famous Hawaiian sites, which go back many years in history, with no property to sit on, and nobody would be able to regulate them in a reasonable way. And so by putting back the words 'objects and places of historic or cultural interest' we now make it possible to have these sites on private property regulated in a reasonable way.

"For these reasons--I don't know why the committee took these words out, but I've talked to the chairman and he understands what we're trying to do and I don't foresee any controversy--for these reasons, Mr. President, I would urge my colleagues to accept this amendment. Thank you."

Delegate Hale then spoke in support of the amendment, mentioning that they were only putting back into the Constitution the words that the 1968 convention had put in.

Delegate Campbell at this time moved to amend the amendment by reinserting the words "its natural beauty," seconded by Delegate Kaapu. Delegate Campbell then commented that she could see no compelling rationale for the deletion and that she felt the words were beautiful and the intent significant.

Delegate Crozier, on a point of inquiry, asked the movant to explain what "natural beauty" was in everyone's eyes, to which Delegate Campbell replied that she could start with herself but couldn't say for everyone.

Delegate Chang rose to speak against the amendment to the amendment. Referring to the committee report, he explained that the language "its natural beauty" had been deleted because it overlapped with language in Article X on management and regulation of Hawaii's natural resources. He then noted:

"This has been a source of questioning and doubt for the past 10 years and led to overlapping referrals in our present Constitutional Convention, and we felt that it was time this language was cleaned up. There was some fear that the deletion might remove the authority of the State to control such things as billboards and other devices that might mar our landscape, but that authority is still left in the section, with the words 'provide for public sightliness and physical good order. As I expressed during the debate on Delegate Fushikoshi's motion in the Committee of the Whole, the concern with regard to conservation and development of Hawaii's natural beauty will be taken up in the article where it is felt it belongs, Article X."

Delegate Odanaka then inquired how they could say Delegate Campbell's amendment overlapped Article X when Article X had not yet been discussed. Delegate Chang explained that the overlap was found in the 1968 convention's records, where there was some confusion as to where the words belonged. At that time, he added, they decided not to deal with it and it had been a source of confusion since then, especially in this Convention.

There being no further discussion, the question on the amendment to Amendment No. 3 was put by the Chair and the motion failed to carry.

Delegate Fushikoshi, speaking for the original amendment, voiced his concurrence with the thoughts expressed by the movant.

Delegate Barr then rose and expressed his surprise, pointing out that the committee report clearly stated that the language had been deleted because of the new section on cultural resources. He added that if the language was put back in this section, the new section was no longer needed and should be taken out.

Delegate Takemoto then spoke for the amendment, explaining:

"Delegate Taira's is what is called state historic preservation. This means the preservation mostly of objects and places of historical and cultural interest--that is, buildings, also monuments, Iolani Palace, and so on. And what we've attempted to do with this was to provide for the state historic preservation office to continue to carry on its job.

"Now the cultural resources provision is in fact completely different. It doesn't really take care of the state historic preservation office and what we're talking about here is basically just involved with state lands and government.

"Delegate Taira's proposal will also include private property, and private property then means that historic objects or buildings which are on private property can then be restored, developed, conserved, which does not exist.

"The cultural resources one is a completely different attempt. This is more a cultural attempt, to preserve the culture and the traditional arts of the various historic groups. This would then fall under the purview of another area and department, and if Delegate Taira's proposal were in fact deleted or voted down, what we would have is the end of the historic preservation office, and the entire concept of historic preservation in Hawaii would literally take a downfall. And that is why I speak in favor of this amendment."

Speaking against the amendment, Delegate Marion Lee argued that the amendment would definitely mean duplication and that the new section on cultural resources provided for the preservation of historical places and objects. Although she agreed with the intent of the amendment, she added, they did not need the repetition.

Delegate Chong, on a point of inquiry, asked if the only deletion, should the amendment be adopted, would then be the words "its natural beauty," to which Delegate Fushikoshi replied in the affirmative.

At 8:23 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 8:28 p.m.

At this time Delegate Taira rose and stated:

"Mr. President, during the recess I believe those of us who had conflicting ideas discussed our mutual concerns in a very sensible way and we have come to, I think, a good solution. So at this time, with the understanding that there will be a verbal amendment offered unanimously with your consent, Mr. President, in a later section of Article VIII, I'd like to recommend that we at this time adopt the amendment that I proposed in its original form."

Delegate Barr then stated that for the record he would withdraw his objections.

On a point of information, Delegate Chang inquired as to the effect of the amendment on the language in the cultural resources section. In response, Delegate Taira explained that the language in the new section on cultural resources would be retained except that the phrase "and historical places and objects" would be deleted to avoid repetition.

There being no further discussion, the motion to amend Com. P. No. 5, RD. 1, by Amendment No. 3 was put by the Chair and carried.

At this time Delegate Waihee moved for the adoption of Amendment No. 4, seconded by Delegate Taira, which amended section 7 of Com. P. No. 5, RD. 1, to read:

Section . The State shall have the power to preserve and develop the cultural, creative, and traditional arts[, and historical places and objects] of its various ethnic groups.

Delegate Sutton, on a point of order, questioned whether the amendment should be in writing. The Chair acknowledged that the point was well taken but explained that in the interest of expediting procedures the Chair was in accord with what was felt to be the sense of the Convention.

Delegate McCall suggested that, rather than violate the rule on written amendments, they let the style committee take care of it. Delegate Hamilton then rose and advised that a deletion of such significance would be better done on the floor, pointing out that the more that was left to style the more difficult it became for style to keep out of the substance field, which they were trying to do.

Delegate Hale then rose to voice her support of the motion.

At this time Delegate Sutton moved to suspend the rule on written amendments so that the issue could be considered, seconded by Delegate Waihee.

The Chair, noting that the motion to suspend the rules required a two-thirds vote, put the question on the suspension and the motion carried.

There being no further discussion on this amendment, the question to amend Com. P. No. 5, RD. 1, by Amendment No. 4 was put by the Chair and the motion carried.

Delegate Burgess at this time asked to withdraw his amendment deleting Article VIII in its entirety and instead to amend Com. P. No. 5, RD. 1, by deleting sections 2 through 9, including all amendments made by the Committee of the Whole and by the Convention thus far.

On a point of order, Delegate Waihee stated that amendments just passed that evening could not be deleted, adding that "you cannot introduce an amendment that would turn around the sense of the amendment" just acted upon. He then asked for a ruling by the Chair.

Delegate Sutton, on a point of order, indicated that the motion was in order since it was the Chair's discretion as to the order of the amendments. If this amendment had been brought up first, he added, it would be in order.

Delegate Burgess then moved for the adoption of Amendment No. 5, seconded by Delegate Goodenow, which amended Com. P. No. 5, RD. 1, by deleting sections 2 through 9, so that Article VIII in its entirety would read: "Section 1. The State shall provide for the protection and promotion of the public health."

Delegate Burgess, speaking for his amendment, made the following statement:

"Mr. President and fellow delegates, Article VIII of our present Constitution now consists of five sections--(1) 'Public Health,' (2) 'Care of Handicapped,' (3) 'Public Assistance,' (4) 'Slum Clearance, Rehabilitation and Housing' and (5) 'Public Sightliness and Good Order.'

"Two days ago this body, sitting in Committee of the Whole, passed five additional sections to be added to Article VIII. Those new sections are entitled 'Preservation of a Healthful Environment,' 'Management of State Population Growth,' 'Cultural Resources,' 'Economic Security of the Elderly' and 'Public Safety.' And tonight we have made some changes and modifications to those amendments.

"Each of those ideas is beautiful. Each of them addresses an important subject, but the question that I ask is--do they belong in our Constitution? I would ask each of the delegates to pause for a moment to reflect on what a constitution is and what our role as delegates to this Constitutional Convention should be. I would submit to you that a constitution is a document which sets forth the fundamental structure of government and sets forth the limitations on government. Those limitations guarantee and secure to the people their rights in the exercise of their liberties.

"I would like to read from an article in the Star-Bulletin, in March of this year, by the state legislative auditor, Clinton Tanimura--this was in the series on Con Con '78 issues--and Mr. Tanimura said:

'A constitution and the process of constitutional revision should be concerned with fundamental law, law which structures the framework of our political system, rather than statutory laws, law intended to cope with the day-to-day and changing problems of society. It is a distinction of no small importance. Already it can be gleaned from the public opinion surveys and Con Con discussions that there is a feeling the next Convention should be some kind of super-legislature established to provide solutions to the problems of crime, inadequacies of the public school system, pollution of the environment, problems which are important but for which a constitution is not the appropriate instrument for remedy. Rather than attempt to provide direct solutions to these problems, the Constitutional Convention should assure that the basic institution and process of government are structured in such a way as to be able to respond to and cope with the current and foreseeable problems of our society.'

"The purpose of this talk is to make the point that all except the first section of Article VIII should not be in our Constitution."

At this time Delegate Taira rose on a point of order to suggest that the speaker should confine his remarks to the subject of public health and welfare rather than speaking in broad terms about what should be in a constitution. The Chair, disagreeing with the point, advised Delegate Burgess to proceed.

Delegate Burgess then continued:

"I would like to look to the Constitution--that is, the oldest-written Constitution still in effect today, the Constitution of the United States--and to quote from two historical figures. The first is Henry Clay: 'The Constitution of the United States was made not merely for the generation that then existed, but for posterity.' And I would like to quote Franklin Roosevelt in his inaugural address in 1933: 'Our Constitution is so simple and practical that it is possible always to meet extraordinary needs by changes in emphasis and arrangement without laws of essential form.' That is why our constitutional system has proved itself the most superbly enduring political mechanism the modern world has produced.

"Now, the Constitution of the United States makes no reference to any of the specific types of things which are addressed in sections 2 through 9 of our committee proposal. For example, on the environment, the Constitution of the United States makes no reference whatsoever to protection of a healthful environment, or any reference at all to environment. And yet we all know that the federal government has enacted numerous laws and has taken many steps to promote and to protect the environment. We have the Environmental Protection

Act, we have federal auto pollution standards, we have the Clean Water Act.

"The Constitution of the United States says nothing about public assistance or welfare, and yet we all know that many federal programs such as social security, Medicare, Medicaid and innumerable other federal statutes specifically address and attempt to solve those problems.

"I suggest to you, ladies and gentlemen, that the sections following Section 1 of Article VIII add nothing whatsoever to the powers of this State. Every problem there--it is an important problem, but putting it in the Constitution adds nothing whatsoever to solving those problems for the State.

"For example, the provision which we just voted to add, which says that the State 'shall have the power to promote and maintain a healthful environment.' Without that section in the Constitution, our legislature has already enacted some 200 pages of statutory provisions, over some 20 chapters, relating to conservation, water, energy, forest reserves, water reserves, any number of other specific statutory provisions. This section is not necessary and, worthy as it is, it adds nothing.

"The numerous other sections add nothing to the State's ability to solve the problems it faces. And I would suggest to you, ladies and gentlemen, that you look at today's Star-Bulletin and see how our actions are affecting the public. On the editorial page, Corky has a cartoon--a picture of a group of people talking to each other, entitled 'Con Con,' and outside the room, which has a picture of the Con Con convention hall, is a table and on it is a book entitled 'Hawaii Constitution, covered with cobwebs, and there's a spider suspended from the ceiling and he says, 'It went downhill the moment they thought they were the state legislature instead of the Constitutional Convention.'

"Fellow delegates, I ask you to exercise restraint in the proposals you make to this Convention--not because these ideas are not good but because they do not belong in the Constitution. Thank you."

Speaking against the amendment, Delegate Sterling stated:

"The sections that have been proposed and have been subject to many hours of deliberation, I firmly believe, despite the fear--since the first article that the previous speaker referred to in the Star-Bulletin editorial, we've had a dramatic change in American government with the passage of Proposition 13. Immediately upon the passage of Proposition 13, there isn't a town in the state of California cut back from the most visible and viable services to the public--fire, libraries and schools--they did not cut back in the administrative costs.

"The sections we've been going through reflect the scare by mandating the State to do certain things because of the unresponsiveness, let's say, of the legislature. If it takes a super-legislature to pass these things and make certain that they are responsive to the needs of the people, then it will take a super-legislature like the Convention to spell these out. We're responding to the fears of the people. Please remember what happened after Proposition 13 was passed and what was cut--welfare, public health, care for the needy, no administrative costs were cut. But us here, particularly this evening, trying to make sure that the legislature will carry out certain functions-- I think it's just improper, and therefore I urge my colleagues to vote against this amendment. Thank you very much."

Delegate Fushikoshi then spoke against the amendment, although acknowledging that the Constitution should be in general form. The conventions of 1950 and 1968, he maintained, had formulated one of the best state constitutions in the United States, and further explained:

"In 1950, when Article VIII was first amended--its first present form, the committee unanimously agreed that a state constitution should indicate the concept of the type of health and welfare assistance that should be undertaken. The five sections cover distinct but separate areas of activity which are usually accepted as the State's responsibility in conserving and developing natural and human resources. These sections were thought to be necessary as basic in indicating the State's responsibility in health and welfare. They were broad enough in wording to allow the legislature flexibility in the implementation of programs.

"Delegates to the 1968 constitutional convention agreed with the provisions in Article VIII and made no substantive changes. In adopting the provisions of Article VIII, the delegates stated that the broad grant of legislative power contained in these five sections pinpointed state responsibilities; and that under these broad grants, the legislative and executive branches of the state government had been able to carry on very meaningful, effective public health and welfare programs in cooperation with the federal and county governments.

"I submit that we too should not make substantive changes with Article VIII for the same reasons. The present sections also serve as policy statements that explicitly address the concerns of our people. To delete these sections would lessen state responsibility and in turn weaken the rights of the people. For these reasons, I urge the defeat of this amendment. Thank you."

Speaking against the amendment, Delegate Hamilton pointed out that the committee had spent much time analyzing the subject and obviously knew more about it than he did, not having served on that committee. He was therefore willing, he said, to accept their recommendations, adding his thanks to Delegate Burgess "for reminding us that one of the best characteristics of a constitutional writer is a nice sense of restraint."

Delegate Harris also spoke against the amendment, prefacing his remarks by stating that the quality of a constitution was not determined by its brevity. A constitution, he continued, was more than just a simple delineation of powers between the branches of government, as had been stated. He further observed:

"I believe a constitution is a place where the goals and the high ideals of the society are laid out for all to see. And I ask you--are not care of the handicapped, public assistance, management of our population--are not these our high goals and ideals? Is this not the place to lay them out for all to see?"

"I think we have to reject this narrow view of what a constitution is. It encompasses more than that. I strongly urge all the delegates to resoundingly vote down this amendment. Thank you."

Delegate McCall, speaking in support of the amendment, pointed out that the legislature had indicated what the State wanted to do in terms of helping the elderly, the sick, the poor, etc., by the actions they had taken, and that he saw no reason to duplicate it in the Convention.

Delegate Peterson then spoke in favor of the intent of the motion, observing:

"I think many of the subjects which are addressed in the new sections are covered in the language of the first sections. I think the point which was made earlier by Delegate Burgess in simply reading the titles of the new sections points out that, rather than

giving a basic mandate, we have provided a laundry list which might better be addressed in a resolution to the legislature than by placing them in the Constitution. While they are all very worthy subjects for discussion by the Convention, I feel they would be better addressed by the legislature, and that by keeping our Constitution simple we will have a more enduring document."

There being no further discussion, the question to amend Com. P. No. 5, RD. 1, by Amendment No. 5 was put by the Chair and the motion failed to carry.

The Chair then called for discussion of Com. P. No. 5. There being no further discussion, Delegate Fushikoshi then moved, seconded by Delegate Uyehara, that Com. Whole Rep. No. 5 be received and placed on file and Com. P. No. 5, RD. 1 as amended, pass Second Reading. The question was then put by the Chair and the motion carried.

GENERAL ORDER

Com. P. No. 6--RELATING TO EDUCATION:

On motion by Delegate Teruo Ihara, seconded by Delegate Takehara and carried, the Convention resolved itself into a Committee of the Whole to further consider Com. P. No. 6, relating to education.

The President appointed Delegate Goodenow to be Chairman of the Committee of the Whole.

At 9:05 p.m., the President vacated the Chair and Delegate Goodenow assumed the Chair for the Committee of the Whole.

At 11:50 p.m., Delegate Goodenow vacated the Chair and the President resumed the Chair.

Delegate Goodenow, for the Committee of the Whole, reported orally that the committee had completed deliberations on the matter referred to it and recommended passage on Second Reading of Com. P. No. 6 as amended, and that a written report would be filed later.

On motion by Delegate Goodenow, seconded by Delegate Teruo Ihara and carried, the oral report was adopted.

ADJOURNMENT

At 11:58 p.m., on motion by Delegate Peterson, seconded by Delegate Waihee and carried, the Convention adjourned until 1:30 p.m. Friday, August 25, 1978.

FORTIETH DAY

Friday, August 25, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 1: 30 p. m.

The President presided.

The Divine Blessing was invoked by Brother Jens Jacobsen of the Makiki Ward of the Church of Jesus Christ of Latter-Day Saints.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Laura Ching, Eastvold, Les Ihara, Miller and Ontai who were absent.

The President announced that the Journals of the Thirty-Eighth and Thirty-Ninth Days had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORTS

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 50) informing the Convention that Stand. Com. Rep. Nos. 51 and 52 and Com. P. Nos. 9 and 10 had been printed and distributed.

On motion by Delegate O'Toole, seconded by Delegate Crozier and carried, Stand. Com. Rep. No. 50 was adopted.

Delegate Fukunaga, for the Committee on Executive, presented a report (Stand. Com. Rep. No. 51) recommending that the proposals enumerated within the report be filed, and submitting a committee proposal (Com. P. No. 9) for introduction and recommending its passage on First Reading.

The President thereupon placed Stand. Com. Rep. No. 51 and Com. P. No. 9, relating to the executive, on the calendar for further consideration on Monday, August 28, 1978.

Delegate Ikeda, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 52) recommending that the proposals enumerated within the report be filed and that Sections 5 and 6 of Article V be retained without amendment; and submitting a committee proposal (Com. P. No. 10) for introduction and recommending its passage on First Reading.

The President thereupon placed Stand. Com. Rep. No. 52 and Com. P. No. 10, relating to the judiciary, on the calendar for further consideration on Monday, August 28, 1978.

At this time, Delegate DiBianco rose to inquire of the Chair as to the status of Res. No. 12, relating to scheduling of convention meetings on Sundays. Delegate Takemoto responded that a standing committee report had been written and was being typed up at that time.

ORDER OF THE DAY

Stand. Com. Rep. No. 46, Com. P. No. 8--RELATING TO THE LEGISLATURE:

On motion by Delegate Nishimoto, seconded by Delegate Chong and carried, Stand. Com. Rep. No. 46 was adopted and the proposals enumerated within were filed; and Com. P. No. 8, relating to the legislature, passed First Reading by title and was placed on the calendar for further consideration on Monday, August 28, 1978.

Com. P. No. 7--RELATING TO LOCAL GOVERNMENT:

Delegate Sakima moved that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 7, relating to local government, seconded by Delegate Alcon.

The motion that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 7 was put by the Chair and carried.

The President appointed Delegate Pulham to be Chairman of the Committee of the Whole.

At 1:45 p.m., the President vacated the Chair and Delegate Pulham assumed the Chair for the Committee of the Whole.

At 5:02 p.m., Delegate Pulham vacated the Chair and the President resumed the Chair.

Delegate Pulham, for the Committee of the Whole, reported orally that the committee had completed deliberations on the matter referred to it and recommended passage on Second Reading of Com. P. No. 7, as amended, and that a written report would be filed later.

On motion by Delegate Pulham, seconded by Delegate Sakima and carried, the oral report was adopted.

The President thereupon placed Com. P. No. 7 on the calendar for Second Reading on Tuesday, August 29, 1978.

At this time, the President complimented Delegate Pulham for a firm and able job as Chairman of the Committee of the Whole and commended Delegate Sakima and his hard-working committee.

Delegate Sterling then rose to compliment Chief Clerk George Amimoto and his staff for the fine job and long hours they had been putting in at the Convention.

DEFERRED MATTER

Stand. Com. Rep. No. 49 (Res. No. 13, RD. 1) (Committee on Style--Deferred from August 24, 1978):

Delegate Hamilton, for the Committee on Style, moved, seconded by Delegate Kimball, that Stand. Com. Rep. No. 49 and Res. No. 13, RD. 1, providing for the use of nondiscriminatory nouns, pronouns and adjectives in the State Constitution, be adopted.

Delegate Hamilton rose to speak for the motion and stated:

"When the style committee first received Res. No. 13, we thought it would be relatively simple to implement. But the facts proved quite the contrary. In the first place, if we followed Res. No. 13, we should have ended up with a speckled Constitution in which those provisions which had come before the style committee had the corrections made but those which had not come before us retained the earlier form. On the other hand, the attorneys were a little uncomfortable with the idea of the style committee initiating a proposal without further authorization.

"However, we have come up with a solution. If you do approve this resolution you do certain things: (1) you determine that in fact you as a Convention want our Constitution to be stated in nondiscriminatory terms; (2) you specifically instruct the style committee to review the entire Constitution, and not just that which comes before it;

(3) you give the style committee the right to initiate a proposal which will be in effect the dilution of the third and fourth lines of Article XIV, Section 13, which says that whenever we use one pronoun we mean either sex, because that sentence will no longer be necessary. We have done one other thing. We were somewhat concerned about how this kind of a stylistic change would be presented to the voters. This is basically a submission and information problem, but I think it can be resolved. Looking back at the ballot used in 1968, there was a single style approval amendment, which the voters voted on. Thus, that one question could be put to the voters.

"Now, anticipating some objections, there are some dangers in this procedure, though they are minimal. This is unprecedented--for a style committee to ever initiate a proposal. However, I have no intention of trying to use this authority any place else. It is specifically limited to this one matter. I recommend that you vote in favor of the motion."

On being recognized by the Chair, Delegate Dyer spoke in favor of the resolution, noting the significance of the day, being the eve of the 58th anniversary of the 19th Amendment ratification which gave women the right to vote. She pointed out that women comprised over 50 percent of the population yet the State Constitution implied they had no place in government or as leaders. Observing that language was a reflection of society and that of the Constitution an affirmation of acceptance in the democratic system, she emphasized the need for the Convention to improve the language of the Constitution, as was being done all over the country. She then related how California successfully amended its constitution in 1974, adding that there had been no financial impact as a result, that the effect had been not in government finances but in the intangible social impact. She urged the delegates to support the resolution.

Delegate Hale then rose to speak in favor of the resolution, pointing out that, with over half the candidates for lieutenant governor being women, the present language would be particularly inappropriate should the next lieutenant governor be a woman.

At this time, Delegate Pulham rose to speak against the resolution, reluctantly as he was a member of the style committee. He pointed out that the resolution would make a substantive change to the Constitution, that they would be changing a portion originally worked on and accepted by another committee in the Convention and that this could set a precedent, with other delegates then by resolution changing sections that they disagreed with. Noting that the section being changed simply stated that the terms used applied to both sexes, he expressed surprise that there had been no resolution to include the "non-gender ... the third or fourth sex," and he advised of that possibility now.

There being no further discussion, the motion to adopt Stand. Com. Rep. No. 49 and Res. No. 13, RD. 1, was put by the Chair and carried.

ADJOURNMENT

At 5:22 p.m., on motion by Delegate Taira, seconded by Delegate Waihee and carried, the Convention adjourned until 11:30 a.m. Saturday, August 26, 1978.

FORTY-FIRST DAY

Saturday, August 26, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11:30 a.m.

The President presided.

The Divine Blessing was invoked by the Honorable Karen Iwamoto, delegate from the Ninth District to the Constitutional Convention of Hawaii of 1978.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Hamilton, Hashimoto, Ontai and Sterling who were excused and Delegates Andrews, Blean, Eastvold, Hornick, Miller, Penebacker, Sasaki, Stegmaier, Takehara, Tamayori and Wurdeman who were absent.

The President announced that the Journal of the Fortieth Day had been signed by the Secretary and approved by the President.

At this time the President informed the Convention that Res. No. 12 had not cleared the committee and inasmuch as there was only one committee meeting on Sunday and inasmuch as to carry it over to Monday could result in serious conflicts, it was the Chair's feeling to continue to schedule it. He stated there was no practical way to avoid the Sunday meeting and although the Chair had done everything possible to minimize work on Sunday, that the Committee on Bill of Rights, Suffrage and Elections needed more time and Sunday was the only day they were able to get at it. He further stated that the report of the committee on the resolution would be presented the next week.

ADJOURNMENT

At 11:42 a.m., on motion by Delegate Waihee, seconded by Delegate Taira and carried, the Convention adjourned until 1:30 p.m. Monday, August 28, 1978.

FORTY-SECOND DAY

Monday, August 28, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 1:30 p.m.

The President presided.

The Divine Blessing was invoked by the Reverend John Britton of First Baptist Church of Aiea.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegate Hagino who was excused and Delegates Blean and Sutton who were absent.

The President announced that the Journal of the Forty-First Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORTS

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 53) informing the Convention that Com. Whole Rep. No. 6; Com. P. Nos. 6, RD. 1, and 5, RD. 2; Stand. Com. Rep. No. 54; Res. Nos. 15 and 16 and Minority Rep. Nos. 6, 7 and 8 had been printed and distributed.

On motion by Delegate Tam, seconded by Delegate Crozier and carried, Stand. Com. Rep. No. 53 was adopted.

Delegate Takemoto, for the Committee on Rules, presented a report (Stand. Com. Rep. No. 54) submitting a resolution (Res. No. 15) for introduction and recommending its adoption. She then requested that action be deferred to August 29, 1978.

There being no objection, action on Stand. Com. Rep. No. 54 and Res. No. 15, amending Convention Rule 15, was deferred until Tuesday, August 29, 1978.

INTRODUCTION OF RESOLUTION

A resolution (Res. No. 16) relating to death with dignity was offered by Delegate Goodenow.

The President thereupon referred Res. No. 16 to the Committee on Public Health and Welfare; Labor and Industry.

ORDER OF THE DAY THIRD READING

Stand. Com. Rep. No. 48, Com. P. No. 4, RD. 2, S. 1--RELATING TO THE PREAMBLE, GENERAL AND MISCELLANEOUS PROVISIONS, REVISION AND AMENDMENT:

Delegate Hamilton moved, seconded by Delegate Stone, that Stand. Com. Rep. No. 48 be adopted and Com. P. No. 4, RD. 2, S. 1, pass Third Reading. At this time, the President asked if there was any discussion on the subject matter and recognized Delegate Hamilton.

Delegate Hamilton, speaking for the motion, explained that most of the changes were

stylistic, for consistency with the balance of the document. In the Preamble, he pointed out, the words "Hawaii State motto" replaced "Hawaiian motto," and in Section 2 of Article XV the word "for" was inserted after "provide" in the sentence, "The legislature shall provide the number of delegates" etc. Otherwise, he noted, it might have been possible for the legislature to provide the delegates directly from the members of the legislature.

At 1: 40 p. m. , the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 1: 44 p. m.

Delegate Barr then rose to speak against the motion, explaining that because there would be a roll-call vote he wanted to have on record his reasons for voting against. He then stated:

"I am well pleased with the work of the Committee on Revision, Amendment and Other Provisions, but I am still distressed by the amendments that we made in the Committee of the Whole. Most particularly, we were sold a new Preamble on the basis of its symbolic value. I note that we now have the motto in the Constitution twice. It certainly seems to me appropriate to include it in one place or the other, but not both.

"And secondly, I am very distressed that the magic phrase 'with an understanding heart toward all the peoples of the earth' has been changed. And I would like to suggest that understanding does include compassion and I don't see any value in our adding that word. I think it ruins one of the nicest phrases in any constitution anywhere. Therefore I'm going to vote no."

Delegate Hale also spoke against the motion, echoing the previous speaker's sentiments and adding that she couldn't see much reason for changing the Preamble in the first place.

There being no further discussion, the motion to adopt Stand. Com. Rep. No. 48 and to pass on Third Reading Com. P. No. 4, RD. 2, S. 1, was put by the Chair and carried by a vote of 79 ayes, 10 noes and 13 excused; with Delegates Alcon, Anae, Andrews, Barnard, Blake, Campbell, Donald Ching, Laura Ching, Haunani Ching, Chong, Chu, Chun, Chung, Crozier, de Costa, Ellis, Fujimoto, Fukunaga, Funakoshi, Fushikoshi, Hamilton, Hanaike, Harris, Hashimoto, Hayashida, Hirata, Hironaka, Hoe, Hokama, Hornick, Dennis Ihara, Les Ihara, Teruo Ihara, Ikeda, Ishikawa, Iwamoto, Izu, Kaapu, Kaito, Kimball, Kojima, Lacy, Ledward, Rachel Lee, Lewis, Marumoto, McCall, Miller, Nishimoto, Nozaki, Odanaka, Okamura, Ontai, O'Toole, Penebacker, Pulham, Sakima, Sasaki, Shinno, Shon, Silva, Souki, Stegmaier, Sterling, Stone, Taira, Takahashi, Takehara, Takemoto, Takitani, Tam, Tamayori, Uyehara, Villaverde, Waihee, Weatherwax, Yamashita, Yoshimura and President Paty voting aye; Delegates Barnes, Barr, Burgess, Cabral, Dyer, Eastvold, Goodenow, Hale, Liu and Peterson voting no; and Delegates Blean, Chang, Calvin Ching, De Soto, DiBianco, Fernandes Salling, Hagino, Hino, Kono, Marion Lee, Nakamura, Sutton and Wurdeman being excused.

GENERAL ORDER

Stand. Com. Rep. No. 51, Com. P. No. 9--RELATING TO THE EXECUTIVE:

On motion by Delegate Fukunaga, seconded by Delegate Okamura and carried, Stand. Com. Rep. No. 51 was adopted and the proposals enumerated within were filed; and Com. P. No. 9, relating to the executive, passed First Reading by title and was placed on the calendar for further consideration on Wednesday, August 30, 1978.

Stand. Com. Rep. No. 52, Com. P. No. 10--RELATING TO THE JUDICIARY:

On motion by Delegate Ikeda, seconded by Delegate Takitani and carried, Stand. Com. Rep. No. 52 was adopted and the proposals enumerated within were filed; Sections

5 and 6 of Article V were recommended to be retained without amendment; and Com. P. No. 10, relating to the judiciary, passed First Reading by title and was placed on the calendar for further consideration on Wednesday, August 30, 1978.

SECOND READING

Com. Whole Rep. No. 6, Com. P. No. 6, RD. 1--RELATING TO EDUCATION:

Delegate Goodenow, for the Committee of the Whole, and Delegate Teruo Ihara, for the Committee on Education, presented a report (Com. Whole Rep. No. 6) recommending that Com. Whole Rep. No. 6 be adopted and Com. P. No. 6, as amended in RD. 1, pass Second Reading.

At this time Delegate Hale requested a short recess.

At 1:52 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 1:55 p.m.

The President called for discussion and recognized Delegate Harris, who inquired of the chairman of the education committee as follows:

"It's my belief that the intent of the section on the board of education is to provide a representative to the board from each of the neighbor island counties. I have heard an interpretation by a member of the board that in fact it would be very possible for the neighbor islands as a group to receive only one representative on the board, and I would like the chairman of the education committee to clarify that if he would."

Delegate Teruo Ihara, in response, explained:

"Such is not contemplated as of this moment. As a matter of fact, I think I can foresee two board members from the Big Island because of the size of that island--for instance, east Hawaii and west Hawaii--rather than just one for all the neighbor islands. That would make it four for the outside islands, rather than three as envisioned under this proposal.

"Furthermore, as far as the Honolulu district is concerned, they've been talking about dividing the Honolulu district into two, east and west Honolulu. If that happens that will give the Island of Oahu five board members rather than four, as it is envisioned here."

The President called for further discussion and recognized Delegate Teruo Ihara, who spoke in favor of the motion as follows:

"After a long and informative debate on the issue, I feel that the Committee of the Whole arrived at very sound and positive amendments to Com. P. No. 6.

"Granting more power to the board of education and the board of regents was one of the major concerns of the education committee in its deliberations. Judging from the vote, a large majority of the delegates shared this concern. Section 3, dealing with the power of the board of education, received a very strong vote of confidence, and the board of regents' section received unanimous approval. I think the sentiment here is that the two boards, being entrusted with the unique function and responsibility of educating our citizens, should be given some control over their own internal management and operation. I am in complete agreement with this. I'd like to reiterate that the powers granted here will in no way undermine the checks and balances of the legislative and executive branches, but will facilitate smoother internal operations in the DOE and the university system.

"Another area of concern was the apportionment of the board of education. Many delegates and members of the public expressed concern about the lack of adequate representation by the counties of Maui and Kauai, as is the case with the present board. The proposed apportionment plan reaffirms the two at-large districts, the counties of Maui and Kauai, will be assured representation on the board through the provision that at least one member of the board reside in each of the school districts. This proposal, which is a good one, will enable the legislature to provide for more direct citizen accountability on the part of the board of education.

"I'm very proud to say that this proposal will also include very timely amendments to the education article. The prohibition against sex discrimination in the public schools will be a definite step forward in our efforts to provide for equal opportunity for both sexes.

"In addition, the provision for Hawaiian studies is a clear reaffirmation of our pride in our unique and precious Hawaiian heritage. The Hawaiian culture, history and language is the foundation upon which our present Hawaiian culture rests. Hawaii is the only center in the world where Hawaiian studies is really genuine. To this extent, we must take measures to preserve and promote its culture and history.

"In closing, I would like to extend my sincere appreciation to all the delegates for their cooperation and patience in reaching this milestone and I would urge my fellow delegates to vote for the passage of Com. P. No. 6 as amended. Thank you."

Delegate Yamashita then rose to speak in favor of Com. P. No. 6 as amended. Speaking for the proponents of the two-tiered, decentralized educational system, he expressed his appreciation in having had the opportunity to voice his belief. Noting that Com. P. No. 6 offered a definite improvement over the present system, he urged the delegates to support the work of the education committee.

Delegate Barnes then rose on a point of personal privilege. Referring to the last sentence in the first paragraph on page 5 of Com. Whole Rep. No. 6, which read: "[I]t was suggested that the Convention adopt a resolution strongly recommending that the legislature improve the library system," he inquired as to the status of that resolution.

Delegate Teruo Ihara responded that the Committee on Education would be meeting the following day to discuss the resolution and that they hoped to come up with a recommendation thereafter.

On a point of information, Delegate DiBianco asked the committee chairman how many members would have to be elected from Oahu to comply with the one-man, one-vote rule and how big the board would then become if each district were to have one representative.

Delegate Teruo Ihara explained that they were currently discussing having three neighbor island members on the board, which would mean at least 10 members from Oahu. The committee, he mentioned, felt that perhaps the board should be limited to between 13 and 19 members, so the total could be as many as 19 members. But he added, they were very cognizant of the one-man, one-vote principle.

There being no further discussion, Delegate Goodenow moved, seconded by Delegate Teruo Ihara, that Com. Whole Rep. No. 6 be adopted and Com. P. No. 6, RD. 1, pass Second Reading. The question was then put by the Chair and the motion carried.

GENERAL ORDER

Com. P. No. 8--RELATING TO THE LEGISLATURE:

Delegate Nishimoto moved that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 8, relating to the legislature, seconded by Delegate Hokama.

The motion that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 8 was put by the Chair and carried.

The President appointed Delegate McCall to be Chairman of the Committee of the Whole.

At 2:10 p.m., the President vacated the Chair and Delegate McCall assumed the Chair for the Committee of the Whole.

At 5:02 p.m., Delegate McCall vacated the Chair and the President resumed the Chair.

Delegate McCall, for the Committee of the Whole, reported orally that the committee had risen, reported progress and begged leave to sit again.

The President accepted the oral report and announced that the Committee of the Whole would resume its deliberations the following day.

ADJOURNMENT

At 5:05 p.m., on motion by Delegate Waihee, seconded by Delegate Barnes and carried, the Convention adjourned until 1:30 p.m. Tuesday, August 29, 1978.

FORTY-THIRD DAY

Tuesday, August 29, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 1:30 p.m.

The President presided.

The Divine Blessing was invoked by Dr. Curtis Askew of Olivet Baptist Church.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegate Ontai who was excused and Delegates Laura Ching, Chun, Hanaïke, Weatherwax and Wurdeman who were absent.

The President announced that the Journal of the Forty-Second Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 55) informing the Convention that Stand. Com. Rep. Nos. 56 through 59, Com. P. Nos. 11 through 13 and Res. No. 17 had been printed and distributed.

On motion by Delegate Tam, seconded by Delegate Crozier and carried, Stand. Com. Rep. No. 55 was adopted.

The Clerk then announced that Stand. Com. Rep. Nos. 56 through 59 would be deferred to the end of the calendar.

ORDER OF THE DAY RE-REFERRAL OF RESOLUTION

The President re-referred Res. No. 16 from the Committee on Public Health and Welfare; Labor and Industry to the Committee on Bill of Rights, Suffrage and Elections.

DEFERRED MATTER

Stand. Com. Rep. No. 54 (Res. No. 15) (Committee on Rules--Deferred from August 28, 1978):

Delegate Takemoto, for the Committee on Rules, moved for the adoption of Stand. Com. Rep. No. 54 and Res. No. 15, amending Convention Rule 15, seconded by Delegate Taira. Speaking for the motion, Delegate Takemoto stated:

"Your Committee on Rules is more than aware of the difficulties that have occurred due to confusion regarding many of the rules that govern this Convention. These rules, like so many parliamentary procedures that attempt to establish a framework in which orderly deliberations on significant issues are to take place, are subject to a variety of interpretations, depending very often on the semantics of key words, the juxtaposition of certain rules and the source of one's authority. And that is the very reason for the continued existence of your Committee on Rules at this time as an administrative standing committee,

to attempt to clarify rules referred by the Convention and to consider changes that may better facilitate discussion at this Convention.

"One rule which has been a source of such confusion and was thus referred to your Committee on Rules is Convention Rule 15, which essentially states that a majority of the delegates present is all that is required to pass any resolution, motion or action, except where the Rules of the Convention provide for a greater number. As the rules now stand, only three convention rules provide for such a larger than majority vote: Rule 34, which relates to suspending, re-pealing or amending any convention rule; Rule 36, which relates to the closing of debate at any specified time, which, by the way, was erroneously referred to as relating to motions in Stand. Com. Rep. No. 54; and Rule 61, relating to the adoption of proposals on Third Reading.

"Hence, the motion of the previous question, which is not technically a motion to close debate even though it may substantially do so, is governed by Rule 15 as presently worded, and thus requires a simple majority vote of the delegates present to be carried in this Convention, even though a two-thirds majority vote is ordinarily required under Robert's Rules of Order Newly Revised.

"However, in an attempt to bring the convention rules more in line with the conventional rules of parliamentary procedure and thus more justly serve the normal expectations of all your delegates, your Committee on Rules recommends that Rule 15 be amended to accommodate these common rules and ordinary expectations. Such an amendment, in thus clarifying the essence of Rule 15, should also prevent any future confusion and disagreement that may arise in this complex area of parliamentary law and thus incur serious deliberations of substantial issues instead of divisive debate on procedural protocol.

"For these reasons, I strongly urge that the Convention approve the recommendations of your Committee on Rules and adopt Stand. Com. Rep. No. 54 and Res. No. 15, which incorporates the proposed amendment of Rule 15. Thank you."

The President called for further discussion and recognized Delegate Peterson.

Delegate Peterson, speaking in favor of the motion, commended the Committee on Rules for their deliberations on the matter and for their recommendation, and urged the delegates to adopt the resolution.

There being no further discussion, the President announced that according to Rule 34 at least 52 votes would be required to amend the rule. He then put the question on the adoption of Stand. Com. Rep. No. 54 and Res. No. 15 amending Rule 15, and the motion was carried.

Delegate Hale then rose on a point of personal privilege. She commended the committee for the report but added she was somewhat disappointed that the report had only been based upon verbal direction to the committee to come up with a change in the rules. She remarked that on August 14 she had offered a series of suggestions to the rules, some of which would apply to resolutions, and that they were now up to Res. No. 15 and there had as yet been no report to the Convention, even though she had been directed to put it in resolution form before the committee would even consider it.

She then observed that there was another resolution before the house, Res. No. 12, concerning Sunday scheduling, and that some of the delegates from the neighbor islands would like to know what if anything the rules committee would be recommending so that plans for the Labor Day weekend could be made.

The President responded that no scheduling of either committee work or plenary session on Sundays was then anticipated.

Delegate Takemoto then rose to say that the Committee on Rules would be having another meeting, hopefully sometime the following week, on Delegate Hale's resolution. She explained that it had been difficult getting a quorum because of the decision-making that had occurred at the same time.

GENERAL ORDER

Com. P. No. 8--RELATING TO THE LEGISLATURE:

On motion by Delegate Nishimoto, seconded by Delegate Chong and carried, the Convention resolved itself into a Committee of the Whole to further consider Com. P. No. 8, relating to the legislature.

The President appointed Delegate McCall to be Chairman of the Committee of the Whole.

At 1:45 p.m., the President vacated the Chair and Delegate McCall assumed the Chair for the Committee of the Whole.

At 5:35 p.m., Delegate McCall vacated the Chair and the President resumed the Chair.

Delegate McCall, for the Committee of the Whole, reported orally that the committee had completed deliberations on the matter referred to it and recommended passage on Second Reading of Com. P. No. 8 as amended, and that a written report would be filed later.

On motion by Delegate McCall, seconded by Delegate Nishimoto and carried, the oral report was adopted.

Com. Whole Rep. No. 7, Com. P. No. 7, RD. 1--RELATING TO LOCAL GOVERNMENT:

Delegate Pulham, for the Committee of the Whole, and Delegate Sakima, for the Committee on Local Government, presented a report (Com. Whole Rep. No. 7) recommending that Com. Whole Rep. No. 7 be adopted and Com. P. No. 7, as amended in RD. 1, pass Second Reading. Delegate Sakima then requested that action be deferred.

There being no objection, action on Com. Whole Rep. No. 7 and Com. P. No. 7, RD. 1, relating to local government, was deferred until Thursday, August 31, 1978.

At this time, the Clerk announced that Stand. Com. Rep. Nos. 56 through 59 had been printed and distributed.

Delegate De Soto, for the Committee on Hawaiian Affairs, then presented a report (Stand. Com. Rep. No. 56) recommending that the proposals enumerated in the report be filed and that Sections 2 and 3 of Article XI be retained without amendment; and submitting a committee proposal (Com. P. No. 11) for introduction and recommending its passage on First Reading.

The President thereupon placed Stand. Com. Rep. No. 56 and Com. P. No. 11, relating to Hawaiian affairs, on the calendar for further consideration on Thursday, August 31, 1978.

Delegate De Soto, for the Committee on Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 57) recommending that the proposals enumerated in the report be filed, and submitting a committee proposal (Com. P. No. 12) for introduction and recommending its passage on First Reading.

The President thereupon placed Stand. Com. Rep. No. 57 and Com. P. No. 12, relating to Hawaiian education, on the calendar for further consideration on Thursday, August 31, 1978.

Delegate De Soto, for the Committee on Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 58) submitting a resolution (Res. No. 17) for introduction and recommending its adoption. She then requested that action on it be deferred.

There being no objection, action on Stand. Com. Rep. No. 58 and Res. No. 17, requesting the return of Kahoolawe to the State for use as a cultural sanctuary, was deferred until Saturday, September 2, 1978.

Delegate De Soto, for the Committee on Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 59) recommending that the proposals enumerated in the report be filed, and submitting a committee proposal (Com. P. No. 13) for introduction and recommending its passage on First Reading.

The President thereupon placed Stand. Com. Rep. No. 59 and Com. P. No. 13, relating to Hawaiian affairs, on the calendar for further consideration on Thursday, August 31, 1978.

ADJOURNMENT

At 5:42 p.m., on motion by Delegate Waihee, seconded by Delegate Shinno and carried, the Convention adjourned until 1:30 p.m. Wednesday, August 30, 1978.

FORTY-FOURTH DAY

Wednesday, August 30, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 1:30 p.m.

The President presided.

The Divine Blessing was invoked by the Reverend Charles Jolly of Waikiki Baptist Church.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegate Ontai who was excused and Delegate Hornick who was absent.

The President announced that the Journal of the Forty-Third Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORTS

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 60) informing the Convention that Com. Whole Rep. No. 7; Stand. Com. Rep. Nos. 61 and 62; Com. P. Nos. 3, S. 1, 5, RD. 2, S. 1, and 7, RD. 1; and Minority Rep. Nos. 9 and 10 had been printed and distributed.

On motion by Delegate Crozier, seconded by Delegate Hayashida and carried, Stand. Com. Rep. No. 60 was adopted.

Delegate Hamilton, for the Committee on Style, presented a report (Stand. Com. Rep. No. 61) recommending the adoption of Stand. Com. Rep. No. 61 and passage on Third Reading of Com. P. No. 3, S. 1.

The President thereupon placed Stand. Com. Rep. No. 61 and Com. P. No. 3, S. 1, relating to the executive, on the calendar for Third Reading on Friday, September 1, 1978.

Delegate Hamilton, for the Committee on Style, presented a report (Stand. Com. Rep. No. 62) recommending the adoption of Stand. Com. Rep. No. 62 and passage on Third Reading of Com. P. No. 5, RD. 2, S. 1.

The President thereupon placed Stand. Com. Rep. No. 62 and Com. P. No. 5, RD. 2, S. 1, relating to public health and welfare, on the calendar for Third Reading on Friday, September 1, 1978.

ORDER OF THE DAY

Com. P. No. 9--RELATING TO THE EXECUTIVE:

Delegate Fukunaga at this time informed the Convention that Proposal Nos. 428 and 791 had been inadvertently omitted from Stand. Com. Rep. No. 51. She then moved that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 9, relating to the executive, seconded by Delegate Tamayori.

The motion that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 9 was put by the Chair and carried.

The President appointed Delegate Shinno to be Chairman of the Committee of the Whole.

At 1:41 p.m., the President vacated the Chair and Delegate Shinno assumed the Chair for the Committee of the Whole.

At 1:54 p.m., Delegate Shinno vacated the Chair and the President resumed the Chair.

Delegate Shinno, for the Committee of the Whole, reported orally that the committee had completed deliberations on the matter referred to it and recommended passage on Second Reading of Com. P. No. 9, and that a written report would be filed later.

On motion by Delegate Shinno, seconded by Delegate Fukunaga and carried, the oral report was adopted.

At this time Delegate Kimball moved that Com. P. No. 9 pass Second Reading without amendment, seconded by Delegate Hale. Delegate Kimball stated that the Committee of the Whole had thoroughly considered Com. P. No. 9 and had voted favorably on it with no amendments, adding that its passage on Second Reading at this time would save the Convention both time and money.

Delegate Barr rose to register a strong protest, stating that it had been done before and that it was a mistake to do this again.

There being no further discussion, the motion was put by the Chair and carried.

Com. P. No. 10--RELATING TO THE JUDICIARY:

Delegate Ikeda moved that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 10, relating to the judiciary, seconded by Delegate Alcon.

The motion that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 10 was put by the Chair and carried.

The President appointed Delegate Campbell to be Chairman of the Committee of the Whole.

At 1:58 p.m., the President vacated the Chair and Delegate Campbell assumed the Chair for the Committee of the Whole.

At 4:52 p.m., Delegate Campbell vacated the Chair and the President resumed the Chair.

Delegate Campbell, for the Committee of the Whole, reported orally that the committee had risen, reported progress and begged leave to sit again.

The President accepted the oral report and announced that the Committee of the Whole would resume its deliberations on Thursday, August 31, 1978.

ADJOURNMENT

At 5:02 p.m., on motion by Delegate Silva, seconded by Delegate Blake and carried, the Convention adjourned until 1:30 p.m. Thursday, August 31, 1978.

FORTY-FIFTH DAY

Thursday, August 31, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 1:30 p.m.

The President presided.

The Divine Blessing was invoked by the Reverend Marvin Bice of Central Baptist Church.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegate Ontai who was excused and Delegates Eastvold and Ellis who were absent.

The President announced that the Journal of the Forty-Fourth Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORTS

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 63) informing the Convention that Stand. Com. Rep. No. 64 and Res. Nos. 14, RD. 1, 18 and 19 had been printed and distributed.

On motion by Delegate Tam, seconded by Delegate Crozier and carried, Stand. Com. Rep. No. 63 was adopted.

Delegate Teruo Ihara, for the Committee on Education, presented a report (Stand. Com. Rep. No. 64) recommending the adoption of Res. No. 14, RD. 1, requesting the state legislature to review and redress the problems of the public libraries as part of the department of education.

The President thereupon placed Stand. Com. Rep. No. 64 and Res. No. 14, RD. 1, on the calendar for further consideration on Friday, September 1, 1978.

INTRODUCTION OF RESOLUTIONS

A resolution (Res. No. 18) requesting the legislature to amend the retirement system law was offered jointly by Delegates Wurdeman and Uyebara.

The President thereupon referred Res. No. 18 to the Committee on Revision, Amendment and Other Provisions.

A resolution (Res. No. 19) requesting the legislature to refrain from enacting legislation applicable only to certain counties was offered jointly by Delegates Wurdeman and Campbell.

The President thereupon referred Res. No. 19 to the Committee on Legislature.

At this time Delegate Laura Ching, on a point of personal privilege, read from an article in The Honolulu Advertiser with reference to the formation of the "Panasonic Club" by certain delegates. She stated that the reason given for forming the club was incorrect and that it was in no way tied in with political maneuvering at the Convention.

ORDER OF THE DAY

Stand. Com. Rep. No. 56, Com. P. No. 11--RELATING TO HAWAIIAN AFFAIRS:

On motion by Delegate De Soto, seconded by Delegate Barr and carried, Stand. Com. Rep. No. 56 was adopted and the proposals enumerated within were filed; Sections 2 and 3 of Article XI were recommended to be retained without amendment; and Com. P. No. 11, relating to Hawaiian affairs, passed First Reading by title and was placed on the calendar for further consideration on Saturday, September 2, 1978.

Stand. Com. Rep. No. 57, Com. P. No. 12--RELATING TO HAWAIIAN EDUCATION:

On motion by Delegate De Soto, seconded by Delegate Barr and carried, Stand. Com. Rep. No. 57 was adopted and the proposals enumerated within were filed; and Com. P. No. 12, relating to Hawaiian education, passed First Reading by title and was placed on the calendar for further consideration on Saturday, September 2, 1978.

Stand. Com. Rep. No. 59, Com. P. No. 13--RELATING TO HAWAIIAN AFFAIRS:

On motion by Delegate De Soto, seconded by Delegate Barr and carried, Stand. Com. Rep. No. 59 was adopted and the proposals enumerated within were filed; and Com. P. No. 13, relating to Hawaiian affairs, passed First Reading by title and was placed on the calendar for further consideration on Saturday, September 2, 1978.

DEFERRED MATTER

Com. Whole Rep. No. 7 (Com. P. No. 7, RD. 1) (Committee on Local Government--Deferred from August 29, 1978):

At this time Delegate Hale moved, seconded by Delegate DiBianco, that Com. Whole Rep. No. 7 be adopted and Com. P. No. 7, RD. 1, pass Second Reading.

The President responded that it was the Chair's intention to defer action until Friday, September 1, 1978, in view of the desire expressed by many delegates for more time to study the committee proposal.

Delegate Hale then stated that the proposal had been thoroughly discussed and debated in the Committee of the Whole and that the delegates, without undue pressure, had voted to recommend that it pass Second Reading. She further stated that since that time pressure from certain associations and groups had been exerted on some delegates but that since the issue had been fully debated, it should now be voted on in Second Reading.

Delegate Waihee moved that action on the matter be deferred to September 1, 1978, seconded by Delegate Kaapu.

Delegate Hale then moved, seconded by Delegate DiBianco, to postpone action only to the end of the calendar.

Delegate Kaapu rose to speak against the motion to postpone to the end of the calendar, stating that although he was in favor of giving the counties the powers that were contained in the proposal, he felt that a 24-hour delay by the Convention was necessary to allow more time for study by those who expressed concern. He further stated that he personally was under no pressure from anybody.

Delegate DiBianco then rose to speak in favor of the motion to postpone, stating that there was nothing in the report to indicate any reason for deferring to the next day. He stated that outside associations had had 2 months to express their fears over what the Committee on Local Government had proposed, and that the last-minute rush placed upon some of the delegates was no justification for postponing the matter another day.

At this time, Delegate Sutton inquired if it was correct that there wasn't much on the calendar for September 1, 1978. The Chair responded in the affirmative, noting that deferring action would have no effect on the calendar for the remainder of the week.

On a point of order, Delegate Hale requested that she be allowed to speak last to her motion to postpone.

Delegate Ledward, on a point of inquiry, asked if Delegate Waihee's motion had included a specific time. The President responded that it would be the normal convening time of 1:30 p.m. Delegate Ledward then stated that if Delegate Waihee had not specified a time, it would be a motion to postpone indefinitely, which is not amendable. The President repeated that he presumed the time to be the normal convening hour. Delegate Ledward then inquired of the Chair if that meant Delegate Waihee's motion was amendable even though he did not state a definite time. The Chair stated that it was his intention to take it up at the regular session although 1:30 wasn't mentioned per se.

Delegate Crozier then inquired as to whether Delegate Waihee had used the word "deferred" or "postponed." The Chair responded that he believed it was "deferred" but appealed to Delegate Waihee for confirmation.

The Chair then reminded the delegates that the question was simply whether to take up the matter that day or the next and that they should be able to decide.

Delegate Goodenow requested some explanation as to why the matter could not be taken up that day, whereupon Delegate Kaapu repeated that he wanted the committee proposal to pass by a strong majority but not before the issues were completely understood by all the body.

At 1:50 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 1:53 p.m.

At this time, Delegate Hale withdrew her motion for postponement to the end of the calendar. She then stated that she would vote for deferring the matter but that she was very disturbed about the lobbying behind closed doors that she had read in the newspaper, and that there had been a meeting last night in which neighbor island delegates were caused to find out where they stood. She stated that she was a neighbor island delegate, that she had not been invited to such a meeting, and that should there be caucuses between then and tomorrow she would appreciate being notified.

On a point of inquiry, Delegate Peterson inquired if this would set a precedent in that when other issues came before the body, they could also be postponed. The Chair responded that it was up to the body to decide what would be done.

The motion to defer action on Com. Whole Rep. No. 7 and Com. P. No. 7, RD. 1, until September 1, 1978 was then put by the Chair and carried.

GENERAL ORDER

Com. P. No. 10--RELATING TO THE JUDICIARY:

On motion by Delegate Ikeda, seconded by Delegate Calvin Ching and carried, the Convention resolved itself into a Committee of the Whole to further consider Com. P. No. 10, relating to the judiciary.

The President appointed Delegate Campbell to be Chairman of the Committee of the Whole.

At 1:56 p.m., the President vacated the Chair and Delegate Campbell assumed the Chair for the Committee of the Whole.

At 5:44 p.m., Delegate Campbell vacated the Chair and the President resumed the Chair.

Delegate Campbell, for the Committee of the Whole, reported orally that the committee had completed deliberations on the matter referred to it and recommended passage on Second Reading of Com. P. No. 10 as amended, and that a written report would be filed later.

On motion by Delegate Ikeda, seconded by Delegate Calvin Ching and carried, the oral report was adopted.

The President complimented Delegate Campbell and Delegate Ikeda for their fine performances.

On a point of personal privilege, Delegate Calvin Ching rose to thank every member of the Committee on Judiciary, especially the chairman, Delegate Ikeda.

Delegate Hale then rose on a point of personal privilege to explain that her stand on any amendments during the Committee of the Whole had been taken in all honesty and that in no way should it be taken as a personal slight toward the chairman of the committee or any of the members.

The Chair voiced his assurance that she spoke for everyone who took a different position.

Delegate Ikeda rose on a point of personal privilege to thank the committee's vice-chairman for his statements and to ask for the continued cooperation and assistance of the members in furthering the work of the judiciary committee.

ADJOURNMENT

At 5:52 p.m., on motion by Delegate Waihee, seconded by Delegate Alcon and carried, the Convention adjourned until 1:30 p.m. Friday, September 1, 1978.

FORTY-SIXTH DAY

Friday, September 1, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 1:30 p.m.

The President presided.

The Divine Blessing was invoked by the Reverend Glenn Harada of the Honolulu Southern Baptist Association.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegate Ontai who was excused.

The President announced that the Journal of the Forty-Fifth Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 65) informing the Convention that Stand. Com. Rep. Nos. 66 and 67; Com. P. Nos. 8, RD. 1, 6, RD. 1, S. 1, and 14; and Com. Whole Rep. No. 8 had been printed and distributed.

On motion by Delegate Crozier, seconded by Delegate Taira and carried, Stand. Com. Rep. No. 65 was adopted.

The Clerk then announced that Stand. Com. Rep. No. 66 and Com. P. No. 14 would be deferred until the end of the calendar, and that Stand. Com. Rep. No. 67 and Com. P. No. 6, RD. 1, S. 1, would be deferred until Tuesday, September 5, 1978.

At this time, Delegate Hale moved that the Convention declare Labor Day a holiday and that Committee of the Whole consideration of the Hawaiian affairs proposals be held on Tuesday, seconded by Delegate Cabral. Speaking for her motion, Delegate Hale stated:

"Those of us from the neighbor islands who are on certain committees have not been able to go home for three solid weeks because there have been session meetings on Saturdays and committee meetings on Sundays. And Labor Day, being a holiday, is going to be the only chance within the last three weeks that we'll be able to go home and be with our families. I would also like to suggest that on Tuesday there is nothing on the calendar except a session meeting and I understand that the Hawaiian affairs committee wanted their hearing at a time when the public could come, and therefore I'm suggesting that the public could come on Tuesday evening, and that this should be a valid reason.

"The other thing I'd like to point out is that those of us from the neighbor islands are going to find it very difficult to come back on the first plane on Labor Day. In fact, some of us may want to sit in at the airport with our Hawaiian brothers. But in any case, I would hate to cross a picket line or a demonstration line to get to the Constitutional Convention at this particular time. And therefore I think it's unreasonable for this body to insist that those of us who go home to the Big

Island--and I understand, I've had word this morning, that there will be attempts to close the Kona airport as well as the Hilo airport. And in view of these facts, I humbly ask your consideration to make it easy for all of us to enjoy a Labor Day weekend with our families-- that we do not schedule this on Labor Day, that we take a much-needed rest, and hopefully we'll all come back with clear minds, clear consciences, and be able to conclude our deliberations with a greater spirit of cooperation. Thank you."

Delegate Silva then asked if the reason for the Labor Day session was to have four consecutive working days in order to get things out. The President confirmed this, adding that it would allow decking and procedural aspects to proceed.

Delegate Donald Ching rose to inquire if the matter could be deferred until the end of the calendar so it could be discussed with the chairman of the Hawaiian affairs committee, who was not present at that time. Delegate Hale agreed, adding that she had been unable to speak with the committee chairman, but she had discussed it with one of the vice-chairmen and that they were anxious to meet on Saturday. She remarked that they could just as easily meet on Tuesday night as there was nothing scheduled.

There being no objection, the matter was thereupon deferred until the end of the calendar.

ORDER OF THE DAY THIRD READING

Stand. Com. Rep. No. 61, Com. P. No. 3, S. 1--RELATING TO THE EXECUTIVE:

Delegate Hamilton moved, seconded by Delegate Fukunaga, that Stand. Com. Rep. No. 61 be adopted and Com. P. No. 3, S. 1, pass Third Reading. At this time, the President asked if there was any discussion on the subject matter.

Delegate Hamilton rose and, speaking for the motion, explained that the only changes made in Com. P. No. 3 were comma deletions, changes to nondiscriminatory terms and consistency changes.

Delegate Hale, speaking against the motion, stated that she did not agree with the committee proposal on the lieutenant governor section, and Delegate O'Toole also voiced his objection for the same reason.

There being no further discussion, the motion to adopt Stand. Com. Rep. No. 61 and to pass on Third Reading Com. P. No. 3, S. 1, was put by the Chair and carried by a vote of 83 ayes, 9 noes and 10 excused; with Delegates Alcon, Anae, Andrews, Barnard, Barnes, Barr, Blake, Burgess, Campbell, Calvin Ching, Donald Ching, Laura Ching, Haunani Ching, Chong, Chun, Chung, Crozier, de Costa, Dyer, Fernandes Salling, Fujimoto, Fukunaga, Funakoshi, Fushikoshi, Goodenow, Hagino, Hamilton, Hanaike, Harris, Hashimoto, Hino, Hirata, Hironaka, Hoe, Hokama, Hornick, Dennis Ihara, Les Ihara, Teruo Ihara, Ikeda, Iwamoto, Izu, Kaapu, Kaito, Kimball, Kojima, Kono, Lacy, Ledward, Rachel Lee, Lewis, McCall, Miller, Nakamura, Nishimoto, Nozaki, Odanaka, Okamura, Pulham, Sakima, Sasaki, Shinno, Shon, Silva, Souki, Stegmaier, Sterling, Stone, Sutton, Taira, Takahashi, Takehara, Takemoto, Tam, Tamayori, Uyehara, Villaverde, Waihee, Weatherwax, Wurdeman, Yamashita, Yoshimura and President Paty voting aye; Delegates Blean, Cabral, DiBianco, Eastvold, Hale, Liu, O'Toole, Peterson and Takitani voting no; and Delegates Chang, Chu, De Soto, Ellis, Hayashida, Ishikawa, Marion Lee, Marumoto, Ontai and Penebacker being excused.

Stand. Com. Rep. No. 62, Com. P. No. 5, RD. 2, S. 1--RELATING TO PUBLIC HEALTH AND WELFARE:

Delegate Hamilton moved, seconded by Delegate Fushikoshi, that Stand. Com. Rep. No. 62 be adopted and Com. P. No. 5, RD. 2, S. 1, pass Third Reading. At this time the President asked if there was any discussion on the subject matter.

Delegate Hamilton rose and stated:

"As is noted on page 3 of the report, almost all of the changes here are simply stylistic changes in punctuation and the like. The only exception--we had to do a little research on the source of the quotation; neither Dr. Kenneth Emory nor Dr. Donald Mitchell could find that precise quotation anyplace so we have removed the quotation marks and substituted dashes to set it off from the balance, thereby remaining academically pure."

There being no further discussion, the motion to adopt Stand. Com. Rep. No. 62 and to pass on Third Reading Com. P. No. 5, RD. 2, S. 1, was put by the Chair and carried by a vote of 85 ayes, 8 noes and 9 excused; with Delegates Alcon, Anae, Andrews, Barnard, Barnes, Blake, Blean, Campbell, Calvin Ching, Donald Ching, Laura Ching, Haunani Ching, Chong, Chu, Chun, Chung, Crozier, de Costa, Dyer, Eastvold, Fernandes Salling, Fujimoto, Fukunaga, Funakoshi, Fushikoshi, Goodenow, Hagino, Hamilton, Hanaike, Harris, Hashimoto, Hino, Hirata, Hironaka, Hoe, Hokama, Hornick, Dennis Ihara, Les Ihara, Teruo Ihara, Ikeda, Iwamoto, Izu, Kaapu, Kaito, Kimball, Kojima, Kono, Ledward, Rachel Lee, Lewis, Liu, McCall, Miller, Nakamura, Nishimoto, Nozaki, Odanaka, Okamura, O'Toole, Pulham, Sakima, Sasaki, Shinno, Shon, Silva, Souki, Stegmaier, Sterling, Stone, Sutton, Taira, Takahashi, Takehara, Takemoto, Takitani, Tam, Tamayori, Uyehara, Villaverde, Waihee, Weatherwax, Yamashita, Yoshimura and President Paty voting aye; Delegates Barr, Burgess, Cabral, DiBianco, Hale, Lacy, Peterson and Wurdeman voting no; and Delegates Chang, De Soto, Ellis, Hayashida, Ishikawa, Marion Lee, Marumoto, Ontai and Penebacker being excused.

GENERAL ORDER

Stand. Com. Rep. No. 64, Res. No. 14, RD. 1--REQUESTING THE STATE LEGISLATURE TO REVIEW AND REDRESS THE PROBLEMS OF THE PUBLIC LIBRARIES AS PART OF THE DEPARTMENT OF EDUCATION:

Delegate Teruo Ihara, for the Committee on Education, moved for the adoption of Stand. Com. Rep. No. 64 and Res. No. 14, RD. 1, requesting that the state legislature review and redress the problems of the public libraries as part of the department of education, seconded by Delegate Takehara.

The President called for discussion and recognized Delegate Lacy, who rose to speak in favor of the motion. Indicating the "whereas" clauses in the resolution as referring to the problems, he noted that the debate had centered around not whether there was a problem but whether it should be addressed in the Constitution.

He then remarked that he and Delegate Goodenow were both encouraged to proceed with the recommendation that the legislature review and redress the problems of the public libraries, and that the resolution had received the unanimous support of the Committee on Education and deserved the same from the Convention.

Delegate Takemoto then spoke in favor of Res. No. 14, RD. 1, urging that the problems of the public libraries be addressed and constructive solutions instituted. Pointing out the concern conveyed by the resolution, that the purposes and functions of public libraries as centers of information for lifelong learning were distinct from the instructional services provided for children 5 to 18 by the department of education, she then emphasized that the needs would thus be different, and that as long as the libraries were a lesser part of the DOE their concerns would continue to be submerged, especially in the vital budget and personnel areas. If the problems were to be resolved, she observed, the real causes must be addressed and one solution could be the creation of an independent statewide system of public libraries.

Delegate Miller then rose to speak in favor of the resolution, emphasizing the fact that public libraries and school libraries were entirely different.

There being no further discussion, the question of the adoption of Stand. Com. Rep. No. 64 and Res. No. 14, RD. 1, was put by the Chair and the motion carried.

At 2:00 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 2:17 p.m.

DEFERRED MATTER

Com. Whole Rep. No. 7 (Com. P. No. 7, RD. 1) (Committee on Local Government--Deferred from August 31, 1978):

Delegate Pulham moved, seconded by Delegate Sakima, that Com. Whole Rep. No. 7 be adopted and Com. P. No. 7, RD. 1, pass Second Reading.

Discussion then being in order, Delegate Hale moved to amend Section 1 of Article VII, seconded by Delegate Wurdeman, to read:

The legislature shall create counties, and may create other political subdivisions within the State, and provide for the government thereof. Each political subdivision shall have [and exercise such powers as shall be conferred under general laws.] all the powers of government not denied by this constitution, general law or by its charter.

Speaking for her motion, Delegate Hale stated:

"I feel very strongly that our county governments have come of age and that it is time we recognize that the government closest to the people is the one in session 12 months of the year, and that we should give them the powers commensurate with the responsibilities they have. This general concept was asked by the Hawaii State Association of Counties, which is an organization that consists of all four counties of this State, and these powers were denied in a similar amendment in the Committee of the Whole.

"However, I feel that with more deliberation, with more thinking on the subject and the implications of real property taxation and other taxation powers, that perhaps the delegates could have another chance to register their opinions on county powers. And that's why I have introduced this amendment and I solicit your support."

Delegate Tam rose to speak against the motion, explaining that there was no clear delineation as to what would happen should a residual power clause such as this be placed in the Constitution. He observed that there would have to be a full going-over of all powers and functions in the State to determine which would be handled by the State and which by the counties.

Delegate Hale then pointed out that this was in fact the practice now, that the counties took over functions not specifically denied by general law, and that her amendment would merely formalize the situation.

There being no further discussion, the question was put by the Chair and the amendment failed to carry.

Delegate Hale then moved, seconded by Delegate Chu, to amend section 1 of Com. P. No. 7, RD. 1, to read:

The taxing power shall be reserved to the State except so much thereof as may be delegated by the legislature to the political subdivisions; except that all functions, powers and duties relating to the taxation of real property shall be exercised exclusively by the counties, with the exception of the county of Kalawao and that the counties except the county of Kalawao, may levy a general excise tax at a rate of not more than one percent. The legislature shall have the power to apportion state revenues among the several political subdivisions.

Speaking for her amendment, Delegate Hale appealed to the delegates to consider

the concept of home rule, that the counties, through the Hawaii State Association of Counties, had asked for this power to levy an excise tax at a rate of one percent.

Delegate Tam, speaking against the amendment, pointed out that the counties would have to be ready to take over all responsibilities within their boundaries in order to have this on the books, that with the general excise tax power the counties would have to be basically self-supporting. He added that he would not want to have to tell his constituents that he had had a hand in raising taxes without commensurate benefits.

Delegate Andrews then spoke against the amendment. He stated that, although he agreed with the philosophy, because of the State's very centralized form of government many of the functions that would come forth from an excise tax were with the State and an excise tax could therefore be a detriment to the counties at that time.

Delegate Hale then stated that the amendment said nothing about the counties being self-supporting in every way, that it merely allowed those counties that wanted it to have this power. She further stated that the amendment would have to be voted on by the people and then by the county before any taxes could be raised. Referring to her background as a supporter of home rule, she detailed her early participation in the State Association of Counties in Hawaii county.

There being no further discussion, the Chair put the question of the amendment to section 1 of Com. P. No. 7, RD. 1, and the motion failed to carry.

Delegate Hale then moved, seconded by Delegate Wurdeman, to amend section 1 of Com. P. No. 7, RD. 1, to read:

The taxing power shall be reserved to the State except so much thereof as may be delegated by the legislature to the political subdivisions; except that all functions, powers and duties relating to the taxation of real property shall be exercised exclusively by the counties, with the exception of the county of Kalawao and that the counties except the county of Kalawao, may levy a one percent tax on the use of hotel rooms. The legislature shall have the power to apportion state revenues among the several political subdivisions.

Delegate Hale then asked that all the delegates accept this amendment in the spirit in which it was offered. She observed that some of the counties seemed to be ready to stop their growth and discourage tourism by levying a tax on hotel rooms--although the County of Hawaii did not seem to be one--and that if the City and County of Honolulu did do this it could perhaps help those neighbor island counties that wanted tourism and would perhaps go after it. Expressing her strong feeling about the amendment, she explained that it could be a tool to direct and limit growth and that it would be up to the counties to decide whether to use it.

Delegate Andrews then rose to speak against the amendment, stating that although many might want this it should not be encouraged in the Constitution, and that placing it there could be construed as an attack on an important industry in Hawaii. He stated that a tax on hotel rooms should be the result of careful deliberation in a body like the legislature, and not encouraged in the Constitution.

Delegate Hamilton also spoke against the amendment, stating that he felt it would be ineffective, and if the counties wanted to limit growth there were other ways to do it. Referring to the abundance of research that indicated this was too imprecise an instrument to limit growth, he suggested that there might be more basis for this as a revenue source.

Delegate Lacy then observed that it might help to analyze the type of visitor coming to Hawaii, that rather than the wealthy those who were now coming to the Islands brought a set amount with them to spend, and if it were paid as a hotel tax it would go to the State. It would not, he emphasized, be spent in the industry supporting the tourist business, and in the end could hinder tourism and jobs in the State.

Delegate Hale, speaking for the amendment, emphasized that this would leave it up to the people to decide if they wanted a hotel room tax. She stated that since there was

nothing within the power of the legislature it became a constitutional problem, and that this was in effect providing the people a referendum. She pointed out that the issue had been debated in the legislature, the county councils, throughout the newspapers and communities, yet the people had never been given a chance to vote on it. She further stated that if one fifth of every dollar spent on hotel rooms went to the counties, the counties could provide facilities for tourists and visitors as well as keep the Islands beautiful, safe and clean.

Delegate Wurdeman then rose to voice her support of the amendment.

At this time Delegate Penebacker requested a roll-call vote and the Chair, on determining that there were ten seconds, so ordered.

Roll call being in order, the motion to amend section 1 of Com. P. No. 7, RD. 1, failed to carry by a vote of 32 ayes, 65 noes and 5 excused; with Delegates Alcon, Anae, Barnes, Blean, Campbell, Laura Ching, Chu, Chun, Crozier, DiBianco, Eastvold, Fernandes Salling, Fujimoto, Goodenow, Hale, Hanaike, Harris, Hoe, Hornick, Kono, Rachel Lee, Liu, Marumoto, Odanaka, O'Toole, Penebacker, Sasaki, Souki, Sterling, Takehara, Takitani and Wurdeman voting aye; Delegates Andrews, Barnard, Barr, Blake, Burgess, Chang, Calvin Ching, Donald Ching, Haunani Ching, Chong, Chung, de Costa, Dyer, Fukunaga, Fushikoshi, Hagino, Hamilton, Hashimoto, Hayashida, Hino, Hirata, Hironaka, Hokama, Dennis Ihara, Les Ihara, Teruo Ihara, Ikeda, Ishikawa, Iwamoto, Izu, Kaapu, Kaito, Kimball, Kojima, Lacy, Ledward, Marion Lee, Lewis, McCall, Miller, Nakamura, Nishimoto, Nozaki, Okamura, Peterson, Pulham, Sakima, Shinno, Shon, Silva, Stegmaier, Stone, Sutton, Taira, Takahashi, Takemoto, Tam, Tamayori, Uyebara, Villaverde, Waihee, Weatherwax, Yamashita, Yoshimura and President Paty voting no; and Delegates Cabral, De Soto, Ellis, Funakoshi and Ontai being excused.

Delegate Kaito then moved to amend section 2 of Com. P. No. 7, RD. 1, by deleting in its entirety the provision "Land Use: State and County," seconded by Delegate Sakima. Speaking for her amendment, Delegate Kaito stated:

"Mr. President, I rise to speak in favor of this amendment to delete this section which reads: 'Reclassification of land to urban use shall be subject to approval by ordinance by the county in which the land exists.'

"I submit that the proposed amendment is neither necessary nor an improvement over the existing statewide system of land use planning and regulation. Under the present land use law, the State, through the Land Use Commission, sets the broad pattern of land uses by classifying the entire State into agriculture, conservation, urban and rural districts. The county is made a participant in the decision-making process as all petitions for district changes before the LUC require input from the planning agency of the county in which the land exists.

"If the county concurs in the decision of the LUC, the county implements the decision through its detailed zoning and general plan mechanisms. If the county does not concur in the decision, it may choose not to effectuate the change in land districts by not providing specific zoning for it, or by not amending its general plan. Under the present system, the role of the State and the role of the county are clearly delineated: the State's actions are broad and general; the county implements land use within the district classifications. As such, the existing process already provides for final decision by the county but preserves the statewide approach to land use planning in Hawaii.

"Section 1 of Article X of the Constitution, dealing with conservation and development of resources, now provides: 'The legislature shall promote the conservation, development and utilization of agricultural resources, and fish, mineral, forest, water, land, game and other natural resources.'

"In consideration of this express mandate to the State, the pro-

posed new section on land use raises an obvious inconsistency: on one hand the Constitution requires the state legislature to promote conservation, development and utilization of land resources, while on the other the proposed new section would severely limit that same authority. As I have previously indicated, the proposed new section can be construed as a means of overriding the powers of the State with respect to land use and land use planning and would make for a subrogation of powers assigned to the State.

"It is essential that authority for statewide land use policy be retained in the State in order to guide the future growth and manage the limited resources of the State. Hawaii's land use law has been hailed across the nation as a good example of the type of land use regulation needed at a state level to guide and manage growth. To give the counties the final say on decisions of the Land Use Commission when placing lands in the urban district could indeed lead to conflicts with the statewide comprehensive planning process.

"Whether the proposed new section on land use is 'good' or 'bad' must necessarily be measured in terms of its direct impact upon Hawaii's citizens. It is my belief that the proposal could inflate costs of land development, and therefore lead to higher prices for the consumer. By adding another layer of governmental review over land use decisions, the proposed new section would lengthen considerably the time required in making a decision to place lands in the urban district, as the Land Use Commission decision would then be contingent upon further approval by the county before the decision could be effectuated. In the case of housing, resort or commercial development, time means money, and having the county approve an action of the LUC means public hearings, and more time will be required before a decision is made and before zoning actions are initiated. Ultimately these higher costs mean higher prices for the consumer.

"In summary, the proposed new section does not improve upon the existing system of land use planning and regulation. It can be viewed as being inconsistent and contradictory to the power given to the State to conserve and develop land resources, and in the long term will likely be costly to the consumer. For these reasons, I solicit your support of this amendment to delete from Com. P. No. 7, RD. 1, the proposed new section on land use."

Delegate Harris rose on a point of parliamentary procedure and stated that Delegate Kaito's amendment, having been voted down in the Committee of the Whole, was out of order at this time.

Delegate Kaito pointed out that this amendment was different in that it included the words "by ordinance." Delegate Crozier rose to concur.

At 2:57 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 2:59 p.m.

The President explained that on checking with the parliamentarian, it was found to be possible in plenary session to amend action taken in the Committee of the Whole, and that therefore Delegate Kaito's amendment was in order.

Delegate Shon rose to speak against the amendment. He pointed out that there were many ways counties could resist urbanization, and that many of these were ministerial and required no public or county legislative participation. He submitted that particularly in the reclassification of land to urban, where there could be instances of an imposition on the county, it was not necessarily unwise to require that the county decide through its legislative body and with public participation. The provision, he stated, did not take away many state powers as it must still go to the Land Use Commission and then to the county for approval, and the county must go on record through passage of the ordinance and

public hearings as being in favor of the change. He added that the provision required public participation, which was not necessary now.

Delegate Taira then spoke in support of the motion, emphasizing that as long as the counties had to put land designation changes in the general plan there had to be public input, and as long as the zoning laws had to be changed they had to hold public hearings. He further stated that when there was an urgent need to change agricultural or conservation land to urban, another layer of authority would only slow down the bureaucratic process and could be both very costly and very disastrous.

Delegate Hoe then spoke against the amendment, pointing out that the problem had always been protecting agricultural lands and that this provision would offer one more buffer in this protection. She stressed that this power should be given to the counties, which were much more involved in specific community planning, and that while the State should have overall planning policy controls, the specifics should be left to the counties.

Speaking against the amendment, Delegate Harris emphasized that the counties did not then have the power given in the provision, although it might appear so. He pointed out that the State had sole power through the Land Use Commission to designate all lands as agriculture, conservation, urban or rural. The counties, he noted, had a chance to testify at the hearings, and that was all they had. And the Land Use Commission, he added, had repeatedly made changes against the wishes of the counties. He related as an example the experience of the Kauai county planning department, which opposed the Land Use Commission's taking 51 acres of subdivision land on Kauai out of agriculture and putting it into urban, that although the county violently opposed it, the commission went ahead and did it anyway. He then discussed, in another instance, the county's opposition to rezoning 30 acres of agricultural land on Kauai, which the Land Use Commission wanted to urbanize into a shopping center, and noted that although the county opposed it the commission did it anyway.

Delegate Harris then reiterated that the counties at that time did not have the power to veto the Land Use Commission's decisions regarding the reclassification of agricultural and conservation land to urban. He further stated that the counties needed that power, that over the past 10 years prime agricultural lands continued to be urbanized, often in direct opposition to the county's wish, and that once land had been designated urban it was almost impossible to stop its development.

Delegate Kaapu then spoke in favor of the amendment, observing that in Honolulu land classified urban could not be developed until appropriately zoned, and that changing the boundaries would not by and of itself make development possible. He specified the requirements for development in the City and County of Honolulu and noted that the provision being deleted would be more of a redundancy than a control.

Delegate Sterling then rose to speak against the amendment. He pointed out that the Land Use Commission, by its rules and regulations, could initiate its own petition and that this reclassifying of agricultural land to urban on its own initiative had happened.

Speaking in favor of the amendment, Delegate Okamura maintained that the counties did have input and if they disagreed with the Land Use Commission they had the power to sue the commission. He offered as an example the disputed land-designation change in the Kawainui swamp development, in which the State and a number of conservation groups had won a partial victory by the court's ruling which put about a third of the disputed land into conservation protection, against the wishes of the Land Use Commission and the landowners.

Delegate Hale then rose to speak against the amendment, pointing out that the input required by the Land Use Commission was not the same as decision-making, and that deleting the provision would be taking the decision-making away from those responsible to the people for land use decisions. She further pointed out that deleting the provision would undermine the committee report and change the committee's original recommendations.

She then referred to a newspaper article about some 376 acres of eucalyptus forest above Hilo on the Island of Hawaii, owned by Mauna Kea Sugar Company, which had been zoned agricultural by the Land Use Commission when it should have been conservation and which was then rezoned to urban by the commission on its own initiative. She explained

that the speculators who had convinced the commission to rezone it urban were then unable to get the development going as fast as they wanted as they were unable to subdivide it into 15,000-square-foot houselots, and Mauna Kea Sugar Company was now suing them to get the land back. The reason they were not able to subdivide, she then pointed out, was because the community rose up in protest. She further observed, "If there had been a chance that the county, by ordinance, could have said that they didn't want this land changed from agricultural to urban, I can assure you that in the year 1974 the county council would not have rezoned that land, not with the kind of protest that came up from the people of that area."

By taking from the county the power to determine whether it wanted urban expansion, she concluded, they would be putting this power completely back in the hands of the Land Use Commission, over which even the State didn't have control.

Delegate Hanaïke also spoke against the amendment. She observed that the problem with the Land Use Commission was that it had become a major rezoning board, although its main purpose was to set policy and guidelines for the State. Recounting commission activities during 1977, when the board considered four major land areas--West Beach, Kawainui, Mililani and Waiahole-Waikane--and rezoned three of them, she commented that it was only due to great public pressure from the community association that they hadn't rezoned Waiahole-Waikane also.

Delegate Hanaïke then pointed out that once the mechanism was started through the commission, it went directly to the county, where a great deal of pressure could be exerted to rezone. Noting that the Land Use Commission was an appointed board and therefore not accountable to the public, she observed that the commission was under a great deal of pressure and could become susceptible to a private landowner who wanted to develop his property. She concluded that the provision under discussion was really an additional safeguard so the public could be aware of, and perhaps participate in, the decision-making before it got to the county level.

Delegate Blean then rose to speak in opposition to the amendment, expressing his distress not only at what appeared to be a direct contradiction to the committee's original recommendation but also at the retraction of additional authority given to the counties. Citing the small percentages of land under county control on the Big Island and Maui, he noted that 96 percent of the land in his county was under the control of the Land Use Commission and the state board of natural resources, both appointive bodies, and that at no time did land use changes go through an elected body. How then, he questioned, could they plan and determine their own destiny if they couldn't even elect their own officials to deal with problems of land use.

Delegate Campbell spoke against the amendment and in support of the concept of giving the neighbor islands control over the urbanization of their own lands. Quoting from the standing committee report, she referred to the committee's recommendation that the counties have power in land use planning over lands within their own jurisdiction.

Delegate Hornick then rose to state that a quorum of the Committee on Environment, Agriculture, Conservation and Land had voted to support the land use provision being discussed. Commenting on an earlier statement, she noted that evidence indicated that when land was changed from agricultural to urban, there was great pressure to develop and that it was the ensuing speculation in great measure that drove the cost of housing up.

Speaking for the amendment, Delegate Souki pointed out that a county did not have to rezone land that had been changed from agricultural to urban by the Land Use Commission. He further stated that if the county did wish to rezone, it must have hearings to provide public input, but the fact that the county did not have to rezone reclassified land served as a protection against urban encroachment.

Delegate Wurdeman rose to speak against the amendment. She remarked that the Honolulu city council did under certain circumstances have a great deal of pressure put on it and cited the Gentry project on Oahu, in which the Land Use Commission upgraded 525 acres from agricultural to urban.

Delegate Chang then rose and confirmed that the environment committee had voted to support the local government committee's provision on land use, although he had voted

against supporting it. Stating his own position and speaking in favor of the amendment, he explained that the function of the Land Use Commission was to classify land and that some of the classifications and the units controlling lands within the classifications included agricultural land, which was controlled by the department of agriculture, conservation land, controlled by the department of land and natural resources, and urban land, the controlling unit of which was the counties. Even though land might be classified urban by the Land Use Commission, he pointed out, urbanization need not take place since the county was the exclusive body to decide what use the land would be put to.

Delegate Tam, speaking for the amendment, pointed out that legal representatives of all the counties had been consulted and it was the consensus that the amendment was basically a duplication of what was already in the books. He noted that the words "by ordinance" indicated the county councils and that this was the same body that was already involved with lands zoned urban.

Delegate Chun then rose to speak against the amendment. Noting the general concern about rising real property taxes, he pointed out that the amendment concerned only one change in land use--to urban. He conceded that any change in zoning or classification would increase that land price as well as prices of adjoining parcels, and the small farmer next to a large development would have to bear the cost of increased property taxes. But, he added, the system should allow the county to come to the aid of those small farmers.

Speaking for the amendment, Delegate Kojima observed that if, as was stated, the counties already had a say in the development of property, then what the counties, through the amendment, were asking for was a second chance to withstand the pressure. And, he added, if they couldn't handle it the first time they didn't need a second chance.

Delegate Sterling then spoke against the amendment. He mentioned that he had been on the Hawaii county planning commission when the eucalyptus tree property mentioned by a previous delegate had been at issue, and that there had been many hearings. To emphasize the kind of power that the Land Use Commission had, he related that at that time the second term of the commission's chairman had expired and although he was ineligible for a third term, the law had been changed to allow him to continue to serve as chairman.

At this time Delegate Hale rose to express her surprise at the position changes of some of the delegates who had earlier supported the land use provision, pointing out that this amendment was counter to decisions made earlier in the local government committee and the Committee of the Whole. She then predicted that, based on the delegates who had spoken in support of it, the amendment would pass, and she contended that it made a farce of the committee system. Alluding, over objections, to pressures within the Convention, she then referred, in answer to the argument that the counties already had the power to zone, to the reality of the pressure exerted on politicians once land had been reclassified urban by the Land Use Commission.

On a point of order, Delegate Waihee rose to object to personal innuendos on the convention floor, remarking that there had been a great number of resubmitted amendments after the Committee of the Whole.

Delegate Shon, speaking against the amendment, voiced his agreement concerning the pressures to develop land reclassified urban by the Land Use Commission. He referred to a study done on the Land Use Commission which highlighted a case in which land investors were willing to gamble on the likelihood of the Land Use Commission urbanizing a property and the county going along with it, to such an extent that the land value increased nearly 2-1/2 times what it had been as agricultural--this even before it had been reclassified. This, he explained, indicated confidence first that the commission would urbanize and second that the county would go along, and he commented that this was not a rare occurrence.

Referring to the Island of Oahu with a potential population level of 1 million, he further pointed out that if the zoning already permitted by the county after urbanization were developed to its fullest, it could accommodate up to 3 million. This, he noted, indicated that the county not only agreed with the Land Use Commission's decisions but had gone overboard. Stressing the fact that land prices skyrocketed when investors were willing to gamble on Land Use Commission and county decisions, he again emphasized the tremendous pressures

exerted on elected officials and warned of the likelihood of this also happening on the neighbor islands.

Delegate Shinno then rose to speak for the amendment, observing that in order to have uniform quality of land use throughout the State, the land use should be in the hands of the central government. As far as urban zoning, he noted, the counties had the last word and the direct control.

Speaking in opposition to the amendment, Delegate Miller remarked that she was from one of the densest areas on the Island, as far as poor zoning, overbuilding and abuses were concerned. She warned that other regions in the State could develop the same problems if the amendment wasn't defeated.

Delegate O'Toole also spoke against the amendment. Commenting on the power of the Land Use Commission, he noted that the commission was a quasi-judicial one with almost dictatorial powers, and that there was no check on it. He pointed out that the original provision had been designed to provide this check and that the amendment would remove it.

Delegate Kaapu then rose to speak on the question of land use and control. Noting that the counties had very little regard for the Land Use Commission, he questioned the mechanics of a provision that allowed the county councils to disapprove a boundary change when they were the very body that later would zone it. He then urged that control over Land Use Commission action be given to another body.

Alluding to the fear that overzoning could result in a population on Oahu of 3 million and to the desire that all further urbanization should be stopped, he then discussed the former zoning philosophy under which these lands had been zoned, which held that all lands that potentially could be developed were to be zoned urban, allowing persons who wished to develop them to do so. However, trusting to the market and the demand to provide the right amount of housing, he added, had not proved satisfactory, and for that reason the city council on Oahu had downzoned--and in fact placed a complete moratorium on--almost the entire central city until the development plan could be completed.

Stressing the importance of the development plan, he explained that it would indicate specifically where growth should be emphasized, where held back, the character of the city, what areas would be developed and in what order. And, he added, should the Land Use Commission change these boundaries so they no longer reflected the wishes of the county, the county would be under no obligation to go along with that rezoning.

Delegate DiBianco then rose to speak against the amendment and to clarify a misunderstanding by a previous speaker. The counties, he stated, did not have the zoning power alluded to previously since, once the Land Use Commission had made a reclassification, it was common practice for developers to purchase the urbanized land, invest heavily in planning or architectural fees and then, with this kind of an expenditure, go to court and force the city to rezone on the basis of their reliance upon the Land Use Commission's ruling.

Delegate Kaapu rose to inquire as to verification or specific instances of the type of rezoning lawsuit referred to. Delegate DiBianco, in response, stated that he knew of filings of such suits but couldn't give the results of any.

Delegate Goodenow, speaking against the amendment, urged the delegates to vote it down, reminding them that the counties had clearly voiced their desire to have control over their land. She further observed that the local government committee had supported this concept. Noting the references made to great pressures that affected decisions, she urged the delegates to consider first the growth and abilities of the counties and what they really wanted.

Delegate Liu, as a proponent of planning, spoke against the amendment, explaining that it violated the concept of coordination inferred in planning by taking away the fulcrum necessary to achieve balance between state and county concerns. He noted further that it removed public input from the planning process and placed the planning in the hands of those he termed "technocrats," who lacked the perception into human interaction which was the purpose of planning.

Delegate Harris then spoke against the amendment, advising that the State, through the Land Use Commission, had the sole power to designate land in the four categories. The counties, he contended, had no power and no official say in the matter, which power, he added, they desperately needed as it would act as a check on the wholesale urbanization done by the Land Use Commission over the last 15 years. Detailing this urbanization, he specified that over 36,000 acres of agricultural land had been urbanized by the Land Use Commission, often over the county's violent opposition.

As indicated in the committee report, Delegate Harris continued, the counties had requested this power. He further noted that allowing the commission to urbanize agricultural land caused contention between the county and the State, pitting one against the other and exerting great pressure on the county government. Tracing the progress of the provision, from committee through hearings to committee approval and Committee of the Whole approval, he emphasized that no new evidence had yet been presented and he urged the delegates to defeat the amendment.

Delegate Hironaka then questioned giving the counties approval of reclassification in addition to their zoning power. Referring to his experience as a realtor on Maui, he described his difficulties in trying to get county zoning on land already classified urban, and he questioned whether giving the additional reclassification power would actually make it more difficult for them to turn down zoning requests, and if without the amendment the counties would actually have more power.

There being no further discussion, the President put the question to amend Com. P. No. 7, RD. 1, by deleting the land use provision in its entirety, whereupon Delegate Hale requested a roll-call vote.

Roll call being in order, the motion to amend Com. P. No. 7, RD. 1, by deleting the land use provision was carried by a vote of 50 ayes, 40 noes and 12 excused; with Delegates Alcon, Andrews, Barnard, Blake, Burgess, Chang, Calvin Ching, Donald Ching, Haunani Ching, de Costa, Fukunaga, Fushikoshi, Hamilton, Hino, Hirata, Hironaka, Dennis Ihara, Les Ihara, Teruo Ihara, Ishikawa, Iwamoto, Izu, Kaapu, Kaito, Kojima, Ledward, Lewis, Nakamura, Nishimoto, Okamura, Penebacker, Sakima, Sasaki, Shinno, Silva, Souki, Stegmaier, Stone, Taira, Takahashi, Takehara, Takemoto, Tam, Tamayori, Uyehara, Villaverde, Waihee, Weatherwax, Yoshimura and President Paty voting aye; Delegates Anae, Barnes, Barr, Blean, Cabral, Campbell, Laura Ching, Chong, Chu, Chun, Crozier, DiBianco, Dyer, Eastvold, Fernandes Salling, Goodenow, Hale, Hanaike, Harris, Hoe, Hornick, Ikeda, Kimball, Kono, Lacy, Marion Lee, Rachel Lee, Liu, Marumoto, Miller, Nozaki, Odanaka, O'Toole, Peterson, Shon, Sterling, Sutton, Takitani, Wurdeman and Yamashita voting no; and Delegates Chung, De Soto, Ellis, Fujimoto, Funakoshi, Hagino, Hashimoto, Hayashida, Hokama, McCall, Ontai and Pulham being excused.

At 4:20 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 4:30 p.m.

At this time Delegate Andrews moved, seconded by Delegate Sakima, to amend section 3 of Com. P. No. 7, RD. 1, by substitution, the substituted section to read:

The amendment to Section 3 of Article VII shall take effect on the first day of July after two full calendar years have elapsed following the ratification of such amendment; provided that for a period of eleven years following such ratification, the policies and methods of assessing real property taxes shall be uniform throughout the State and shall be established by agreement of a majority of the political subdivisions. Each political subdivision shall enact such uniform policies and methods of assessment by ordinance before the effective date of this amendment and in the event the political subdivisions fail to enact such ordinances, the uniform policies and methods of assessment shall be established by general law. Any amendments to the uniform policies and methods of assessment established by the political subdivisions may only be made by agreement of a majority of the political subdivisions and enactment thereof by ordinance in each political subdivision. Real property tax exemptions and dedications of land for specific use for assessment at its value in such

use as provided by law and in effect upon ratification of the amendment to Section 3 of Article VII shall be enacted by ordinance and shall not be eliminated or diminished for a period of eleven years following such ratification; provided that increases in such exemptions or the additions of new and further exemptions or dedications of lands may be established or granted only by agreement of a majority of the political subdivisions, and such increases or additions shall be enacted by ordinance in each political subdivision.

The President then called for amendments to the original committee proposal section before discussion of the substitute amendment.

Delegate Chun, on a point of information, asked if the movant could summarize and explain the intent of his amendment. In response, Delegate Andrews answered that the amendment was offered to subdue any fears resulting from the abrupt transfer of the real property tax functions to the counties. He further explained:

"Basically, going down some of the provisions: (1) On the transfer schedule--the deadline for the transfer is July 1, 1981. This provides 3 years for the orderly transfer of functions. This is the same as the deadline to come out of the Committee of the Whole. (2) On assessment policy--basically this amendment provides that the assessment policy shall be uniform among all four counties for 11 years. The counties must get together to decide on one set of policies and then each county must adopt the package by ordinance. If they fail to do this before July 1981, the legislature sets the policy. During the 11-year transition period, counties can change this policy but they must do it uniformly. (3) On exemptions--the amendment specifies that the counties must enact into county law all property tax exemptions which the State now provides; this includes dedication. Counties cannot diminish any exemption for the 11-year transition period. If they increase exemptions during this period, they can only do so if all four counties are uniform. Therefore, home exemptions for example would be no lower than the \$12,000 now in law but could be increased if all counties act in unison.

"I believe these are the fears expressed by many delegates, and this would just bring about a longer transition period where the counties must share their maturity to act in these matters. And it allows during that 11-year period for the legislature to take a look at how the counties have acted. There are two ways in which they can decide if we are not acting in an adult or mature manner: one is by legislative amendment to the Constitution; or, I believe that--most likely in the next 11 years we will be having another constitutional convention, and this would be another way they could reassess the situation."

The President again called for amendments to the original section, and then to the substitute amendment. Delegate Hale then moved, seconded by Delegate Goodenow, to delete the word "eleven" throughout the amendment and insert the word "five."

Speaking for her amendment to the amendment, Delegate Hale pointed out that an 11-year period was unrealistic and that the amendment was actually saying there would be no real changes until the next constitutional convention. She explained that, as far as uniformity, this was supposedly what they had now, and that what they had been trying to give the counties was a tool by which they could solve their individual problems. And, she added, specifying that two out of three counties must agree and that the State would continue to assess made it impossible to do, and she suggested that a 5-year period would be a more reasonable and rational compromise.

Delegate Sterling, speaking in favor of the amendment to the amendment, questioned the actual time period, whereupon Delegate Andrews confirmed that the term "ratification" was intended to mean November 7, 1978.

Delegate Kaapu, speaking against the amendment to the amendment, explained that

the purpose of the 11 years was to provide a period that would extend beyond the time when the next constitutional convention would convene, as this would be the body to review and assess the effectiveness of the amendment and make any changes that were necessary.

Delegate Hale, speaking again for her amendment to the amendment, pointed out that the legislature could consider a constitutional amendment and put it on the ballot at any time, so the 11-year period until the next convention was not necessary. Referring to the real property assessment procedure under the State, she described various properties on the Island of Hawaii, comparing the State's assessments for uniformity. Noting that with the 5-year period, appeals on unfair state assessments could be handled by the county councils much sooner, she urged the delegates to put responsibility back where the little people could get at it.

Delegate Waihee then inquired if the last sentence in the amendment wouldn't allow the county councils to take care of the type of inequity described by the previous speaker.

Delegate Tam, in response, confirmed that Delegate Andrews' amendment would provide for increases in exemptions. On a point of personal privilege, Delegate Hale noted that her reference had been to assessments rather than exemptions.

There being no further discussion, the question on the amendment to the amendment was put by the Chair and the motion failed. The President then called for further amendments to the substitute amendment and, there being none, recognized Delegate Tam.

Speaking in favor of Delegate Andrews' substitute amendment, Delegate Tam mentioned his initial difficulty in accepting it but realized that some delegates did have reservations about granting authority to the counties to handle all real property tax functions, feeling that in some way exemptions--especially for the elderly, the disabled, victims of leprosy, etc.--could be tampered with. He observed that the 11-year period would give assurance to these delegates, as well as those who felt that assessment policies would go all over the place once the counties had the power. Members of the county governments, he advised, had been consulted and this was not their intent, but it had been agreed, to assure those with reservations about uniform assessment policies, to allow the 11-year period to show that the counties could handle these functions in a proper manner and without abusing any of the powers.

Delegate Andrews then spoke in favor of the amendment, assuring that there was no intention of changing any of the functions. Referring to the fear that the counties would make changes that could drastically affect the people who should be protected, he pointed out that this was not the purpose of the counties wanting the property tax function. And, he concluded, the 11-year period should cause no concern as the functions would not be affected at all.

Delegate Blake rose to speak in favor of the amendment, noting that after speaking to the county representatives he couldn't see how the changes that would be made would be so abrupt as to disrupt the county or State. He then mentioned that he was surprised about the 11-year period, remarking that he didn't approve of it. However, he noted, the county representatives had stated that, as it was written, the counties would not hurt, and he urged the delegates to support the amendment.

Delegate Kaapu then rose to address the concerns of the delegates who felt that the proposal, and also the concept of home rule, had been watered down. At this time Delegate Goodenow, on a point of information, requested that the speaker include an explanation of the term "general law." In response, Delegate Kaapu explained that general law involved the legislature passing a law as it normally would and the governor either vetoing or signing it or allowing it to become law without his signature.

Noting that he had been happy with the original committee proposal giving the powers to the counties immediately, he then remarked that in the actual practice of home rule the powers would be no different had the amendment been considered previously or had the original proposal gone through. Its strength, he continued, came from the removal of fear, by specifying exactly in the amendment what could and could not be done. He then compared it to a lizard which when threatened sacrifices its tail to save its life, and observed that the counties would give up even less in that this compromise gave up only doubt and fear

and made the concept of home rule palatable to those to whom it might not otherwise be. He further stated:

"In the case of exemptions, I doubt that there would have been any changes anyway for the reasons that the exemptions were given, and it would be unwise for whatever reason to take it away. The dedications and other provisions that are preserved here for 11 years were thought about and were given in order to preserve open space and to cause industries that would otherwise be threatened to survive, and certainly no county council would want to be responsible for changing that.

"Secondly, in the area of uniform assessment policies, the arrangement which probably would have been followed, and I'm sure will be followed if this goes through, would be for the counties to work together, and we would have done this anyway because it's logical. We'd like to use the same definitions, the same practices for arriving at the valuation of the property we're going to tax, and the same persons who will now do it under new supervision would probably have done it anyway, following the same professional procedures which they were taught and would be taught had they come from some other jurisdiction.

"Thirdly, in the matter of increasing the extension, this power is not being denied the counties. However, it requires that they consent mutually and adopt standard policies and practices, and I think that's only right also. So in terms of the fears, either imagined or real, if some of the things that one of the delegates mentioned the other day--things that might happen if the county councils were to lose their sanity--if these were to happen they could happen under the legislature even today, and some of them unfortunately have happened. It's much less likely to happen in the counties, and as a result of the passage of this amendment I think that the counties will exercise the full powers they would have exercised without it, and so those who would otherwise fear it will not, and for that reason I support the amendment."

Delegate Hamilton, on a point of information, inquired as to how, from the counties' point of view, this changed the present situation and what the change was. Delegate Tam, in response, explained that in terms of assessment ratios the counties themselves could now determine what they wanted and that they must keep them uniform, but at least now it was the counties themselves that were working on it and not the legislature.

Delegate Shon then rose to speak in favor of the amendment with some reservations. He commended all the delegates who had participated in the discussion and expressed confidence that a good number of them had read the State's real property tax law and acquired some understanding of the implications of any basic change in real property taxation. He then summarized:

"It does appear that the proposal will not terribly weaken our protection of agricultural land nor significantly alter policies toward other land. I believe that this is in the interest of every person in Hawaii, and in regard to some remarks that were made earlier I think that the future of agriculture goes far beyond the future of a particular group, a particular crop or a scale of operation. The future of agriculture is the future of open space, the preservation of land use options, the potential for promoting diversified agriculture in the future, and the need to increase our self-sufficiency. To those who compromised and to those whose foresight included some reaffirmation of our commitments to agricultural lands, I offer my warmest appreciation. My reservations still include the loss to the State of a major planning tool, primarily an area not yet clearly formulated. It also removes the State's paramount law in encouraging or discouraging new technology, as well as initiating newer provisions in the area of social policy. This is unfortunate but I feel we can

live with it. Both sides have compromised, and I think that the compromise is very decent.

"The State still has some role and for those champions of home rule, in spite of any state powers, state laws, state plans, I think it is true that these powers will never negate the inherent character and independence of our neighbor islands. And those of you on the neighbor islands will always be in the position of the Chinese villager who, in ancient times, would smile to himself in appreciation of that age-old saying: 'The mountain is high, the emperor is far away.'"

Delegate Peterson then rose to speak in opposition to the amendment. Referring to his employment with Alexander & Baldwin, which might be considered a conflict of interest by some, he emphasized that the company didn't write his speeches and the thoughts expressed were his own. He then offered the following statement:

"I think one of the arguments used in favor of this amendment is that the counties would be able to prove their abilities to use these powers if they are given a chance to exercise them over the next 11 years. However, I do not believe the counties can prove their ability to be trusted as long as they are strictly controlled, as this proposal requires. Secondly, I think our present system of property taxes has been looked to as a model. Many places believe that we have an excellent system that has statewide assessment and some other valuable characteristics. One characteristic with which I am particularly pleased is the Florida plan of disclosure, which requires that any increases from the market value of property at the same time reduce the rate which the county taxes; when the market value increases, the rates have to be decreased by an equivalent amount. So if the county wants to raise more money, it has to increase the tax, which is a very straightforward way of increasing taxes.

"A third issue which hasn't been addressed this afternoon is the cost of assessing, collecting and appealing property taxes, which would be assumed by the counties. In the taxation and finance committee, there were several people who testified that the amount which would be shouldered by the counties would be \$200,000 to \$400,000 more, so they're assuming these additional costs but without receiving any additional freedoms, as I read this amendment.

"Another issue that has not been raised would be the third level of government, which would be instituted into the State if this amendment were accepted. Right now we have the state government, with the legislature and the governor and so forth; we also have the county government, which includes the mayor of each of the counties. But this proposal would provide a third level of government, a parliament of city councils, where the city councils would get together and decide policies of statewide concern, providing a third level of government, and we cannot foresee what kinds of decisions would be made in it.

"Another issue is that Oahu property tax laws would be hostage to the outer islands. One fourth of the State's population is on the neighbor islands, but they would have--by agreement of three of the four political subdivisions--the power to restrict property policies for the other three fourths of the population in the State, living on Oahu. So Oahu residents are not properly represented in this plan.

"In summary, this compromise has significantly more cost for the counties without significantly greater freedoms; it does not allow the residents of Oahu to be properly represented; it changes the present property tax system, which has some unique and very worthy characteristics; and it provides a third level of government, in which

we cannot foresee what kinds of actions would be taken. And for these reasons I urge you to vote against this amendment."

Delegate Blean then rose to speak against the amendment, stating that while some said half a loaf was better than none he felt this was not half a loaf but a crumb, and that the counties were being made to sit up and beg. He added that he'd rather go home empty-handed and say he lost than go home with crumbs and say he went there to beg.

Delegate Andrews, speaking for the motion, pointed out that in the total property tax function there was more involved for the counties in the assessment function than just exemptions, that the counties had not been earning the interest on property tax prepayments or money in the bank before distribution. He referred the delegates to the Hawaii Revised Statutes for some of the other functions.

Speaking against the amendment, Delegate Crozier referred to the area of accountability as one of the main reasons to give the counties full control in the tax function, noting that in the existing situation the legislature and the counties both dealt with parts of the same product and each tended to blame the other for the tax problem. Instead of making one body accountable, he observed, the amendment created a new level of government, a council of counties, which could only magnify the problem of accountability. He added that if the amendment passed it would reaffirm his belief that standing committees were not necessary.

Delegate Sterling then spoke against the amendment, indicating his confusion in being expected to fear his elected councilmen yet trust an appointed body like the Land Use Commission.

Also speaking against the amendment, Delegate DiBianco pointed out that with the 11-year requirement there would probably be another constitutional convention before the county's taxing authority went into effect, and that because it had never been in effect that convention would probably make changes and the law never would go into effect. Therefore, he concluded, the counties were not even getting Delegate Blean's "crumb" but instead would get nothing, and they would have to wait 11 years to find out.

Delegate Hale then rose to speak against the amendment, observing that those who said there were powers the amendment gave to the counties but wouldn't specify what should define exactly what these powers were.

Delegate Villaverde, speaking for the amendment, made the following statement:

"In spite of overemphasis and slanting which a newspaper placed upon the delegates who felt responsible to the people as a whole in the State, I take exception to the claim that we were strongly pressured by lobbyists 'to weaken our stance on counties' taxation powers.'

"Contrary to this claim, I felt the need to receive overall input from all affected. Moreover, this kind of input contributes to a better representative form of government. We now will have counties more responsible to their people, as they are given time to put their efforts together with others to assess the problem areas of decentralization. We have a package that will be protective, fair and accommodating for all concerned.

"The severities in the limitation of land and its values are matters of concern. With this amendment, I feel the counties can now offer coordinated policies more democratically and more efficiently. As Lincoln said: 'Property is the fruit of labor: property is desirable; it is a positive good.'

"Our generation must consider that the system of private property is the most important guarantee of freedom, not only for those who own property but scarcely less for those who do not. We can't disregard fragile industries for the sake of a conceptual home rule. We must maintain some order of uniformity, and with this package we do. And

this has been accomplished, I say again, without pressure; it was accomplished through an excellent deliberative process by those who were mindful of the problems.

"I would like to congratulate all who felt this awesome responsibility to make timely decisions. I therefore again urge my fellow delegates to support this amendment. Thank you."

Delegate Cabral then spoke against the amendment as a matter of principle, comparing its effect on the work of the local government committee to an aspiring politician who was promised a high place in office if he would prostitute his life to gain it and who did.

Delegate Campbell also spoke against the amendment, observing that it would be a travesty of justice to allow it to become a reality, not so much for its contents as for the manner in which it had been accepted. Referring to the purpose for which the delegates had been elected, she remarked that if it had indeed been agreed to give the counties home rule then it should be given, so that they could exercise it responsibly and openly. She questioned how, if all the counties must agree on matters, the voice of 85 percent of the people would be heard in the assemblies.

Speaking in favor of the amendment, Delegate Burgess appealed to the delegates not to let their anger over the method affect the reason for the amendment, which was a good one. He noted that the amendment would give the counties substantially more immediately than they had now and referred to the areas of accountability, administration and the actual collection.

Delegate Waihee also spoke in favor, noting that the amendment was an indication of the body's ability to deliberate and reassess. He described the questioning that one delegate had done and how this had raised doubts, and the various groups that had raised the same concerns--one of these, he noted, being the uniformity of property taxation across the State. The present protections for the blind, the elderly and for agricultural lands, he added, had also been guaranteed for 11 years by the amendment.

Delegate Lacy then rose to ask if the counties could grant individual exemptions or if it would have to be in a class action through the three-fourths vote. Delegate Kaapu responded that if the exemption existed on the effective date of the amendment, it would continue for 11 years and would be available to anybody that met those criteria; if it was an additional exemption not in existence before the effective date, the counties by a majority vote could establish the new exemption under a standard practice.

Delegate Crozier, speaking against the amendment, observed that if the counties were not to have full control of their taxes, then the delegates should vote the amendment down and get back to the status quo. He then remarked: "One of the delegates commented that this amendment was not written under pressure. I totally believe that no pressure was involved in this. I think that it was written in the dark."

Delegate Alcon then rose to speak in support of the amendment, recalling the many attempts by committee members to revise or amend the original committee proposal. He then referred to outside pressures that were now being exerted and questioned where these groups had been when public hearings had been held, as well as the Committee of the Whole debate.

Speaking for the amendment, Delegate Souki pointed out that the counties would have additional new powers under the amendment, such as policy-making powers in the areas of assessments and exemptions. Although frozen for 11 years, he continued, there was nothing to preclude the counties from increasing the exemptions or adding more. Referring to the strong centralization of the State, he concluded that the mere releasing of these powers was a tremendous victory for the counties.

Delegate Kimball requested a definition of the term "uniform policies and methods of assessment" and asked what that entailed. In response, Delegate Sakima explained that if a county wanted to change the manner of handling by the tax office, three of the four counties had to agree on the new method.

Adding to this, Delegate Tam offered an example: using the current policy of

assessing residential real property at 60 percent, he explained that if one county wanted to change it to 70 percent all the counties would first have to agree.

Delegate Kimball then requested a definition of "dedications of land," to which Delegate Sakima explained that current laws required that agricultural lands be dedicated for 10 years.

Delegate Kimball further questioned the amendment's use of the words "ratification" and "effective date of this amendment" and inquired as to the difference. Delegate Andrews responded that the effective date was specified as "two full calendar years" after the ratification, and what the amendment was saying was that the counties must adopt uniform policies by ordinance before July 1, 1981 or the legislature would do it for them by general law.

Delegate Hale, on affirming that this could be done if, within the 11 years, three of the four counties agreed, then stated:

"You're giving the power then to three of the four counties, and I would warn you people of the City and County of Honolulu--this means that the neighbor islands, with 15 percent of the population at the very most, are going to control your growth."

There being no further discussion, the question to amend section 3 of Com. P. No. 7, RD. 1, by Delegate Andrews' substitute amendment was put by the Chair. At this time Delegate Cabral requested a roll-call vote, and the Chair, on determining that there were ten seconds, so ordered.

Roll call being in order, the motion to amend section 3 of Com. P. No. 7, RD. 1, was carried by a vote of 79 ayes, 14 noes and 9 excused; with Delegates Alcon, Anae, Andrews, Barnard, Barnes, Barr, Blake, Burgess, Cabral, Chang, Calvin Ching, Donald Ching, Laura Ching, Haunani Ching, Chong, Chu, Chun, Chung, de Costa, Dyer, Fujimoto, Fukunaga, Fushikoshi, Hagino, Hamilton, Hanaike, Harris, Hino, Hirata, Hironaka, Hoe, Dennis Ihara, Les Ihara, Teruo Ihara, Ikeda, Ishikawa, Iwamoto, Kaapu, Kaito, Kimball, Kojima, Kono, Lacy, Ledward, Lewis, Liu, Marumoto, McCall, Miller, Nakamura, Nishimoto, Nozaki, Odanaka, Okamura, O'Toole, Penebacker, Sakima, Sasaki, Shinno, Shon, Silva, Souki, Stegmaier, Stone, Sutton, Taira, Takahashi, Takehara, Takemoto, Takitani, Tam, Uyehara, Villaverde, Waihee, Weatherwax, Wurdeman, Yamashita, Yoshimura and President Paty voting aye; Delegates Blean, Campbell, Crozier, De Soto, DiBianco, Fernandes Salling, Goodenow, Hale, Hornick, Izu, Marion Lee, Rachel Lee, Peterson and Sterling voting no; and Delegates Eastvold, Ellis, Funakoshi, Hashimoto, Hayashida, Hokama, Ontai, Pulham and Tamayori being excused.

Delegate Burgess at this time moved to reconsider the amendment deleting the land use provision, seconded by Delegate Harris.

Delegate Taira then questioned whether this was in order and requested a short recess.

At 6:00 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 6:02 p.m.

On ascertaining that Delegate Burgess had voted on the prevailing side, the Chair declared the motion in order and called for discussion.

Delegate Harris rose to speak in favor of the motion, reiterating the main points that had been made--that the counties did not have this power, that it was a power they needed and that it was also one they wanted. He then stated his belief that the decision made had been hasty and that the earlier votes on the issue had been based on merit and on facts.

Delegate Blake then voiced his support for reconsideration of the motion, as did Delegate Hale.

There being no further discussion, the motion to reconsider the amendment deleting

the land use provision was put by the Chair and failed to carry. Delegate Harris then called for a division of the house and, by a vote of 36 ayes and 46 noes, the motion again failed to carry.

Delegate Alcon then rose and withdrew his amendment. There being no further amendments, the President called for discussion on Com. P. No. 7, RD. 1.

At this time, Delegate Hirata informed the Chair that he had a written statement and to expedite the proceedings he requested that his remarks against the committee proposal be entered in the Journal.

[The following is written testimony as submitted by Delegate Hirata.]

"Mr. President, permit me to preface my arguments with some remarks of personal privilege. I am extremely frustrated and angry that everybody and her brother has been using this forum for their particular special interests, including the counties, to try to get what they couldn't get passed across the street at the legislature. I resent this because I believe that a constitution should set forth the basic principles of the formal organization known as state government. This document should be short, concise and not cluttered with needlessly complicated formulas which will complicate this constitutional structure and not allow government to react with sufficient flexibility in times of crisis. I believe that each lawmaking body with its technical expertise is then responsible for making decisions and developing the specifics. I believe that our job here is to lay those cornerstones of our governmental system, not provide all of this specificity and detail. I believe that we are beginning to act worse than the state legislature which many here chastise as being nearsighted and bureaucratic.

"Hawaii has a centralized governmental system which is unique. We differ from most other political jurisdictions because of our specific and different needs as an island State. We also differ from most other political jurisdictions because we provide the majority of public services, including education, welfare and health. This form of centralized government allows us to provide more public services on a more equitable basis and of generally higher quality. This is why Hawaii is often envied and studied for its model system of government. On the other hand, our counties only assume primary responsibility for public safety, recreation and sanitation, unlike other mainland counties which are charged with responsibilities for education, welfare and health. Our state government spends over \$670 billion, or more than 52 percent of the State's budget, on these services. We spent over \$377 billion on education in fiscal year 1975 alone.

"Yet in terms of state and federal resources, the counties do already receive a lion's share of funds. For example, although they do not provide a significant amount of welfare and social services, they receive about 70 percent of the State's allocation of federal revenue-sharing monies, totaling about \$18 million annually. The state government, on the other hand, receives only \$9.1 million per annum, or 30 percent of federal revenue-sharing dollars for Hawaii, in spite of the fact that it provides many more services than the counties.

"At the same time, a local political subdivision continues to drain state resources by practicing the poor fiscal management policy of funding capital improvements on a cash-only basis. This has drained away precious and finite state dollar resources from other areas where these resources are more needed. This has also caused the State to incur considerably more bonded indebtedness. I have some great fears because of this. The additional power that we may vest with them demands better exercise of fiscal discretion.

"We have recently witnessed one of the most massive expressions of taxpayer frustration in the country, in California's recent

elections. The average taxpayer, it appears, is fed up. He does not appear willing to bear or to understand the additional demands being placed upon him. The fine lines of distinction dividing state, city and federal taxes do not mean anything to him. For the average taxpayer, the bottom line is the number of dollars he or she cannot spend because it is being diverted to governmental coffers. Can we not see that those California taxpayers are saying, 'I'm mad as hell and I'm not going to take this anymore.' Can we not see that Hawaii might be close behind? In giving real property taxing powers to the counties, will the average taxpayer and property owner reap the benefits of this change? What difference will home rule make in the kind and quality of services provided the public?

"May I state for the record that I believe that the counties are 'coming of age.' I understand and sympathize with the cry for local accountability with concomitant responsibility. However, what we are attempting to do here can be much more appropriately dealt with through legislative action, where detrimental or unworkable solutions can be remedied and repealed much more responsively and simply than constitutional conventions held every decade. I have a hard time understanding the urgency to vest constitutional taxing powers with the counties.

"I think that some of us have started to lose sight of why we are here and the people we are supposed to be servicing. We are here to draft a constitution, not to write laws. Mahalo for your indulgence."

There being no further discussion, the motion that Com. P. No. 7, RD. 1 as amended, pass Second Reading and Com. Whole Rep. No. 7 be received and placed on file was put by the Chair and carried.

At this time, the Clerk advised the President that Com. Whole Rep. No. 8 and Com. P. No. 8, RD. 1, relating to the legislature, and Stand. Com. Rep. No. 66 and Com. P. No. 14, relating to taxation and finance, were up for decking purposes. The Clerk then advised that there was a motion by Delegate Hale regarding the Labor Day schedule which had been deferred from earlier in the calendar. The President called for discussion, pending consultation with the chairman of the Hawaiian affairs committee, and recognized Delegate De Soto.

Delegate De Soto then rose to speak against the motion to postpone, requesting that the delegates follow the schedule so they could get on with the business at hand.

Delegate Hale then requested that they convene a little later in the morning to allow extra time for neighbor island delegates who would be returning. Delegate Haunani Ching assured the delegates that this could be worked out. She also pointed out that although Tuesday, September 5, looked like an unscheduled day, it had been left open deliberately as a protection should Second Reading on either the legislature or Hawaiian affairs proposal need extra time.

Delegate Waihee then requested a short recess to determine if accommodation could be made without taking a vote on the motion. Delegate Hale then withdrew her motion, whereupon the President confirmed that the starting time would be delayed until noon.

ADJOURNMENT

At 6:18 p.m., on motion by Delegate Waihee, seconded by Delegate Shinno and carried, the Convention adjourned until 12:00 noon Saturday, September 2, 1978.

FORTY-SEVENTH DAY

Saturday, September 2, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 12:00 noon.

The President presided.

The Divine Blessing was invoked by the Reverend Abraham Akaka of Kawaiahae Church.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Andrews, Hashimoto and Kojima who were excused and Delegates Donald Ching, Chu, Chun, Ellis, Fernandes Salling, Hokama, Pulham, Takehara and Tamayori who were absent.

The President announced that the Journal of the Forty-Sixth Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORTS

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 68) informing the Convention that Stand. Com. Rep. No. 69 and Com. P. No. 15 had been printed and distributed.

On motion by Delegate Tam, seconded by Delegate Crozier and carried, Stand. Com. Rep. No. 68 was adopted.

Delegate Weatherwax, for the Committee on Bill of Rights, Suffrage and Elections, presented a report (Stand. Com. Rep. No. 69) recommending that the proposals enumerated in the report be filed, and submitting a committee proposal (Com. P. No. 15) for introduction and recommending its passage on First Reading.

The President thereupon placed Stand. Com. Rep. No. 69 and Com. P. No. 15, relating to the Bill of Rights, on the calendar for further consideration on Wednesday, September 6, 1978.

INTRODUCTION OF RESOLUTION

A resolution (Res. No. 20) amending Rules 24 and 32 of the Convention was offered by Delegate Les Ihara.

The President thereupon referred Res. No. 20 to the Committee on Rules.

At this time, Delegate Cabral rose on a point of personal privilege and stated:

"Yesterday, the first of September, marked the first anniversary of my retirement from active duty as a member of the United States Armed Forces, after having served our country for over 22 years with honor, pride and distinction. As a member of the armed services, I took an oath of office and placed my life in support of the defense of the Constitution of the United States against all enemies, foreign and domestic, that I would bear true faith and allegiance to the same without mental reservations or purposes of evasion, and that I would defend our country against tyranny, aggression or oppression.

"I say to you that until this day and beyond I have not, nor will I ever, relinquish that oath. More than once I have placed my life on the line to defend that oath and my belief in individual human rights, and I would do so again. That is how strongly I feel about my beliefs and that particular oath.

"As a member of this delegation, I also took a similar oath, as all of you did. Yesterday I also made some disparaging and mindful remarks, primarily to call the attention of this body, as I have often done in the past, to remind them of the commitment we made by our oath of office to serve the interests of the people of the State of Hawaii first and not special interest groups, which appear to have permeated a decisive influence upon this delegation for singular interests. My remarks yesterday were obviously disturbing to some members who interceded to cut off my address and thus stem the truth from being made public. Perhaps my remarks were not statesman-like and would be deserving of an apology.

"However, after sleeping on the matter overnight, I have come to the conclusion that the truth is always disturbing, especially to those who know they have broken a trust. To those who would want and expect an apology from me, I would simply say that my convictions in what I said yesterday are steadfast."

On being recognized by the Chair, Delegate Silva brought to the podium a bowl of fruit representing the unity of the people of Hawaii.

Delegate De Soto then offered ho'okupu in memory of Queen Lydia Kamakaeha Liliuokalani.

ORDER OF THE DAY DEFERRED MATTER

Stand. Com. Rep. No. 58 (Res. No. 17) (Committee on Hawaiian Affairs--Deferred from August 29, 1978):

There being no objection, the President deferred action on Stand. Com. Rep. No. 58 and Res. No. 17, requesting the return of Kahoolawe to the State for use as a cultural sanctuary, until completion of the Committee of the Whole consideration of Com. P. Nos. 11, 12 and 13.

GENERAL ORDER

Com. P. No. 11--RELATING TO HAWAIIAN AFFAIRS:

Delegate De Soto moved that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 11, relating to Hawaiian affairs, seconded by Delegate Barr.

The motion that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 11 was put by the Chair and carried.

The President appointed Delegate Blake to be Chairman of the Committee of the Whole.

At 12:23 p.m., the President vacated the Chair and Delegate Blake assumed the Chair for the Committee of the Whole.

At 1:45 p.m., Delegate Blake vacated the Chair and the President resumed the Chair.

Delegate Blake, for the Committee of the Whole, reported orally that the committee had completed deliberations on the matter referred to it and recommended passage on Second Reading of Com. P. No. 11 with no amendments, and that a written report would be filed later.

On motion by Delegate Blake, seconded by Delegate De Soto and carried, the oral report was adopted.

The President thereupon placed Com. P. No. 11 on the calendar for Second Reading on Tuesday, September 5, 1978.

Com. P. No. 12--RELATING TO HAWAIIAN EDUCATION:

Delegate De Soto moved that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 12, relating to Hawaiian education, seconded by Delegate Barr.

The motion that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 12 was put by the Chair and carried.

The President appointed Delegate Blake to be Chairman of the Committee of the Whole.

At 1:50 p.m., the President vacated the Chair and Delegate Blake assumed the Chair for the Committee of the Whole.

At 4:55 p.m., Delegate Blake vacated the Chair and the President resumed the Chair.

Delegate Blake, for the Committee of the Whole, reported orally that the committee had risen, reported progress and begged leave to sit again.

The President accepted the oral report and announced that the Committee of the Whole would resume its deliberations at that time.

On motion by Delegate Waihee, seconded by Delegate De Soto and carried, the Convention resolved itself into a Committee of the Whole to further consider Com. P. No. 12.

The President appointed Delegate Blake to be Chairman of the Committee of the Whole.

At 4:57 p.m., the President vacated the Chair and Delegate Blake assumed the Chair for the Committee of the Whole.

At 5:10 p.m., Delegate Blake vacated the Chair and the President resumed the Chair.

Delegate Blake, for the Committee of the Whole, reported orally that the committee had completed deliberations on the matter referred to it and recommended passage on Second Reading of Com. P. No. 12 with no amendments, and that a written report would be filed later.

On motion by Delegate Blake, seconded by Delegate De Soto and carried, the oral report was adopted.

The President thereupon placed Com. P. No. 12 on the calendar for Second Reading on Tuesday, September 5, 1978.

Com. P. No. 13--RELATING TO HAWAIIAN AFFAIRS:

Delegate De Soto moved that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 13, relating to Hawaiian affairs, seconded by Delegate Penebacker.

The motion that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 13 was put by the Chair and carried.

The President appointed Delegate Blake to be Chairman of the Committee of the Whole.

At 5:11 p.m., the President vacated the Chair and Delegate Blake assumed the Chair for the Committee of the Whole.

At 6:04 p.m., Delegate Blake vacated the Chair and the President resumed the Chair.

Delegate Blake, for the Committee of the Whole, reported orally that the committee had completed deliberations on the matter referred to it and recommended passage on

Second Reading of Com. P. No. 13 as amended, and that a written report would be filed later.

On motion by Delegate Blake, seconded by Delegate De Soto and carried, the oral report was adopted.

The President thereupon placed Com. P. No. 13 on the calendar for Second Reading on Tuesday, September 5, 1978.

At this time, there being no objection, the President deferred action on Stand. Com. Rep. No. 58 and Res. No. 17 until Thursday, September 7, 1978.

On being recognized by the Chair, Delegate De Soto rose on a point of personal privilege and stated:

"I want to extend thanks to those convention members who have stuck through what may appear to other members as a boring afternoon. This Convention, if it so desires to adopt these proposals set before it on behalf of the Hawaiian community, can go down in history as being the only elective body truly representative of the people throughout Hawaii, which gave any consideration that had meaningful and lasting impact on the native Hawaiian community.

"I am humble this day and very, very grateful for your indulgence and your support, in sight of the heavy pressure brought on by special interest groups. I want to say to you on behalf of the kupuna who have been here all day long and flown in from the outer islands, mahalo nui loa kakou."

The President then congratulated the chairman of the Committee on Hawaiian Affairs and all the members for their fine job, as well as the hardworking chairman of the Committee of the Whole, Delegate Blake.

ADJOURNMENT

At 6:12 p.m., on motion by Delegate Waihee, seconded by Delegate Crozier and carried, the Convention adjourned until 1:30 p.m. Monday, September 4, 1978.

FORTY-EIGHTH DAY

Monday, September 4, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 1:30 p.m.

The President presided.

The Divine Blessing was invoked by the Honorable Thomas H. Hamilton, delegate from the Eighth District to the Constitutional Convention of Hawaii of 1978.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Kojima and Yoshimura who were excused and Delegates Barr, Blean, Cabral, DiBianco, Eastvold, Ellis, Fernandes Salling, Hanaike, Hashimoto, Rachel Lee, Ontai, Penebacker and Sutton who were absent.

The President announced that the Journal of the Forty-Seventh Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 70) informing the Convention that Com. Whole Rep. No. 9 had been printed and distributed.

On motion by Delegate Crozier, seconded by Delegate Tam and carried, Stand. Com. Rep. No. 70 was adopted.

ORDER OF THE DAY

Stand. Com. Rep. No. 66, Com. P. No. 14--RELATING TO TAXATION AND FINANCE:

On motion by Delegate Lewis, seconded by Delegate Takahashi and carried, Stand. Com. Rep. No. 66 was adopted and the proposals enumerated within were filed; Section 1 of Article VI was recommended to be retained without amendment; and Com. P. No. 14, relating to taxation and finance, passed First Reading by title and was placed on the calendar for further consideration on Wednesday, September 6, 1978.

SECOND READING

Com. Whole Rep. No. 8, Com. P. No. 8, RD. 1--RELATING TO THE LEGISLATURE:

Delegate McCall, for the Committee of the Whole, and Delegate Nishimoto, for the Committee on Legislature, presented a report (Com. Whole Rep. No. 8) recommending that Com. Whole Rep. No. 8 be adopted and Com. P. No. 8, as amended in RD. 1, pass Second Reading.

At this time the President announced that there were two amendments to be considered and recognized Delegate Stone.

Delegate Stone moved for the adoption of Amendment No. 1, seconded by Delegate Sasaki, which amended section 4 of Com. P. No. 8, RD. 1, to read in part:

...Not later than the fortieth legislative day of the 1979 regular

legislative session and every eight years thereafter, the commission shall submit to the legislature and the governor recommendations for a salary plan for members of the legislature, and then dissolve; provided that no salary recommended shall be for an amount less than seventeen thousand dollars a year....

Speaking for his amendment, Delegate Stone made the following statement:

"While this proposed amendment may appear superfluous and/or intrusive because said Section 10 of Article III as amended on August 23, 1978 provided for a commission on legislative salary, I urge you to accept my proposed amendment because I believe it is important that this Convention go on record in support of a minimum annual salary of \$17,000 for state legislators, as did a previous constitutional convention set forth in Section 3 of Article V for the judiciary--that the annual salaries may be prescribed by law but be no less than \$28,000 for the chief justice, \$27,000 for associate justices and \$25,000 for circuit court judges. Today these salaries for all three levels of the judiciary are at least 40 percent higher.

"Another reason for this amendment is for this Constitutional Convention to let the electorate know that we believe our legislators are grossly undercompensated and that they are deserving of a salary to meet their basic cost-of-living needs, and to provide them a salary which will make them less dependent on persons outside their immediate family."

Delegate Donald Ching rose to speak against the amendment, mentioning that the legislative committee had considered a similar proposal setting forth a \$17,000 salary and voted it down. Explaining that it was the reaction of the public that he was concerned about, he recalled that in 1968 the convention had recommended a \$12,000 salary which was ratified, but subsequent to the passage there was quite a bit of public reaction. He then observed:

"In tracing the \$12,000 salary from 1968, if the legislators felt that they were underpaid, they could have in the last years--especially in the last 8 years--taken the matter into their own hands and passed a bill making a raise possible for succeeding sessions of the legislature. This they failed to do, leaving it for action either by this Convention or, as was proposed in the committee proposal, by way of a legislative pay commission with negative or veto power by the legislature or the governor. I think that this is the safer way to go.

"Already the press has played it up by saying that this makes it easier for pay raises to be had by the legislature. This may or may not be so, depending on how the commission comes about. If we were to go along with the recommendations set forth in the proposed amendment, again the press might misconstrue it. Now this Convention is not dominated by legislators, as the '68 convention was. However, there are enough of us running for the legislature in the coming election that action such as this might be misconstrued. as innocent and well meaning as it might be by the proponent of this amendment. My recommendation to this Convention is that we not pass this amendment at this time."

Delegate Harris spoke against the amendment, mentioning that he was a candidate running for the legislature. He pointed out that the legislature was a part-time one and their existing \$12,000 salary more than adequate, adding that it would be inappropriate for the Con Con to greatly increase that amount.

Noting that Delegate Lewis had been a member of the previous salary commission, Delegate Hale inquired as to what that commission's recommendation had been. Delegate Lewis responded that the recommendation had been \$17,000 per annum, in 1975.

Delegate Hale then spoke in favor of the amendment, remarking that if the legislature

was so fearful of public reaction that it could not accept the recommendation of a legally authorized salary commission, then a provision of this type would be a good thing for them. The amendment, she observed, offered an honest, open way to let the people know the minimum salary that they expected the commission to recommend. She further stated:

"Although this Convention is not dominated by legislators, supposedly, and 1968 was, in 1968 they really were more honest, because they put the \$12,000 on the ballot. And I think that the confidence the people had in the 1968 constitutional convention was shown by their passing it. And the fact that out of 23 amendments they chose to vote down only one, the 18-year-old vote, shows that the people are discriminating and they do know what they're voting on. I say that if the people did not want their elected representatives to have at least \$17,000, then they shouldn't have it. And this would be an indication to the salary commission to be set up, as to what the people really think.

"I feel that if the people do vote for these constitutional amendments, they will not vote against this particular proposal. They may vote against many others, but I see no basis on which they would vote against this proposal--if a commission that was designated to study this came out with this recommendation as being fair 3 years ago, it certainly is fair now. I believe the electorate is fair in its judgment. If we don't vote this in, I think we are really in the position of trying to pull the wool over the public's eyes, and for that reason they may vote down the whole constitutional package. I urge you to vote for this amendment. I think it's an excellent one."

Delegate Sterling spoke in favor of the amendment, explaining that although he could appreciate the concern of a previous speaker about unfavorable public reaction, he would go on the merits of the proposal. He then added that this had been considered by the commission when they came up with the recommendation.

Delegate Pulham, speaking against the motion, gave the following reasons for his opposition:

"Although the \$17,000 may be fair and may have been the result of that commission's work, as a member of the legislative committee that put out the original proposal, in all honesty we did not do this research. Therefore, I don't see how we can pluck this particular figure out of the air, or take someone's word for it.

"Secondly, we built in that a number of things should be taken into consideration when this salary figure is being arrived at. All of these things we do not have before us; they have not been taken into consideration. Therefore this body, in all honesty, has no basis for plucking \$17,000 out of the air and saying this is the minimum they should receive, much as they may or may not deserve it. I have just returned from spending time to get some much-needed rest, which I didn't get because I was answering constituents. One of the things they were upset about was that we went as far as we did in the legislative salary area. I certainly do not intend now to pluck this \$17,000 figure out of the air and say, 'Here. This is what I want you to do.' There's no way that's going to make it, and there is no way I'm going to vote for it. Thank you."

Delegate Souki then moved to amend the amendment by changing the amount from \$17,000 to \$21,000 a year, seconded by Delegate Calvin Ching. Speaking for his amendment to the amendment, Delegate Souki explained:

"Some of the previous speakers have mentioned that there is no basis for an increase, because there was none in the committee. However, on a very general basis--and relatively simplistic but hopefully with some logic--since 1968 there has been a cost-of-living increase in the State of Hawaii of 77 percent. So you take the 77 percent, times \$12,000, and come out with \$21,000. In purchasing power, it provides

no more dollars than in 1968; in fact, we've given them no increase.

"Also to be considered--the other legislative bodies in the State have given themselves, through commissions, salary increases. The respective county councils--most recently the Maui county council--all saw fit to give themselves a salary increase. The members of Congress gave themselves a salary increase 2 years ago. The legislature of Hawaii is the only one that somehow is prohibited from doing this. I would say that we have every right to provide them a salary commensurate with the work they do. Further, I would like to see this salary go beyond this \$21,000. We speak of ethics, where the legislators should not be participating in outside activities--they shouldn't be working. That is all fine, but we can't expect them to stop by paying them a salary of \$12,000 a year, or even \$17,000 a year, when it costs a family on a lower level of income just to barely subsist in this State--and this is from the department of labor--\$12,000 a year. That is barely to subsist. So, ladies and gentlemen, this is not an unreasonable amendment. Thank you."

Delegate Kaapu, speaking against the amendment, remarked that he did not dispute the figures cited by the movant, that in similar research he had found the \$12,000 figure, calculated in today's dollars, to be close to \$20,000. However, he pointed out, since this was the floor below which the commission wouldn't go, it should be somewhat lower than the actual figure to be proposed, and a \$21,000 figure was too close to the estimate of the total amount they were to be paid. Acknowledging that from his own experience a \$17,000 salary was barely adequate, he then observed:

"I think it's proper for the Constitutional Convention to consider the salary and rate of pay of legislators. It's very difficult for them to consider this themselves--and that's not the reason we ought to--but we should be concerned with the pay of all people who come under the Constitution, and we should set their salaries and the relative pay which they receive. It was unfortunate in 1968, I believe, that we set aside a fixed amount. We should have set a salary in relation to other salaries so that the legislative responsibilities would permit a pay that would be in relation to all others. I hope when the salary commission does study this matter, if this is passed by this Convention, that they will consider the recommendation of a moving salary rather than a fixed amount."

He then suggested that the floor option be put on the ballot as a separate provision from the salary commission as these were two distinct questions, and let the voters decide whether there should be a floor amount in the salary commission's consideration or even a salary commission at all.

Delegate Crozier then spoke against the amendment. He pointed out that while the original amendment dealt with a minimum rate, leaving some leeway for the commission to make adjustments, the amendment to the amendment would make this the actual rate, since the commission couldn't go much higher than that figure. This, he concluded, would take away from the purpose of the commission.

Delegate Souki, speaking last for his amendment, stated:

"I wish to advise the delegates here that the \$21,000 was never meant to be the rate that we would want, but would merely be the minimum rate. Again I wish to impress upon the members here that it was arrived at with some logic. It merely provides for the same purchasing power provided in 1968. So it's not an unreasonable request. I would certainly hope that the commission in its wisdom would provide more than this \$21,000."

There being no further discussion, the question to amend the amendment by changing the \$17,000 salary to \$21,000 was put by the Chair and the motion failed.

Speaking against the original amendment, Delegate Barnes explained that he simply

felt the commission would come up with a similar amount and the \$17,000 figure would be incorporated anyway. He then pointed out a possible conflict of interest for those delegates like himself who were candidates for the legislature, and he stated that he would not vote.

Delegate Stone, speaking for his amendment, observed:

"I look at our legislature as being the State's board of directors. I think our state board of directors is certainly worth more than \$12,000 a year. I would like them to be comfortable with the compensation they get as members of the State's board of directors. Thank you."

There being no further discussion, the question to amend Com. P. No. 8, RD. 1, by Amendment No. 1 was put by the Chair. At this time Delegate Harris requested a roll-call vote the Chair, on determining fewer than ten seconds, declared roll call was not in order. The question was then put and the motion failed.

Delegate Laura Ching then moved for the adoption of Amendment No. 2, seconded by Delegate Kaapu, which amended Com. P. No. 8, RD. 1, by adding a new section to Article III, to read:

NATIONAL CONSTITUTIONAL CONVENTION

Section . The legislature shall apply, in accordance with the provisions of Article V of the United States Constitution, for an unlimited national constitutional convention for the purpose of proposing amendments to the United States Constitution.

Delegate Laura Ching, speaking for her amendment, made the following statement:

"I'm proposing that this Constitutional Convention direct the legislature to apply to Congress for an unlimited national constitutional convention for the purpose of proposing amendments to the U.S. Constitution. This method of amending the Constitution is in accord with the provisions of Article V of the U.S. Constitution.

"Up to the present time, all amendments have been proposed by Congress and all but one have been ratified by the state legislature mode. The Twenty-First Amendment was ratified by conventions called in the various states. Although there has not been a national constitutional convention since 1787, there have been more than 300 applications from state legislatures over the past 184 years seeking such a convention. Every state at one time or another has petitioned Congress for a convention. These state applications have ranged from applications calling for a general convention to a convention dealing with a specific subject--for example, slavery, anti-polygamy, presidential tenure and repeal of prohibition.

"Despite an absence at the national level since 1787, conventions have been the preferred instrument for major revision of state constitutions. As one commentator on the state constitution-making process stated: 'The convention is purely American--widely tested and used.' There have been more than 200 conventions in the states, ranging from 15 in New Hampshire to 1 in 11 states. In a substantial majority of the states the convention is provided for in the state constitution; in the remainder it has been sanctioned by judicial interpretation and practice. According to Robert D. Adams, founder of Conservatives for a Constitutional Convention, in the past 14 years 46 of the 50 states have petitioned Congress for a convention in 138 separate petitions.

"James Madison gave these reasons for including Article V in the Constitution:

"That useful alterations [in the Constitution] will be suggested by experience, could not but be foreseen. It was requisite therefore that a mode for introducing them

should be provided. The mode preferred by the Convention seems to be stamped with every mark of propriety. It guards equally against that extreme which would render the Constitution too mutable; and the extreme difficulty which might perpetuate its discovered faults. It moreover equally enables the general and the state governments to originate the amendment of errors as they may be pointed out by the experience on one side or on the other.'

"There are few articles of the Constitution as important to the continued viability of our government and nation as Article V.

"The Constitution was written by our founding fathers more than 200 years ago. Over the past 200 years our country has changed dramatically--socially, economically and politically. America is not the same today as it was 200 years ago, yet we are forced to live under a Constitution that reflects ideals and standards of the 18th century and not our 20th century.

"A constitution should reflect the values of the citizens it governs. A national constitutional convention is necessary to restructure the Constitution so that it will reflect social and economic conditions of the present day and age. Hawaii's Constitutional Convention is necessary, but even more necessary is a national constitutional convention.

"Some people fear that if the convention method of amending the U.S. Constitution were to be used, a dangerous and radical force would be unleashed into our system. This charge of radicalism does a disservice to the ability of the states and the people to act responsibly when dealing with the Constitution. Hawaii's 1978 constitutional convention is a fine example of how the citizens and the Con Con delegates can responsibly review and amend their Constitution.

"I believe that the United States Constitution should be amended so that our prosecutors and other law enforcement officers can more effectively combat crime. Therefore, we should consider revising the U.S. Constitution's Amendment IV, which protects people against unreasonable searches and seizures, and Amendment V, which prohibits deprivation of liberty without due process of law and guarantees a person against self-incrimination.

"These are merely a few of the amendments that I personally feel should be studied and perhaps changed. I am confident that comprehensive research and examination of all the constitutional provisions together with the amendments would result in many effective and responsible changes in our national Constitution. The effects of these changes would provide a better and more meaningful life for all the citizens of 20th century America. Therefore, I would urge each of my distinguished delegates to join with me in supporting this amendment. Thank you."

Delegate Nishimoto then rose to speak against the amendment. He pointed out that the committee had received testimony from the American Civil Liberties Union and the ILWU opposing a national constitutional convention. These organizations, he advised, had indicated several areas of concern as being problematic. He then discussed the following considerations:

"A significant historical fact is that since the original Constitutional Convention in 1787, there has been no other such convention. This presents the problem of having no precedent with which to guide the convention's actions. Mr. Reinhard Mohr, executive director of the ACLU, said in his written testimony to the committee: 'The convention method has no precedent, is fraught with almost unimaginable difficulties and would require legislative, and probably judicial, resolution of numerous controversial constitutional questions before it

could be implemented.' The business of holding a national constitutional convention is too serious to carry out in such a 'blind' manner.

"Another problem with a federal constitutional convention involves the various logistics necessary to accomplish the task. Questions regarding the number of delegates to be elected, the type of representation desired and the internal rules to be used must be dealt with. Assuming the presently required figures, it is conceivable that 34 states, or two thirds of the total, representing only 30 percent of the population, could call the convention; 26 states, a majority, representing only 16 percent of the population, could propose new amendments; and 38 states, or three fourths of the total, representing less than 40 percent of the population, could ratify them. It is easy to see that a gross underrepresentation of the people could occur under this system.

"Also, unlike 1787, modern-day conflicts and pressures render a national convention nearly impossible. Situations created by our urbanized industrial society are far too complex to provide equitable representation and attention to all issues. The formulation of a convention today would be handicapped. Membership would be made up mainly of political partisans representing either economic forces, racial or religious affiliates and party ideologies. Proceedings would be conducted under the intense glare of publicity, making conscientious decision-making difficult to accomplish. Further, the influence of big business and other political interests would permeate the process and alter the Constitution's language to their own benefit.

"I must also address the fact that this particular amendment calls for an open or 'unlimited' constitutional convention. This type of freedom prevents congressional control over the types of amendments to be submitted. The problem this presents is the potential for revolutionary, radical distortions to be made to the constitutional document. Professor Lawrence Tribe of Harvard University states: 'If and when a new convention is called, its potential for radical change will be hard to confine; there are numerous opinions about what such a convention could and could not do, but there are no precedents and there can be no confident answers.'

"Finally, a convention of state and national delegates would serve to bypass Congress and its nationalistic scope. State or district representatives would surely emphasize their own local desires and might fail to regard the overall ramifications such actions may hold upon the country. It seems that a national constitutional convention opens the avenue for unnecessary and possibly undesired changes. Amendments to our Constitution by Congress have been made by a system which has served well.

"Mr. President, my feeling is that this amendment calls for a convention of such widespread proportions as to be totally impractical in view of the representative and more than satisfactory system that our present Constitution has established. Furthermore, I believe that the State of Hawaii will not benefit from such a convention, in that our representation would be miniscule compared with that of other states. Therefore I urge the delegates to oppose this amendment."

Delegate Goodenow, speaking in favor of the amendment, suggested that the national convention should be on a nonpartisan basis and could be backed by such groups as the Daughters of the American Revolution, the Historical Society of Valley Forge, etc. Referring to business and union conventions, which seemed to produce benefits for society in general, she remarked that the Constitution was a most appropriate place for such benefits. She then observed: "I do think that the realism of today is change, constant change. I think this should be reviewed with that in mind and a nonpartisan group could do it very well."

Delegate Pulham then spoke in opposition to the amendment, voicing his agreement with the committee chairman. He then stated:

"My concern is that apparently we're using our State Constitution at this Convention to give the state legislature a one-time, one-shot order--in other words, you shall do this. What happens to this in the Constitution after that? The Constitution we're working on should not be a document which is alive today and dead tomorrow. What we put in here is hopefully for the next 10, 20, 200 years, and certainly nothing that is going to be dead the moment it's accomplished. Thank you."

Speaking in favor of the amendment, Delegate Hale commented:

"I want to know--who is afraid of change? Change is a basic fabric of our life. Change is something we have to adapt to. This Constitution seems dedicated to very little change. I don't see how you could think, being a member of this Constitutional Convention, that a national one is going to be so radical that they're going to do something we couldn't do here on a local level. Be that as it may, I think if change is necessary, so be it. There should probably be some restrictions written into this, and I don't think it's going to be a one-shot deal, as previously stated. I think it will probably be 10 years before we actually get a national constitutional convention, so the legislature can work on it every year for the next 10 years, and then if it's accomplished they can take it out of the Constitution. The taking out of one-shot deals, such as apportionment put in by the 1968 convention--I really don't see that that's an argument against it. Nor do I see the argument of change as being against it. Our country has changed a lot. Meanings in the Constitution have changed; the supreme court has found it necessary to put new meanings into the same words over these past 200 years.

"I think maybe it is a good time to sit down and reexamine our principles and where we're going. Whether minority or majority, I don't see that this makes much difference, just as long as we get equal input. I would also hope that this constitutional convention would be brought back not to the legislatures, as our constitutional changes presently are, but brought back to the people to vote upon. Then I think we could have some very dramatic changes in our society. I think it's an excellent idea."

Delegate Anae then spoke against the amendment, explaining:

"I feel that the constitutional convention idea on a national level is not a sound one because of the many changes that need to take place in the case of amendments from year to year. I also feel that the basic values contained in the federal Constitution are values that need to be nurtured, kept and preserved, for this is the basis on which this country was organized. I feel that we do have a vehicle today in which amendments can be proposed, and the federal Constitution can be changed without another national convention. I also feel, in order for our children to understand the basis on which this country was formulated, that our Constitution needs to remain as it is. Thank you."

Delegate Laura Ching then spoke for her amendment, stating:

"I would like to address Delegate Nishimoto's remarks on the representation that Hawaii would have. First of all, I think his argument is a little premature at this time. I feel that it would be up to Congress to formally approve a plan of representation for the various states. However, of the various plans that will assuredly be proposed--I am obviously against a one-person, one-vote theory, as Hawaii would literally have no representation when aligned against larger states--I would be more in favor of a senatorial kind of representation in which each state would be represented by the same number of people."

There being no further discussion, the question to amend Com. P. No. 8, RD. 1, by Amendment No. 2 was put by the Chair and the motion failed.

The President then called for discussion on Com. P. No. 8, RD. 1, and there being none, Delegate McCall moved, seconded by Delegate Nishimoto, that Com. Whole Rep. No. 8 be adopted and Com. P. No. 8, RD. 1, pass Second Reading. The question was then put by the Chair and the motion carried.

GENERAL ORDER

Com. Whole Rep. No. 9--RELATING TO THE EXECUTIVE:

Delegate Shinno, for the Committee of the Whole, and Delegate Fukunaga, for the Committee on Executive, presented a report (Com. Whole Rep. No. 9) and recommended its adoption.

On motion by Delegate Shinno, seconded by Delegate Fukunaga and carried, Com. Whole Rep. No. 9 was adopted, Com. P. No. 9 having passed Second Reading on August 30, 1978.

At this time, Delegate Miller rose to make the following remarks concerning the Labor Day holiday:

"We all know that this is one of the important holidays. That august body of the United States Congress has convened only three times for Labor Day--in 1918, in 1942 in the midst of a world war, and once more in 1959, the latter for the dubious reason that they wished to adjourn permanently before the imminent arrival of Premier Khrushchev. You see, Khrushchev, as head of a government, had the diplomatic privilege of addressing Congress should they be in session when he arrived. So on Labor Day morning, Senator Wayne Morris gained the floor and chided the senators for dishonoring Labor Day. He engaged in filibustering and proceeded to read from a three-volume history of the labor movement. Senator Morris was unable to prevent the senate from conducting business that day, but he was able to embarrass the senate into passing a congratulatory resolution on behalf of the working men and women of America.

"Now, under the rules of this body, I will not be able to filibuster. However, I would like to comment a little more on Labor Day. Near the end of the 19th century in New York City, there was a young labor leader, the tenth child of an immigrant Irishman, who had begun his working life at the age of 11 in a piano and furniture factory. His name was Peter James MacGuire, and by 1882 he would become the leader of the Knights of Labor and founder and president of the United Brotherhood of Carpenters. During that year, MacGuire urged the central labor union of New York City to recognize the American labor movement. Said MacGuire: 'There are worthy holidays representing religious and military spirits but none representative of the industrial spirit, the great vital force of every nation.'

"Everyone was quick to agree and, on September 5, 1882, 10,000 workers marched in Union Square, New York. There was picnicking, fireworks and much political rhetoric. The actual date had no particular significance except that it was chosen because it fell approximately mid-way between the 4th of July and Thanksgiving, and this seemed a good time to celebrate a work holiday. The idea of a holiday paying homage to the dignity of honest work began to catch on. The first state to establish it by law was Oregon, in 1887; by 1893, 30 states honored Labor Day. On June 28, 1894, President Grover Cleveland declared the day a holiday for the District of Columbia. Now of course all 50 states observe it.

"Since organized labor is playing such a significant roll in whatever results from this Convention, I would like to make my own Labor Day tribute by quoting Daniel Webster. Said he:

'Labor is one of the great elements of society, the great substantive interest on which we all stand. Not feudal service

or drudgery by one race of mankind subjected on account of their color by another, but labor that is intelligent, manly, independent, thinking and acting for itself, earning its own wages and turning those wages into capital, educating in childhood, maintaining worship, claiming the right of election franchise and helping to uphold the great fabric of the states. That is American labor and all my sympathies are with it....'

"I sincerely hope that when this Convention is concluded, the people of Hawaii will still feel as did Daniel Webster."

ADJOURNMENT

At 2:38 p. m. , on motion by Delegate Waihee, seconded by Delegate Crozier and carried, the Convention adjourned until 11:30 a. m. Tuesday, September 5, 1978.

FORTY-NINTH DAY

Tuesday, September 5, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11:30 a.m.

The President presided.

The Divine Blessing was invoked by the Reverend Ned Brown of Pali View Baptist Church.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Kojima and Villaverde who were excused and Delegates Chung, Nakamura and Ontai who were absent.

The President announced that the Journal of the Forty-Eighth Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORTS

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 71) informing the Convention that Stand. Com. Rep. Nos. 72 and 73; Com. P. Nos. 9, S. 1, 10, RD. 1, 11, 12, 13, RD. 1, and 16; and Com. Whole Rep. Nos. 10 through 13 had been printed and distributed.

On motion by Delegate Crozier, seconded by Delegate Hayashida and carried, Stand. Com. Rep. No. 71 was adopted.

Delegate Weatherwax, for the Committee on Bill of Rights, Suffrage and Elections, presented a report (Stand. Com. Rep. No. 72) recommending that the proposals enumerated in the report be filed, and submitting a committee proposal (Com. P. No. 16) for introduction and recommending its passage on First Reading.

The President thereupon placed Stand. Com. Rep. No. 72 and Com. P. No. 16, relating to suffrage and elections, on the calendar for further consideration on Thursday, September 7, 1978.

Delegate Hamilton, for the Committee on Style, presented a report (Stand. Com. Rep. No. 73) recommending the adoption of Stand. Com. Rep. No. 73 and passage on Third Reading of Com. P. No. 9, S. 1.

The President thereupon placed Stand. Com. Rep. No. 73 and Com. P. No. 9, S. 1, relating to the executive, on the calendar for Third Reading on Friday, September 8, 1978.

ORDER OF THE DAY DEFERRED MATTER

Stand. Com. Rep. No. 67 (Com. P. No. 6, RD. 1, S. 1) (Committee on Style--Deferred from September 1, 1978):

Delegate Hamilton moved, seconded by Delegate Teruo Ihara, that Stand. Com. Rep. No. 67 be adopted and Com. P. No. 6, RD. 1, S. 1, relating to education, pass Third Reading.

The motion to adopt Stand. Com. Rep. No. 67 and to pass on Third Reading Com.

P. No. 6, RD. 1, S. 1, was put by the Chair and carried by a vote of 92 ayes, 2 noes and 8 excused; with Delegates Alcon, Anae, Andrews, Barnard, Barnes, Barr, Blake, Blean, Burgess, Cabral, Campbell, Calvin Ching, Donald Ching, Laura Ching, Haunani Ching, Chong, Chu, Chun, Crozier, de Costa, De Soto, Dyer, Eastvold, Ellis, Fernandes Salling, Fujimoto, Fukunaga, Funakoshi, Fushikoshi, Goodenow, Hagino, Hamilton, Hanaike, Harris, Hashimoto, Hayashida, Hino, Hirata, Hironaka, Hoe, Hokama, Hornick, Dennis Ihara, Les Ihara, Teruo Ihara, Ikeda, Ishikawa, Iwamoto, Izu, Kaapu, Kaito, Kimball, Kono, Lacy, Ledward, Marion Lee, Rachel Lee, Lewis, Liu, Marumoto, McCall, Miller, Nishimoto, Odanaka, Okamura, O'Toole, Penebacker, Peterson, Pulham, Sakima, Sasaki, Shinno, Shon, Silva, Souki, Stegmaier, Sterling, Stone, Sutton, Taira, Takahashi, Takehara, Takitani, Tam, Tamayori, Uyehara, Waihee, Weatherwax, Wurdeman, Yamashita, Yoshimura and President Paty voting aye; Delegates DiBianco and Hale voting no; and Delegates Chang, Chung, Kojima, Nakamura, Nozaki, Ontai, Takemoto and Villaverde being excused.

At 11:40 a. m. , the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 11:43 a. m.

GENERAL ORDER

The Clerk announced that Com. Whole Rep. Nos. 10, 11, 12 and 13 were up for decking, and were placed on the calendar for Second Reading on Thursday, September 7, 1978.

Delegate De Soto then made the following speech:

"Mr. President:

"I rise to speak to a point of deep concern. I am gravely concerned about the activities that have occurred these last few days, with respect to the Hilo airport demonstration. More importantly, however, I am deeply concerned about how that activity is looked at by this Convention and the broader community.

"Mr. President, I believe the demonstration to have been an honest and genuine expression of the anxiety and frustrations that many of our native Hawaiian people face today. Our Hawaiian community by and large is the victim of injustices, past and present. We face many closed doors, and as a result many look ahead to an even more dismal future.

"Our children are pushed through the education system, without even achieving the ability to read and write. From here they go into the job market and are not able to compete because of these deficiencies. The ultimate then becomes either welfare or prison. I urge the delegates to please understand the Hawaiians' plight with an open heart and mind. The community of Hawaii must also understand and be ready to ratify the proposals that this Convention will submit to the electorate.

"Mr. President, Hawaii must respond to the needs of the native Hawaiians; the time has come. Never again will the opportunity be before us to help the native Hawaiians. Mahalo."

ADJOURNMENT

At 11:47 a. m. , on motion by Delegate Waihee, seconded by Delegate Funakoshi and carried, the Convention adjourned until 8:30 a. m. Wednesday, September 6, 1978.

FIFTIETH DAY

Wednesday, September 6, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 8:30 a.m.

The President presided.

The Divine Blessing was invoked by Rabbi Julius Nodel of Temple Emanu-El.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegate Eastvold who was absent.

The President announced that the Journal of the Forty-Ninth Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 74) informing the Convention that Res. No. 21 had been printed and distributed.

On motion by Delegate Crozier, seconded by Delegate Hayashida and carried, Stand. Com. Rep. No. 74 was adopted.

INTRODUCTION OF RESOLUTION

A resolution (Res. No. 21) amending Convention Rule 61 was offered by Delegate Campbell.

The President thereupon referred Res. No. 21 to the Committee on Rules.

ORDER OF THE DAY

Stand. Com. Rep. No. 69, Com. P. No. 15--RELATING TO THE BILL OF RIGHTS:

On motion by Delegate Weatherwax, seconded by Delegate Shinno and carried, Stand. Com. Rep. No. 69 was adopted and the proposals enumerated within were filed, and Com. P. No. 15, relating to the Bill of Rights, passed First Reading by title and was placed on the calendar for further consideration on Friday, September 8, 1978.

GENERAL ORDER

Com. P. No. 14--RELATING TO TAXATION AND FINANCE:

Delegate Lewis moved that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 14, relating to taxation and finance, seconded by Delegate Takahashi.

The motion that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 14 was put by the Chair and carried.

The President appointed Delegate Ishikawa to be Chairman of the Committee of the Whole.

At 8:48 a.m., the President vacated the Chair and Delegate Ishikawa assumed the Chair for the Committee of the Whole.

At 12:24 p.m., Delegate Ishikawa vacated the Chair and the President resumed the Chair.

Delegate Ishikawa, for the Committee of the Whole, reported orally that the committee had risen, reported progress and begged leave to sit again.

The President accepted the oral report and announced that the Committee of the Whole would resume deliberations later that day.

At 12:25 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 1:30 p.m.

On motion by Delegate Lewis, seconded by Delegate Alcon and carried, the Convention resolved itself into a Committee of the Whole to further consider Com. P. No. 14.

The President appointed Delegate Ishikawa to be Chairman of the Committee of the Whole.

At 1:44 p.m., the President vacated the Chair and Delegate Ishikawa assumed the Chair for the Committee of the Whole.

At 5:17 p.m., Delegate Ishikawa vacated the Chair and the President resumed the Chair.

Delegate Ishikawa, for the Committee of the Whole, reported orally that the committee had risen, reported progress and begged leave to sit again.

The President accepted the oral report and announced that the Committee of the Whole would resume deliberations later that day.

At 5:18 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 7:20 p.m.

On motion by Delegate Lewis, seconded by Delegate Takahashi and carried, the Convention resolved itself into a Committee of the Whole to further consider Com. P. No. 14.

The President appointed Delegate Ishikawa to be Chairman of the Committee of the Whole.

At 7:24 p.m., the President vacated the Chair and Delegate Ishikawa assumed the Chair for the Committee of the Whole.

At 10:40 p.m., Delegate Ishikawa vacated the Chair and the President resumed the Chair.

Delegate Ishikawa, for the Committee of the Whole, reported orally that the committee had risen, reported progress and begged leave to sit again.

The President accepted the oral report and announced that the Committee of the Whole would resume deliberations the following day.

ADJOURNMENT

At 10:42 p.m., on motion by Delegate Silva, seconded by Delegate Taira and carried, the Convention adjourned until 10:00 a.m. Thursday, September 7, 1978.

FIFTY-FIRST DAY

Thursday, September 7, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 10:00 a.m.

The President presided.

The Divine Blessing was invoked by the Honorable Larry S. Uyehara, delegate from the Seventeenth District to the Constitutional Convention of Hawaii of 1978.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegate Donald Ching who was excused.

The President announced that the Journal of the Fiftieth Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORTS

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 75) informing the Convention that Stand. Com. Rep. Nos. 76 and 77 and Com. P. Nos. 7, RD. 2, and 17 had been printed and distributed.

On motion by Delegate Ledward, seconded by Delegate Alcon and carried, Stand. Com. Rep. No. 75 was adopted.

Delegate Hamilton, for the Committee on Style, presented a report (Stand. Com. Rep. No. 76) recommending the adoption of Stand. Com. Rep. No. 76 and passage on Third Reading of Com. P. No. 7, RD. 2.

The President thereupon placed Stand. Com. Rep. No. 76 and Com. P. No. 7, RD. 2, relating to local government, on the calendar for Third Reading on Saturday, September 9, 1978.

ORDER OF THE DAY DEFERRED MATTER

Stand. Com. Rep. No. 58 (Res. No. 17) (Committee on Hawaiian Affairs--Deferred from September 2, 1978):

Delegate De Soto, for the Committee on Hawaiian Affairs, moved for the adoption of Stand. Com. Rep. No. 58 and Res. No. 17, requesting the return of Kahoolawe to the State for use as a cultural sanctuary, seconded by Delegate Alcon. On being recognized by the Chair, Delegate De Soto stated:

"Mr. President, like the Hawaiian people, very little was known about Kahoolawe. No real research, except for an inconclusive try by J. Gilbert McAllister in 1931, was done on Kahoolawe. Kahoolawe was historically regarded as one of Hawaii's major islands. It was said to be the home of the shark god and was later sought by Kamehameha the Great as booty in a negotiated peace settlement. Kealaikahiki Point, the legendary navigational point for long journeys into the South Pacific, is located on Kahoolawe. It was this point that the Hawaiians used along with others to form a navigational triangle for trips to Tahiti, New Zealand and other southerly areas.

"Recent archaeological findings indicate that Kahoolawe is studded with ko'a--fishing shrines, heiau--places of worship, house foundations and artifacts. There are also indications of a unique adz factory and numerous tools fashioned out of basaltic glass. In addition, glass factories appeared to thrive on Kahoolawe, and new evidence of dry-land crops like sweet potatoes was found. Of the 100 sites so far recorded, 96 are expected to qualify for the National Register. Leading authorities on Hawaiian history, such as Kenneth Emory in 1977, referred to Kahoolawe as 'worthless.'

"Mr. President, honorable members of this Convention, I submit that like the Hawaiian people, a rich, valuable historical past has been uncovered. Our own state archaeological team called Kahoolawe 'an archaeologist's dream come true.'

"I'd like to spend the rest of my life on Kahoolawe,' said Dr. Robert Hommon in 1977. Many people have called our sister island Kahoolawe barren, useless. But we have found water, we have been on the Island of Kahoolawe--and when I was there, I wished that all the people I love so dearly could experience her as I did.

"Mr. President, much of the culture in Hawaii for native Hawaiians is steeped in Kahoolawe. In coming full circle for native Hawaiians, we need Kahoolawe. We are not anti-military--many of our family have died in wars to protect the nation. I dare say that when our young people are trained for warfare in California, at Fort Ord and other areas, they come out loving their nation. But they love Kahoolawe, too. Kahoolawe is important to the Hawaiian people today. Many of us have differences of opinion, that's true. However, I feel that when Kahoolawe is ready to be returned to the State, the State should protect and refurbish Kahoolawe and restore those heiau, restore those fishing ko'a, so that our kupuna may be laid to rest in peace with themselves and with Kahoolawe. For this, Mr. President, I urge this delegation to adopt this resolution. Mahalo."

The President called for further discussion and recognized Delegate Campbell, who rose to speak in favor of the resolution. First explaining that her comments were motivated not only by her feelings but also by a rational evaluation of the facts and circumstances, she then addressed the problem of Kahoolawe.

Delegate Campbell stated that no issue was being taken with the fact that the island was under the complete authority of the U.S. navy at present, nor that the U.S. navy was using it as a needed bombing range. However, she continued, under the agreement allowing the island to be used by the U.S. navy, there were provisions for its eventual return to civilian use. She then stated that the question before the delegates was whether they believed this was the time to restore and return it to the State for use as a cultural, living sanctuary. The question, she continued, was whether they wished to balance the equity in favor of a regeneration of the roots of the Hawaiian culture and whether they wanted to do it now.

In making her decision, she stated, she had looked to the many Hawaiian people who had been willing to put themselves in jeopardy because they wanted to regain their culture by opening access to Kahoolawe, and she had also looked to the Hawaiian forebears who slept in the depths of the earth at Kahoolawe and wondered why it was necessary to drop bombs in order to insure peace. She further stated that she too would like to see the rubble turned to verdant green, that she too felt a commitment, felt the force of a unity and aloha that was at stake there, and that she believed the time had now come.

In concluding, Delegate Campbell quoted a contemporary American writer who grew up in the deep South where she saw many injustices against black people, Lillian Smith, who said before she died: "When the annals of the history of our generation are written, the villain will be not the purveyors of evil but those of us who knew what was right and did nothing about it." Pointing out that if the delegates knew what was right they should do something about it, she then urged the body to vote in favor of the resolution.

Delegate Sterling then rose to speak for the motion, urging delegates who had experienced the wonders of nature to vote for the resolution.

There being no further discussion, the question to adopt Stand. Com. Rep. No. 58 and Res. No. 17 was put by the Chair and the motion carried.

GENERAL ORDER

Stand. Com. Rep. No. 72, Com. P. No. 16--RELATING TO SUFFRAGE AND ELECTIONS:

On motion by Delegate Haunani Ching, seconded by Delegate Waihee and carried, Stand. Com. Rep. No. 72 was adopted and the proposals enumerated within were filed, and Com. P. No. 16, relating to suffrage and elections, passed First Reading by title and was placed on the calendar for further consideration on Monday, September 11, 1978.

At 10:25 a.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 10:30 a.m.

There being no objection, the President at this time deferred action on Com. Whole Rep. No. 10 and Com. P. No. 10, RD. 1, relating to the judiciary, until Friday, September 8, 1978.

SECOND READING

Com. Whole Rep. No. 11, Com. P. No. 11--RELATING TO HAWAIIAN AFFAIRS:

Delegate Blake, for the Committee of the Whole, and Delegate De Soto, for the Committee on Hawaiian Affairs, presented a report (Com. Whole Rep. No. 11) recommending that Com. Whole Rep. No. 11 be adopted and Com. P. No. 11 pass Second Reading.

The President called for discussion and recognized Delegate Hale, who rose and made the following statement:

"I would just like to state that I'm going to have to, in good conscience, vote against this and I want to explain why. I really think that we are throwing the Hawaiian people to the wolves. I don't believe that the act which says in the Constitution that it shall be changed by the legislature is a matter that should be put before the people in a constitutional referendum. I don't think it's going to be possible, in terms of all the other things people will have to consider and vote upon, for them to rationally consider what we are doing here. I feel that this should be done in the form of a resolution--it should be done by the legislature and not be subject to the vote of the people.

"Although my heart goes out--my sympathies go out, and I am certainly in complete accord with all the things that are said here, I just don't think this is the proper vehicle. That is the reason I'm going to have to vote against it."

Delegate De Soto then rose to state:

"Mr. President, again we have history before us as native Hawaiian people. Does the previous speaker think that I would throw my own people to the wolves? We have history repeating itself when a non-native gives us sympathy, gives us the accolades that go along with sympathy, and doesn't want to do anything else.

"Mr. President, I'm sorry, but what your Committee on Hawaiian Affairs has prepared for consideration by the public--and I have strong faith in the public--requests that the State assume their fiduciary responsibilities, those responsibilities that they accepted as a condition of statehood. Many of the problems with our Hawaiian people have already been stated on this floor. Without money, without revamping of the system, the Hawaiian homes department and that program will fail miserably. So unless somebody here or in the world shows me how you eat sympathy, with

or without salt, I strongly recommend that this Convention adopt Committee Proposal No. 11. Mahalo."

Delegate Silva, speaking in favor of the motion, urged the delegates to pass the proposal. It was, he stated, because of the system, the feeling of being part-Hawaiian, that this should be put out to the people, that "all the people, whatever color or creed, are Hawaiian, and they should be given the opportunity to vote for something that is a part of their culture, too."

Delegate Sterling then spoke in favor of the motion. He assured the delegates that everything in the proposal had been checked out legally, explaining that what had been done to the Hawaiians had been done legally, through laws that were passed by those in control, and that they wanted to play by the same rules and according to law.

Delegate Kaapu also spoke in favor of the motion. He observed that there could be no question as to the desirability of passing and submitting the proposal to the voters, pointing out that if it failed they would be no worse off than they were, but if it passed they would have made tremendous progress toward meeting the needs. Not to try to make that progress, he concluded, would be their only real fault.

Delegate Sutton, as a keiki o ka 'aina, also voiced his support of the proposal.

Delegate Burgess rose to speak against the motion, stating:

"No matter how just the cause or how strong the feeling and how meritorious or how beautiful the poetry, I believe that we are here as constitution-makers and not as legislators. This proposal is specific legislation and specifically requires the appropriation of moneys. We have not apparently investigated the cost--I have heard figures of \$200 and \$300 million to carry out the programs that are appropriated in this proposal--I refer specifically to page 2. I believe that we are venturing into an area beyond what we are supposed to do as delegates to this Convention. I therefore speak against it."

Delegate Crozier, speaking in favor of the proposal, remarked that the State had been given the power to help finance nuclear power plants for utility companies and big businesses coming here, and that if they could do this for them, they could do something for the Hawaiians.

Delegate DiBianco then rose to speak in favor of the proposal and to explain why he would be voting kanalua. He stated:

"I have somewhat the same problems that Delegates Burgess and Hale have with this proposal. I am confused by some of the language on page 2. I don't know how much money is involved here, and it troubles me. I don't know whether this Convention realizes the extent to which it is mandating the State to guarantee funds. I'm troubled by some of the language on page 7, whereby land owned by the United States cannot be transferred without the approval of the Hawaiian Homes Commission, granted in conjunction with the United States agency. It seems to me that that may very well be an unconstitutional provision, since no state can advise or control the transfer of lands owned by the United States government. For those reasons, though I do support the basic concept of the proposal, I cannot vote in the affirmative and will be voting kanalua."

Delegate Chung spoke in favor of the proposal. Acknowledging that the subject could be a very emotional one, he pointed out that he spoke on facts that were before him and then read the following from The Hawaii Ceded Land Trusts: Their Use and Misuse, (1st edition) by Mitsuo Uyehara:

"The real objective of the Hawaiian Homes Commission Act of 1920 was achieved. Sugar interests obtained the lands they wanted, including the repeal of the 1,000-acre limitation clause. The native Hawaiians received the concept of rehabilitation, and we are still

grappling with the real and true meaning of 'rehabilitation.' The rehabilitation concept could not work because the Hawaiian Homes Commission Act of 1920 was never intended to work; to be successful."

Noting that they had survived for over 59 years on it, Delegate Chung suggested that it was time to try something new and urged support of the proposal.

Delegate Blake then rose and urged all the delegates to support the proposal.

Delegate Hoe, speaking in support of the proposal, appealed to the delegates to submit it to the public rather than just debate whether it had a chance. Referring to the extensive studies and consultations carried out by the committee, she then expressed her agreement with Delegate Kaapu that the only wrong would be not to try.

Delegate Taira then spoke in favor of the proposal. As a member of the submission and information committee, he pointed out that the real challenge would be in making sure the true facts behind the Hawaiian affairs proposals were clearly available to the public in November so that all the proposals would be accepted and ratified.

As a former employee of the Department of Hawaiian Home Lands, Delegate Stegmaier also spoke in favor of the proposal and of how important the provisions in it would be for that department's progress.

There being no further discussion, Delegate Blake moved, seconded by Delegate De Soto, that Com. Whole Rep. No. 11 be adopted and Com. P. No. 11 pass Second Reading. The question was then put by the Chair and the motion carried.

Com. Whole Rep. No. 12, Com. P. No. 12--RELATING TO HAWAIIAN EDUCATION:

At this time Delegate Blake, for the Committee of the Whole, and Delegate De Soto, for the Committee on Hawaiian Affairs, presented a report (Com. Whole Rep. No. 12) recommending that Com. Whole Rep. No. 12 be adopted and Com. P. No. 12 pass Second Reading.

The President then reviewed the order of the amendments to this proposal.

At 10:48 a.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 10:52 a.m.

At this time Delegate Ledward moved for the adoption of Amendment No. 1, seconded by Delegate De Soto, which amended section 1 of Com. P. No. 12, to read:

The State shall promote the study of Hawaiian culture, history, and language.

The State shall provide for a [comprehensive] Hawaiian education program, consisting of language, culture and history, [as part of the regular curriculum of] in the public schools. The use of community expertise shall be encouraged as a suitable and essential means in furtherance of the Hawaiian [language, culture and history] education program.

Speaking for her amendment, Delegate Ledward explained that the Hawaiian culture studies program was at that time part of the DOE's social studies curriculum and that like any other program it was only as good as the staff and the kind of pupils in the class. She pointed out that mandating implementation of a program did not guarantee its success, citing the 3-on-2 program as an example.

She then stated that she wholeheartedly agreed with the concept of the proposal but felt that the language was too restrictive, directing that only the public schools teach Hawaiian culture, language and history. All the people of Hawaii, not just the children, she stated, should have the opportunity of knowing about the Hawaiian culture. She then suggested that the State could accomplish this by utilizing all its resources, public and

private--such as the state foundation of the arts, Bishop Museum, botanical, civic and Hawaiian organizations, the Chamber of Commerce, HVB, etc.--and most important, the people themselves.

The statement contained in the education committee proposal, Com. P. No. 6--that the State "promote the study of Hawaiian culture, history and language"--was, she noted, her own preference, having broader implication for a statewide education program. She then explained that the education and Hawaiian affairs committees had decided to combine efforts and incorporate the two proposal statements into one, which was Amendment No. 1.

Delegate Waihee then rose to speak in favor of the amendment, noting that it kept the original language and intent of the Hawaiian affairs proposal and added the language passed earlier in Com. P. No. 6. He explained that the State was now mandated, in addition to providing for a Hawaiian education program in the public schools and utilizing community resources for it, to promote the study of the Hawaiian language, history and culture in all phases of state activities.

Delegate Haunani Ching also spoke in favor of the amendment and observed that, as a part of the visitor industry and having worked for uniform Hawaiian studies within the school system, she was pleased to see it now would be implemented through all state activities.

Delegate Takehara, speaking in favor of the motion, observed that the amendment would focus on the continued need for Hawaiian studies and would enrich children's education as well as preserve the culture. Paraphrasing a thought by Larry Kimura, Hawaiian language instructor at the University of Hawaii, she reflected that the Hawaiian language, culture and history were like "fragile native plants struggling in the shadow of overbearing introduced trees." And, she noted, if inroads were to be made in this resurgence, they must encompass 200 years of deliberate and inadvertent obliteration of the soul and values of a nation.

Also speaking in favor, Delegate Villaverde congratulated the education committee and Delegate Ledward and observed that, having been silent in this area for a long time, it was now as much a privilege to be vocal as to be able to vote for the amendment.

Delegate Anae, speaking in favor, explained that, as a social studies teacher, he had seen colleagues assigned to teach Hawaiian studies and history with very meager backgrounds in these areas, and he urged support of the amendment and proposal that now mandated the State to train teachers and to use community expertise.

Delegate Uyehara, speaking for the amendment, voiced his approval of the "union" of the two committee proposals and hoped that it would "produce lots of aloha."

Delegate de Costa, also speaking for the motion, observed that although he had lived in Hawaii all his life, he had a limited facility in the Hawaiian language, noting: "I want my kids to grow up and be able to speak Hawaiian, and not the pilau words that I know."

There being no further discussion, the motion to amend Com. P. No. 12 by Amendment No. 1 was put by the Chair and carried.

Delegate Burgess then moved for the adoption of Amendment No. 2, seconded by Delegate Hale, which amended Com. P. No. 12 by deleting in its entirety section 4, which dealt with traditional and customary rights. Speaking for his amendment, Delegate Burgess reminded the delegates of his questioning in the Committee of the Whole as to the rights being granted by this provision, and that he had been assured this granted no new rights but merely reaffirmed rights already in the statutes. His inquiry as to the specific rights that were covered, he noted, had not yet been answered.

Since then, he stated, he had done a little research, which he discussed as follows:

"One of the sources that I used was Louis Cannelora's book, The Origin of Hawaii Land Titles and of the Rights of Native Tenants. In the summary of the law, which he has on page 45, he

says this: 'The rights of tenants under both ancient custom and the laws of 1847 were abrogated and superseded by the adoption of the Hawaii Revised Statutes, Section 7-1.' That statute enumerates all the rights to which tenants are entitled, except for fishing rights. Indeed, definitions of the terms 'tenants,' 'native tenants' and hoa'aina are synonymous, and the term 'people' as used in Hawaii Revised Statutes, Section 7-1, is synonymous with the term 'tenants,' the effect of the parenthetical definition by the majority in McBryde v. Robinson of the words 'the people' as meaning owners of land.

"So my conclusion, and I believe the conclusion of Mr. Cannelora, is that the rights of tenants, as presently defined in Section 7-1 of the Hawaii Revised Statutes, is limited to owners of land--that means the kuleana owners within the ahupua'a. I believe that this provision in the proposed amendment to our Constitution changes that. I believe from reading the committee report that this provision goes beyond the law as it presently exists, and it would reaffirm and mandate the State to protect all rights which were traditionally exercised 'for subsistence, cultural and religious purposes, subject to the right of the State to regulate the same.' I believe, at least from the discussion I have heard on this proposal, it goes far beyond what most of us understand it to do."

Amending a constitution, he concluded, should be done carefully and without changing the law as it had come into existence over the last 150 or 200 years.

Delegate Sterling, speaking against the amendment, remarked that it was impossible for a foreigner to understand a cultural Hawaiian reference, that unless the Hawaiian culture was understood there could be no reference to it. Citing some examples of these rights, he then commented that they were seeking a legal solution to protect the unwritten cultural rights of a people.

Delegate Waihee then rose to speak against the amendment, stating that he did not understand what the movant meant or saw by the amendment. He then indicated what he saw in the committee proposal--that it would guarantee the rights in the statutes. As to guaranteeing more than that, he pointed out, there were certain checks and balances--such as that the burden of proof would be on the person wishing to assert a new right, and that the State would regulate the reasonable exercise of these rights.

Delegate Haunani Ching, speaking against the amendment, recalled the pleasant times she had had hiking at Sacred Falls as a child. She then expressed her chagrin, on taking her own children there, to discover that there was now a \$1.50 charge to go up to the falls, and she voiced her regret that they must now pay to go to the mountains or the sea. Access to the mountains, she observed, should be free to all.

Delegate De Soto then spoke against the amendment, pointing out that Section 7-1 of the Hawaii Revised Statutes was the predecessor of the kuleana act, which intended that the rights be reserved to the maka'ainana. Referring to the Privy Council of 1848, she stressed that the intention was to protect the rights of the hoa'aina and the maka'ainana and preserve their lifestyle.

Delegate Kaapu, speaking against the amendment, referred to the early attempts of the first European arrivals in Hawaii to classify what they saw. He explained that the European forms, terminology and relationships which they overlaid upon the Hawaiians were not always very precise. He then continued:

"There was another attitude which was prevalent among those who came, and many of those who came from the United States later, to assist the Hawaiian people in uplifting their culture and to change their pagan ways. They also had the attitude that those things they found among the Hawaiians were somehow not as advanced or as acceptable as the forms they themselves had brought over from the United States or had inherited from Europe. They viewed the Hawaiians according to the patterns they had been taught and

attempted to convey to the Hawaiians and instill in them these understandings and terminology.

"Now this was brought into the laws of Hawaii very early. A tale was related to me by a Bishop Estate trustee who is now the owner of a small piece of land in Nuuanu that was once part of a large holding. King Kamehameha III was confronted with a problem. The owner of the land, who had been given a grant by him, was a foreigner of the Hudson Bay Company, and he had upon his land many tenants. He had in his plans to displace these tenants and create some form of plantation. The tenants went to the king and petitioned him for help. The king turned to his chief justice and asked, 'Is this right? Can this be done? Can the tenants be displaced?' The concept of displacing tenants was alien to the king. And the chief justice said to him, 'Yes, your Majesty. In your grant of ownership of this land goes the right to displace the tenants.' This was not his understanding of what ownership meant; the king's understanding of ownership meant that he was responsible for seeing that the rights of his tenants were preserved. And this same misunderstanding seems to have pervaded the legal proceedings of the Islands and the actions taken later. Needless to say, in the instance of the story, the king was helpless to act within legal form, but he soon found some reason to declare the Hudson Bay representative *persona non grata*, and he left and never returned. I don't know what became of the tenants; I guess in later days they probably were displaced.

"However, this same problem, this same misunderstanding exists today in the interpretation of the legal terms which are sought to be given Hawaiian equivalents; that is, the Hawaiian terms that are translated into English equivalents cannot precisely convey the rights that were obtained by the Hawaiians. For this reason, I think that the proposal as it was set forth by the committee would seek to reestablish for those Hawaiians any rights which they once had which were never properly given up, so that in some future court of law or in some action of the legislature these can be better defined and made available today. The protections that Delegate Waihee set forth are more than reasonable, and I want to remind the delegates that when the lands were transferred to the United States by the provisional government, there was a clause in the Organic Act that said that all those rights and laws, pertaining to land laws, that existed in Hawaii prior to annexation would remain in effect until Congress otherwise legislated--and Congress has never legislated otherwise. Although there may be those who claim today that abrogation has been made by statutory action or that certain English terms are equivalent to Hawaiian terms, and that we must then be governed by them, I'm not persuaded by that argument, as I once might have been, because of the realization now that Hawaiian rights, whatever they were--although they may be dimly recalled--could still be reaffirmed. The original proposal does that."

Delegate Hoe then spoke against the amendment, emphasizing that no new rights were being created and referring to the statutes that recognized and supported Hawaiian rights. The basis of all of those, she continued, would be Section 1-1, in which English common law was declared to be the common law of the State "except as otherwise expressly provided...by Hawaiian judicial precedent, or established by Hawaiian usage." She then observed that the provision did not threaten, override or challenge other rights but merely sought to protect and reaffirm those rights that were threatened, challenged or eroded.

Delegate Barr, also speaking against the amendment, referred to the widespread belief in natural law, laws of relationships, to humans and to the land, that had been held by the people when the country was first founded, and noted with regret that faith had since decreased. He then pointed out that the provision was a minimum recognition of that natural order of things recognized by the Hawaiian culture, and he urged the delegates to give at least that much in respect for their belief in natural law.

Delegate Shon then rose to speak against the amendment, admitting that earlier his attitudes had been considerably different but that the committee, through its work, dedication and expertise, had given them all an education, and he urged the delegates to defeat the amendment.

Delegate Dennis Ihara, also speaking against the amendment, mentioned that in committee he had voiced the same concerns the movant did, but that research into the Hawaii Revised Statutes had convinced him that the intent of the statute was contained in the committee proposal.

Delegate Crozier then spoke against the amendment. He acknowledged that he too had had problems with rights, until he was referred to Section 2 of Article I of the Constitution. Quoting from this section on the rights of man, he then pointed out that with the rights there were going to be duties, adding, "They're going to have to work for what they get."

Also speaking against the amendment, Delegate Barnes urged the delegates to listen carefully to what they were hearing. He pointed out that the provision was a redefinition of the rights exercised for subsistence, cultural and religious purposes and that putting it into the Constitution would bring it closer to the meaning of the law, and he urged the delegates to listen and take the role of student rather than teacher.

Delegate Chung, speaking against the amendment, discussed some of the qualities and characteristics of Kamehameha I from which the basic rights of the Hawaiian people had evolved.

Also speaking against the amendment, Delegate Villaverde recounted various instances in which he had discovered recreation areas on the Big Island that had always been accessible in the past that were now fenced off and restricted, and he concluded that this could happen throughout the State if the amendment passed.

Delegate Hale then rose and inquired as to the rights being referred to, and if the provision would give Hawaiians the right to go to Sacred Falls.

Delegate Campbell, in response, suggested referring to the statute that had been discussed earlier, and added that she felt it revealed attorneys could differ in interpretation.

Delegate Hale in response indicated her awareness of the statute and explained that she didn't feel reading it would provide the answer. She then questioned how, if this was already law, areas could still be restricted, referring to the experiences of Delegates Villaverde and Haunani Ching. If that was what was being put in the Constitution, she added, why could they not do these things that were already guaranteed by the statutes.

Delegate Sutton rose to answer, noting that they referred specifically to customary and traditional rights exercised for subsistence, cultural and religious purposes, and that these must be proven rights, over a longer period of time than one generation.

Delegate Campbell then rose to state that she had reviewed Section 7-1 and that unless the term "people" meant "tenant" there seemed no purpose for the section at all. Quoting from the list of rights in the statute, she concluded that "unless the purpose of this statute is to show the rights of the tenants in contra distinction to the landlords', then there is no purpose for the statute."

Delegate Hale then rose to speak for the amendment, remarking that she had been waiting to learn and hear the facts but that as yet she had heard only emotion. She then stated:

"No one has really specified what rights we are talking about, except by reference to law. And if this law which has been in the books has not been effective, then I don't see any point in trying to fool the Hawaiian people by saying we are going to give them rights which are the same rights, and make it 'subject to the right of the State to regulate the same.' In other words, we are going right back to the legislature for these rights that are in the law that cannot be enforced right now, even though the law is on the books. If

there are other rights that we are talking about, then I think they should be delineated."

There were certain rights, she further stated, that she was for, which were good for the Hawaiian people and for everybody, and if she knew what rights were referred to here she would be for the provision. But, she concluded, not knowing, she could not in good conscience vote for it.

Delegate Waihee rose to speak against the amendment, reiterating that the provision provided the vehicle for an individual to prove the existence of traditional rights and that if it met the burden of proof, the right would then become subject to the regulations of the State. He noted that, rather than being harmful to any group, it would be beneficial to the entire public, and that in a society of laws no law could be passed that would contradict other laws of the society or that would violate the fundamental rights of individuals.

Delegate Silva then rose and moved for the question. There being no further discussion, the question to amend Com. P. No. 12 by Amendment No. 2 was put by the Chair and the motion failed.

At this time Delegate Takemoto rose to withdraw Amendment No. 4 on quieting title.

Delegate Fukunaga then moved for the adoption of Amendment No. 3, seconded by Delegate Silva, which amended section 5 of Com. P. No. 12 on quieting title, to read:

No person shall be deprived of title to an estate or interest in real property by another person claiming actual, continuous, hostile, exclusive, open and notorious possession of such lands, except to real property of five acres or less. Such claim may be asserted in good faith by any person not more than once in twenty years.

Delegate Fukunaga, speaking for her amendment, made the following statement:

"Last Saturday, in our Committee of the Whole debates, we heard many delegates speak of how adverse possession had been used to deprive individuals of their land. The problem sought to be remedied by the Hawaiian affairs proposal is the problem of small kuleana or family-owned plots being adversely possessed by large corporations. Yet we all recognize that there are instances where abolishing adverse possession could work to the detriment of kuleana owners, where generations ago members of the family left the land, their descendants were unknown and there is no way to clear title to the land except by the use of the adverse possession doctrine. Thus, this amendment seeks to protect those small individual landowners who have residential lots and who need to have the mechanism of adverse possession to clear their title.

"The number of acres suggested in the amendment--5 acres--was chosen because, in the division of lands during the Mahele, kuleana lands--house lots and small agricultural lots--were almost always less than this acreage. This 5 acres was suggested by Jon Chinen, a respected authority on Hawaiian land law, as one that would adequately protect the interests of small landowners. The requirement that an adverse possession claim by one individual be asserted only once in 20 years is an added safety measure to insure that adverse possession is truly done in good faith. The length of time--20 years--is taken from the present adverse possession statute.

"Mr. President, I think that this amendment will protect kuleana lands and the small landowner and yet speaks to the same problem which the original proposal of the Hawaiian affairs committee sought to remedy. I urge my fellow delegates to support it. Thank you."

Delegate De Soto rose to speak in support of the amendment, observing that there had been many concerns about adverse possession--requests for its repeal, questions

about its effect on title warrantors, etc. It could, she said, hurt a few people, who might in fact be Hawaiian, but it was impossible to take care of every individual complaint. She then pointed out that the amendment was strong enough, fair enough, addressed itself to good faith and would be equal for everyone.

Delegate Silva then spoke in favor of the amendment, explaining that he had wanted its complete removal but saw this as being satisfactory to both sides.

On a point of inquiry, Delegate Takemoto asked if the term "any person" in the amendment could legally mean a corporation as well as an individual. Delegate Waihee responded that under the Fourteenth Amendment of the U.S. Constitution corporations were granted the status of persons.

At 11:54 a.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 12:02 p.m.

Delegate DiBianco rose to speak in favor of the amendment, observing that in the past adverse possession laws had been used to take lands from the Hawaiian people. He had feared, he noted, that its abolishment might have an adverse effect from what they were trying to accomplish--namely, that it could result in taking lands away from Hawaiian people who had been adversely possessing their land for more than 20 years. The amendment, he said, cleared up part of that problem; for the small farmer and the person who had acquired his residential lot through adverse possession and wasn't trying to make a land grab but simply to establish his home on the land that had been his acreage for 20 years or more, this law would allow that land to become his legally. He then reminded the delegates that they were only submitting the question to the public, to let them decide whether adverse possession had outlived its usefulness in the State.

Delegate Burgess then spoke against the amendment, pointing out two bad effects it would have. First, he said, the language prohibited any person from ever acquiring an easement by prescription against any parcel of property which was over 5 acres. Mentioning their earlier discussion on customary and traditional rights of way, he pointed out that the language referred to an "interest in real property" and an easement by a path across one's property was an interest in real property. No one, he indicated, could be deprived of that right by another claiming "actual, continuous, hostile, exclusive, open and notorious possession," which were the elements of easement by prescription, and if adopted, this would therefore wipe out the right to acquire easement by prescription over somebody else's property, especially large parcels of property. He didn't think that that was what the delegates intended, he remarked, and he did not think it should be done.

Second, Delegate Burgess continued, it prohibited but did not cover property of 6 acres or more. There were many people, he noted, who had title and were the rightful owners of parcels larger than 5 acres, and they should be able to establish clear title to those properties by adverse possession. He then gave the following example:

"In 1976, the case of Apo v. Dillingham Investment Corporation was decided by the Hawaii supreme court. That involved land in, I believe, Milolii on the Big Island. The action was brought by Mr. and Mrs. Apo to quiet title to 4 parcels of land, alleging ownership by both deed and adverse possession. Dillingham Investment Corporation filed a counterclaim, also alleging ownership by deed and adverse possession. There was a long trial and the jury verdict was in favor of the Apos as to one substantial parcel. The Apos were adjudged the fee simple owners by legal title and adverse possession of all of grant 3079, except the portion owned by the Kawaauhaus. If this provision had been enacted before that case was decided, the Apos would have been completely unable ever to clear title to their property.

"I think that we should realize we cannot, in the short time we have had to study this problem--we have been here for almost 4 months and the time spent on this particular problem has been very little. Even with the able assistance of Jon Chinen, whom I know and respect very highly, it is not possible to come

up with a satisfactory change in a doctrine of law which has been in existence for 300 or 400 years or more. This matter was submitted to the legislature in 1973. The legislature passed a bill which would address the very problems which have been brought out before this Convention. The bill had language requiring good faith before adverse possession could be exercised. That bill, after study by the governor, was vetoed. I don't think it's fair to say that the legislature has not responded to efforts to solve this problem, and I don't think it's fair to say that future efforts will not be productive. I do submit to you, though, that in the few hours that we've spent on the problem here in this Convention, I don't think that we should try and tamper with this law. The law of adverse possession is a good law. It's a fair law. It enables everyone, large and small, Hawaiian and non-Hawaiian, small companies and big companies, small corporations and big corporations, everyone who owns land--it enables them a fair way to clear the title to that property.

"Just one last comment. Someone said that people in this Convention have their 'aina because of adverse possession. That's quite true. Any property owner in the State of Hawaii, if you go back far enough, has his 'aina based on adverse possession. The great adverse possessor was Kamehameha I, because he acquired by conquest all the lands of Hawaii. The doctrine of adverse possession is a practical method of clearing title when your paper title is not clear. It simply says that if one person has lived on land for at least 20 years, claiming to be the owner of the land, exercising the rights of ownership and not acknowledging that anyone else owns it, then as a practical matter he is the owner. It's a good law. Please, ladies and gentlemen--I can appreciate your feelings, but please let us not make drastic changes and tamper with a law which is basically a good one. Thank you."

Delegate Waihee then rose to speak in favor of the amendment, mentioning that the argument that adverse possession was a fair way to clear title reminded him of the maxim: "The law forbids rich and poor alike to steal bread or to sleep under bridges. The law may look fair but only the poor need to steal bread." That, he stated, was what adverse possession was all about. Reviewing the hours of testimony on its abuses, he noted that they had also heard how a few small homeowners might now be learning the ropes and beginning to adverse possess back. The amendment, he noted, was an attempt to be sure those honest people were not cut off "in our zeal to get at the abusers in the system." In a sense, he added, they were saying that the poor should have a right to their bread, and the amendment dealt with stopping the abuses while allowing the small honest people a chance to clear title. He then pointed out:

"This amendment does not prohibit prescription, as we have heard it said. As far as Hawaiian access rights are concerned, that is based on an entirely different legal theory. The law still recognizes the legal basis for Hawaiian usage in custom. The fact is that this particular amendment will not stop prescription in general. What it will do is demand that the legislature develop a new, more humane way of gaining public access to the beach. It will also not stop any quiet title actions in general either, because all we're mandating is that the legislature find a new and more humane way to quiet title in Hawaii.

"Finally, I'd like to speak about what this provision would in effect accomplish. It will stop, in the State of Hawaii--both in the land court system and in the state system--any use of the adverse possession theory. The legislature must develop a new way for quieting title. It will not, however, cut off any judgment, unfortunately, that has already taken place, or cases now pending in the court; unfortunately, that kind of remedy is not in our power. But it will insure for the future of Hawaii that those who have more knowledge of the legal system will not use these tools to dispossess people from their land. So, Mr. President, I speak in favor of this amendment."

Delegate Chang, on a point of information, asked if an easement was an "interest in real property" as in the proposal. Delegate Burgess, in response, acknowledged that this was his understanding. He explained that where the public for many years had used a path across someone's private property, an easement by prescription permitted them to thereby acquire an interest in that property, and that interest was an easement over it.

Delegate Goodenow, on a point of information, asked if the amendment they had just passed would be in jeopardy if they passed this one. Delegate Waihee responded that the earlier amendment dealt with a different legal theory which established the rights of way that Hawaiians would be using on the basis of custom, usage, etc., which was recognized in Hawaii law. It would not, he declared, be destroyed by abolishing adverse possession. He then pointed out that an easement by prescription did not deprive a property owner of title but subjected the title to certain rights which the public would have. Abolishing adverse possession, he concluded, would not abolish easements by prescription because this would deprive someone of taking entire title, whereas an easement would not be taking title.

Delegate Kaapu then spoke in favor of the amendment. Referring to a statement about King Kamehameha I using the principle of adverse possession, he remarked on the many inaccuracies about Kamehameha, and stated that he wanted to correct this one. He then explained:

"The king did not take title to the land by conquest. He took dominion to the land. He was a sovereign, but under Hawaiian traditional law he no more owned the land than did anyone else. In fact, one of his successors, Kamehameha III, when he promulgated the first constitution, had a choice under the powers that might have existed in Europe, of putting in anything that he wished, as a sovereign. Instead he put in the phrase which states that King Kamehameha established the kingdom, and to him belonged the land from one end of the Island to the other. But he did not own the land. The land belonged to the people--and the people in common. That is the attitude that was expressed. He wasn't taking title. And I think it is wrong to use that type of argument in support of or against an amendment."

Delegate Goodenow then pointed out that the king had lived in a very different time from theirs, one in which there were no attorneys for interpretation, and she questioned the validity then and now as far as easements were concerned.

Delegate McCall rose to speak against the amendment, mentioning the many uses of the doctrine besides the actual court actions. He then reminded the delegates: "When you throw out a net to catch a big fish, if you're not careful you catch a lot of little ones."

Delegate DiBianco pointed out that in the Apo case this amendment would not have made it more difficult for the Apos to obtain title as their property was only 4 acres. It was the Mr. and Mrs. Apos, he noted, who were being protected by the amendment. He further observed that, according to the language in the amendment, prescriptive easements would still be allowed because a prescriptive easement did not take away somebody's title to land. A prescriptive easement, he explained, was simply a right of way and couldn't be handed down or sold.

There were, he continued, other legal concepts that could be used to protect access and still abolish the adverse possession law--for example, dedication and condemnation. He then pointed out that the language itself protected the rights of access because the word "person" used in the amendment did not mean the general public, and if adverse possession were abolished the public could still use the rights of way. It was, he repeated, up to the delegates to let the public decide whether to abolish adverse possession, and he urged passage of the amendment so they could have the chance.

Speaking against the amendment and for the original proposal, Delegate Sterling voiced his opposition to the doctrine of adverse possession, observing that it was introduced immediately after the Great Mahele "not to clear title but to steal it." The only solution, he declared, was to abolish adverse possession completely, forcing those who desired land to seek out the true owners and pay them if they wanted title. Tracing the

legislative background of adverse possession, he recalled that the early legislature when these laws were passed was very controlled, and no Hawaiians or Orientals were allowed to vote.

At this time, Delegate Hale rose and expressed her confusion about the amendment. She asked if the laws of the State had been based on common law and judicial precedent. Delegate Campbell responded that the laws of Hawaii were based not only on common law-- which was judicial precedent, since common law constituted case law which had been handed down and involved judicial decision and precedent--but also on codification of the laws by way of statutes.

Delegate Hale then asked if adverse possession were in fact a statute, one that had been adopted by the legislature and not ruled unconstitutional.

Delegate Burgess, in response, explained:

"The law of adverse possession is partially in statute and partially in case law. The statute portion is a statute of limitations. It limits the time within which a person can bring an action to claim an interest in land to 20 years. The elements of adverse possession are not defined in the statutes; those are by case law which was worked out over the years since Hawaii land first went into private ownership, which was at the time of the Mahele."

Delegate Hale then asked if any other state had abolished adverse possession in its constitution. Delegate Burgess answered that he believed the law of adverse possession applied in all states, as well as in England and probably other nations, and he knew of no state that had ever abolished it in a constitution. Some statutes, he added, specifically required it of the state, and a limited number had provisions such as that attempted in 1973, which the legislature passed but the governor vetoed.

Delegate Sterling then rose and quoted from the California Law Review: "Doctrines developed in other jurisdictions that the state is trying to limit the application of adverse possession have not been adopted in Hawaii." He noted that two referrals in the article gave the case numbers the information had been taken from. Other jurisdictions, he concluded, had made similar attempts to stop this.

Delegate Takemoto rose to speak against the amendment, for two reasons. First, she explained, it would apparently still allow large corporations to take through adverse possession if the property were under 5 acres and would not protect small landowners. Her second reason, she said, concerned the person who owned less than 5 acres, who often would have few resources to pay court expenses, attorneys' fees, etc. and might end up selling his home in order to pay, thus ultimately losing the land in any case.

Delegate Harris then spoke in favor of the amendment. Expanding on the fish analogy used earlier, he suggested that the careful fisherman carefully chose the mesh size of his net, thus catching only the big fish and avoiding the small ones. And that, he concluded, was just what the amendment did.

Delegate Hale, speaking against the amendment, commented that it had been hastily considered. She explained:

"It has not had the proper committee concern of public hearings. It was done, I think, primarily in reaction to an amendment that I offered in the Committee of the Whole to abolish the whole concept of adverse possession. Though I do appreciate the efforts of the committee to take care of some of the concerns I brought up, I really don't think that this is the way to do it.

"I think this is a statutory matter, and some of the delegates-- in fact most of the delegates speaking for this--on other proposals have reaffirmed their faith in our legislature time and time again. I would like to see this faith believed in, and put this back in the hands of the legislature that made the adverse possession law in the first place. They are the ones to do something about it. It is a very

complex problem, and I don't think we can sweep it under the rug and forget about it. It will haunt us. I think it will probably be one of the reasons that all the amendments will be voted down, specifically the whole section on Hawaiian rights. I would hate to have that happen for something that is really not going to help anyone. Therefore, I shall vote against this amendment."

Delegate De Soto then rose to speak for the amendment. She stated that the provision on traditional and customary rights would not be affected by this amendment because utilization of ancient trails as access would not be acquired necessarily by prescription or adverse possession. Such trails, she explained, had been and would be established by ancient custom and by usage. Noting that the amendment addressed the concerns of many delegates, she remarked that her only problem with it was that it didn't address the practice of some attorneys of taking land as payment in order to quiet title.

Delegate Haunani Ching rose to speak for the amendment and to disclose a possible conflict that she had. She then related her family's experiences in an attempted theft of their kuleana property, describing the various proceedings they had had to go through. She observed that passage of this amendment would benefit her and her family.

Delegate Chang then announced, with regard to his earlier stated concern about easements by prescription, that he had consulted various attorneys and was satisfied that the amendment would not affect easements by prescription.

At this time Delegate Burgess rose to respond to some of the points made by delegates. He stated:

"King Kamehameha I, as king and conqueror, was recognized by Hawaiian law as the sole owner of all the soil of the Islands. Another point that was raised, in Apo v. Dillingham Investment Corporation--that the case only involved 4 acres. The number of acres doesn't show in the title and if the delegate who stated it has more information, that may be more accurate, but the decision does adjudge the Apos as the fee owners by legal title and adverse possession of all of grant 3079, except for a portion owned by another family, and the fee simple owners by legal title of an undivided 1/2 acre in grant 1568 and all of L.C. Award 8245: B. From those descriptions I would assume that it was substantially more than 5 acres. The point, however, is that if it is over 5 acres and if the Apos have a valid claim, the law of adverse possession is a good law and they should be entitled thereby to establish valid title to their property.

"One delegate commented that if we abolish adverse possession it will force people to seek out and pay the true owners. Well, the procedure to establish clear title by adverse possession now does that very thing. It requires that you find the people who hold the recorded title and give notice to them. You have to exercise diligent effort. If you can find them you have to serve them with the papers. You have to give them notice by registered mail if they are adjoining landowners. If you can't find them after diligent effort, you have to publish a notice in the newspapers. Now, all of those things--if there is in fact fraud or an effort not to comply, the entire action to quiet title decree can be set aside. So if anyone here thinks that the law of adverse possession gives people the right to steal property, they are very much mistaken. On the question of the practice of attorneys who take possession of land in order to provide service for those who need it--I don't know of that practice. It may have been done in some cases, perhaps because the people hiring the attorney worked out an arrangement with him. But that is not true of all attorneys, I can assure you.

"Finally, let me just say this. Apparently this amendment was put together sometime last night. We stayed in session until after 10, and I would assume that the people who worked on this amendment must have stayed and worked after that. I don't think it has been submitted to the counsel experienced in real estate work. The hour

now is almost 1:00. The subject is extremely important to all the people of Hawaii. Mr. President, I would recommend that we at least take a lunch hour to have these questions looked into by counsel. I haven't said anything about the second sentence of that amendment, which I think also has problems. It says: 'Such claim may be asserted in good faith by any person not more than once in twenty years.' The way that reads, it prohibits a person who owns two pieces of land from bringing action to quiet title; he can only do it one time, even though he has different parcels. I think that this is a serious matter. I think that all of us owe it to ourselves and to the people we represent to do this carefully. We have another 2 weeks in this Convention. It doesn't take but one day or perhaps a few hours to discuss this with counsel who are experienced in real estate, to see if there are changes that should be made."

Delegate Waihee then rose on a point of personal privilege to take exception to the implication that supporters of the amendment had not checked it out. The amendment, he explained, had been checked out with Judge Chinen, an authority on land law in Hawaii and highly respected by many attorneys, as well as with their legal counsel. He then called for the question.

Delegate Kaapu, on a point of inquiry, questioned whether the previous speaker, in reference to statements made on Kamehameha, had in fact understood what he said--that Kamehameha, when he conquered the Islands, may have viewed what he did as was reflected in the constitutional statement by Kamehameha III, that the land "belonged to the chiefs and the people in common...."

Delegate Burgess then rose to assure the delegation that he had not implied anything other than what had been intended by that speaker and that he had intended no derogatory reflection on any delegate. His arguments that morning, he stated, should in no way be interpreted "as any lack of aloha for the people who are speaking on the other side."

Delegate Yoshimura then rose to give his reasons for not supporting the amendment. The basic question, he stated, was whether they wanted adverse possession in the law books. Reminding the delegates that all lands had been under the old land laws of ancient Hawaii before adverse possession was in effect, he then noted that there were ancient land laws that could be followed. Clear title, he stated, should be gained through the courts.

Delegate Wurdeman also rose to voice her opposition to the amendment, noting that she too would like to go back to the original wording.

There being no further discussion, the question on the adoption of Amendment No. 3 to Com. P. No. 12 was put by the Chair and the motion carried.

Delegate Burgess then moved for the adoption of Amendment No. 5, to delete in its entirety section 5 of Com. P. No. 12 on quieting title, seconded By Delegate Hale.

At this time, Delegate Burgess made the following statement:

"Mr. President, the points that I would speak out in favor of have already been fully made. I would be willing to waive debate on this. I would, however, like a vote on it so that the record may show years from now that I did my best."

Delegate De Soto then rose to speak against the amendment to delete section 5 "and all the arguments that were made previously, so that history may show that I tried my best."

The question on the deletion of section 5 of Com. P. No. 12 was then put by the Chair and the motion failed.

There being no further discussion on Com. P. No. 12, Delegate Blake moved, seconded by Delegate De Soto, that Com. P. No. 12 as amended pass Second Reading and Com. Whole Rep. No. 12 be received and placed on file. The question was then put by the Chair and the motion carried.

Com. Whole Rep. No. 13, Com. P. No. 13, RD. 1--RELATING TO HAWAIIAN AFFAIRS:

Delegate Blake, for the Committee of the Whole, and Delegate De Soto, for the Committee on Hawaiian Affairs, presented a report (Com. Whole Rep. No. 13) recommending that Com. Whole Rep. No. 13 be adopted and Com. P. No. 13, as amended in RD. 1, pass Second Reading.

The President announced that there was one amendment for consideration and recognized Delegate De Soto, who moved for the adoption of Amendment No. 1, seconded by Delegate Waihee, which amended section 7 of Com. P. No. 13, RD. 1, to read:

[That pro rata portion of the] The public lands [set aside for the general public in Section 4 of Article XI, hereof,] shall be used for the development of farm and home ownership on as widespread a basis as possible, in accordance with procedures and limitations prescribed by law.

Speaking for her amendment, Delegate De Soto explained that this was a housekeeping amendment to remove the new language on the "pro rata portion" of public lands and retain the original language of Section 5, Article X. The environment committee, she explained, was proposing to delete Section 5 entirely and that would be a duplication of the Hawaiian affairs package provision.

There being no further discussion, the question to amend Com. P. No. 13, RD. 1, by Amendment No. 1 was put by the Chair and the motion carried.

Delegate De Soto then rose to speak in favor of Com. P. No. 13, RD. 1, with the following statement:

"This proposal attempts to establish a body corporate wherein it would have fiscal responsibilities for the moneys earmarked for native Hawaiians and native Americans, which we are a part of. I think that this proposal attempts, in good faith and honesty, to afford the Hawaiian community a chance for--or at least the opportunity for--self-determination. This proposal addresses the future--I will probably be dead when the full realization of this proposal is known, but I feel it is vital for the Hawaiian community. Consequently, I ask that this Convention adopt Com. P. No. 13 as amended. Mahalo."

Delegate Pulham, speaking in favor of Com. P. No. 13, observed that the public liked to insist the Hawaiian people do things according to law or according to regulations. This proposal as well as the others, he noted, was an example of the good faith and fairness of the committee, who were playing the ballgame according to the rules and therefore had every right to expect to win.

There being no further discussion, Delegate Blake moved, seconded by Delegate De Soto, that Com. P. No. 13, RD. 1 as amended, pass Second Reading and Com. Whole Rep. No. 13 be received and placed on file. The question was then put by the Chair and the motion carried.

At this time the President recognized Delegate De Soto, who rose and made the following statement:

"Mr. President, it is with humble heart that I rise to thank the people in this Convention for supporting these issues that will have a long and lasting impact for the native Hawaiian. I know that we should have a speech prepared that would go down in history, but I am part of the maka'ainana. I love my staff and the members of my committee, and I ask that all of you here help me and help us to carry the message to the public so that they, in a very short time, can understand what it is we're proposing, so that come November they will vote to support the Hawaiian package.

"We have waited years. Our people have struggled. Our people have broken hearts and broken spirits. Many of our opio strike out and

strike back at administrative bureaucracies. I want to be able to stand in front of them and tell them that indeed the system works and that they should participate in it. Our battles are not all won, and we don't expect them to be won. But come November, all of the opio who have come today to witness what goes on will stand up to testify. Only history will show whether what we have done is right or whether, as Brother Burgess says, we may be doing wrong. But I think it's important for them to understand that the process can work. The system can work. The system can work if you are willing to spill your na'au. The system is foreign and is such that it costs Hawaiians the spilling of their na'au and blood. I would, rather than go through the political system, fight six guys hand to hand. But I tell the opio now, just like the kupuna told me, it is there for us. We must now spread the word to our people that violence, hatred is a thing of the past. We just lokahi. I tell everyone here that I am, on behalf of my people--not my people in the sense that I am queen and they are only people, but in the sense that I am their servant, and it has been an experience that I shall never forget till the day I die, that the great spirits have allowed me to be a servant to my people. I would like to say, to all of you, aloha, mahalo nui."

The President then stated that he was sure he spoke for the entire Convention in offering congratulations to Delegate De Soto for providing such able and effective leadership at this momentous time in the history of Hawaii and Hawaiians.

Delegate Sterling, as vice-chairman of the Hawaiian affairs committee, extended the committee's kokua to Delegate De Soto.

Delegate Chung then added his thanks in being a part of the Committee on Hawaiian Affairs. He went on to quote the last words of Kamehameha--"Endless is the good that I have given to you to enjoy"--and then stated that he hoped Hawaiians would enjoy a future of endless joy.

At 1:12 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 2:50 p.m.

GENERAL ORDER

Com. P. No. 14--RELATING TO TAXATION AND FINANCE:

On motion by Delegate Lewis, seconded by Delegate Sterling and carried, the Convention resolved itself into a Committee of the Whole to further consider Com. P. No. 14, relating to taxation and finance.

The President appointed Delegate Ishikawa to be Chairman of the Committee of the Whole.

At 3:01 p.m., the President vacated the Chair and Delegate Ishikawa assumed the Chair for the Committee of the Whole.

At 6:32 p.m., Delegate Ishikawa vacated the Chair and the President resumed the Chair.

Delegate Ishikawa, for the Committee of the Whole, reported orally that the committee had completed deliberations on the matter referred to it and recommended passage on Second Reading of Com. P. No. 14 as amended, and that a written report would be filed later.

On motion by Delegate Lewis, seconded by Delegate Ishikawa and carried, the oral report was adopted.

The President congratulated Delegate Ishikawa for an excellent job, and also complimented the chairman and members of the Committee on Taxation and Finance for the fine package that had been presented.

At this time, the Clerk announced that Stand. Com. Rep. No. 77 and Com. P. No. 17 were still in the printshop but that they were on the calendar for decking purposes. There being no objection, the President deferred action on Stand. Com. Rep. No. 77 and Com. P. No. 17 until Saturday, September 9, 1978. The Clerk then announced that Stand. Com. Rep. No. 78 and Com. P. No. 18, from the Committee on Style, were not on the calendar but were up for decking purposes. The President thereupon placed Stand. Com. Rep. No. 78 and Com. P. No. 18 on the calendar for consideration on Friday, September 8, 1978.

ADJOURNMENT

At 6:40 p.m., on motion by Delegate Waihee, seconded by Delegate Crozier and carried, the Convention adjourned until 10:00 a.m. Friday, September 8, 1978.

FIFTY-SECOND DAY

Friday, September 8, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 10:00 a.m.

The President presided.

The Divine Blessing was invoked by Dr. Edmond Walker of the Hawaii Baptist Convention.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegate Donald Ching who was excused and Delegate Haunani Ching who was absent.

The President announced that the Journal of the Fifty-First Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 79) informing the Convention that Res. No. 22 had been printed and distributed.

On motion by Delegate Ledward, seconded by Delegate Kaapu and carried, Stand. Com. Rep. No. 79 was adopted.

INTRODUCTION OF RESOLUTION

A resolution (Res. No. 22) requesting the Committee on Style to consider all portions of the Constitution as to phraseology was offered by Delegate Hamilton.

There being no objection, the President deferred action on Res. No. 22 until Saturday, September 9, 1978.

ORDER OF THE DAY THIRD READING

Stand. Com. Rep. No. 73, Com. P. No. 9, S. 1--RELATING TO THE EXECUTIVE:

Delegate Hamilton moved, seconded by Delegate Stone, that Stand. Com. Rep. No. 73 be adopted and Com. P. No. 9, S. 1, pass Third Reading. At this time the President asked if there was any discussion on the subject matter.

Delegate Hamilton, speaking for the motion, explained that the only changes recommended to Com. P. No. 9 were those pertaining to the use of nondiscriminatory terms and for consistency and clarity, and he recommended its passage.

There being no further discussion, the motion to adopt Stand. Com. Rep. No. 73 and to pass on Third Reading Com. P. No. 9, S. 1, was put by the Chair and carried by a vote of 69 ayes, 2 noes and 31 excused; with Delegates Alcon, Anae, Barnard, Barnes, Barr, Blake, Burgess, Cabral, Campbell, Calvin Ching, Laura Ching, Chu, Chun, Crozier, de Costa, Dyer, Fernandes Salling, Fujimoto, Fukunaga, Funakoshi, Fushikoshi, Hale, Hamilton, Hanaike, Hashimoto, Hirata, Hironaka, Hoe, Hokama, Hornick, Dennis Ihara, Les Ihara, Teruo Ihara, Ikeda, Izu, Kaapu, Kaito, Kojima, Ledward, Marion Lee,

Rachel Lee, Liu, McCall, Nakamura, Odanaka, Okamura, O'Toole, Penebacker, Peterson, Pulham, Sakima, Shinno, Shon, Silva, Souki, Stegmaier, Sterling, Stone, Taira, Takehara, Takemoto, Takitani, Tam, Uyehara, Villaverde, Waihee, Weatherwax, Yamashita and President Paty voting aye; Delegates DiBianco and Kono voting no; and Delegates Andrews, Blean, Chang, Donald Ching, Haunani Ching, Chong, Chung, De Soto, Eastvold, Ellis, Goodenow, Hagino, Harris, Hayashida, Hino, Ishikawa, Iwamoto, Kimball, Lacy, Lewis, Marumoto, Miller, Nishimoto, Nozaki, Ontai, Sasaki, Sutton, Takahashi, Tamayori, Wurdeman and Yoshimura being excused.

GENERAL ORDER

Stand. Com. Rep. No. 78, Com. P. No. 18--RELATING TO THE USE OF NONDISCRIMINATORY TERMS IN THE CONSTITUTION:

On motion by Delegate Hamilton, seconded by Delegate Stone and carried, Stand. Com. Rep. No. 78 was adopted and Com. P. No. 18, relating to the use of nondiscriminatory terms in the Constitution, passed First Reading by title and was placed on the calendar for further consideration on Tuesday, September 12, 1978.

At 10:25 a.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 10:32 a.m.

DEFERRED MATTER

Com. Whole Rep. No. 10 (Com. P. No. 10, RD. 1) (Committee on Judiciary--Deferred from September 7, 1978):

Delegate Campbell, for the Committee of the Whole, and Delegate Ikeda, for the Committee on Judiciary, presented a report (Com. Whole Rep. No. 10) recommending that Com. Whole Rep. No. 10 be adopted and Com. P. No. 10, as amended in RD. 1, pass Second Reading.

At 10:33 a.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 10:37 a.m.

The President reviewed the order of the amendments and called for discussion. Delegate McCall then moved for the adoption of Amendment No. 1, seconded by Delegate Burgess, which amended section 3 of Com. P. No. 10, RD.1, to read in part:

If the governor should fail to make [the] any appointment within thirty days of [presentation] presentment, or within ten days of the senate's rejection of any previous appointment, the appointment shall be made by the judicial selection commission from the list with the consent of the senate. If the senate should fail to [consent to any appointment, whether by the governor or commission,] reject any appointment within thirty days thereof it shall be deemed to have given its consent to such appointment. If the senate shall reject any appointment, the governor shall make another appointment from the list within ten days thereof. The same procedure shall be followed until a valid appointment has been made, or failing the making of a valid appointment, the commission shall make the appointment from the list, without senate consent.

Speaking for his amendment, Delegate McCall explained:

"The effect of this amendment would be to tighten and clarify time limits which the governor and the senate have in the appointment consideration and rejection or selection of candidates. Instead of allowing the governor 30 days for consideration of each candidate until one is accepted, the governor would have only 10 days to make another choice following prior senate rejection. In this way the process of selecting candidates can be streamlined.

"The amendment is intended to cut down the time the governor has to make an appointment following the rejection of his initial appointment. Under the present language, the governor would have a 30-day period after each senate rejection until the list of names is exhausted. If the list contained six names, the governor alone could spend as much as 180 days, or 6 months, in the appointment process; and that does not include the time the senate would spend considering the governor's appointee. This amendment would prevent such a situation from happening. If this time limit were adopted, it probably would not in any way harm the governor's ability to adequately make an informed choice. Presumably he would have scrutinized all the candidates at least once in making his initial selection; thus any subsequent appointment should not entail new involved investigations into candidate backgrounds or qualifications but rather a simple review of their records. It also limits the senate to 30 days for consideration of an appointee.

"The need for streamlining the process cannot be overemphasized. Our courts should not be needlessly burdened by delays occasioned by unnecessary administrative time limits. With these points in mind, I urge you all to vote in favor of this amendment. Thank you."

Delegate Ikeda, on a point of inquiry, questioned the change from "presentation" to "presentment" and suggested amending it back to "presentation" for internal consistency since this was the language used throughout the proposal. Delegate McCall being amenable and there being no objection, the President announced the retention of "presentation."

Delegate Ikeda then spoke in favor of the amendment, noting that the time limits were reasonable and the language did provide a safeguard.

Also speaking in favor of the amendment, Delegate Sterling observed that this was positive legislation addressed to the problem of heavy, crowded dockets.

Delegate Takitani, speaking against the amendment, commented that the best merit selection system would be one without senate confirmation.

Speaking in favor of the amendment, Delegate Burgess observed that, although he agreed on the desirability of removing senate confirmation, since it must be included the amendment at least provided assurance that an appointment would eventually be made.

There being no further discussion, the motion to adopt Amendment No. 1 was put by the Chair and carried.

Delegate Hagino then moved for the adoption of Amendment No. 2, seconded by Delegate Villaverde, which amended section 3 of Com. P. No. 10, RD. 1, under the subsection "Qualifications for Appointment," to read in part:

Justices and judges shall be residents and citizens of the State and of the United States [, and licensed to practice law by the supreme court. A justice of the supreme court, a judge of the intermediate appellate court and a judge of the circuit court shall have been so licensed for a period of not less than ten years preceding his nomination. A judge of the district court shall have been so licensed for a period of not less than five years preceding his nomination].

Before speaking for his amendment, Delegate Hagino made a motion to amend the amendment, seconded by Delegate Shon, to add the following: "No person shall be eligible for nomination as judge or justice unless he or she has been a resident of the State for five years immediately preceding his or her nomination."

Speaking for his amendment to the amendment, Delegate Hagino explained that the sentence was taken directly from the requirements for governor and that, because many cases that came before the courts were based on Hawaiian customs and traditions, it should be essential that a judge or justice was acquainted with some of them.

Delegate Hale rose to speak in favor, acknowledging that ordinarily she would be opposed to a residency requirement but that in this case a familiarity with local mores and customs was very important.

Delegate DiBianco then rose to point out a problem he saw with the language of the amendment, stating:

"I think the language should be changed to accomplish the purpose. The reason these statutes and constitutional provisions usually say no person shall be eligible unless he has been licensed to practice before the State for at least 5 years is because sometimes attorneys who are local residents will go to the mainland to get a master's degree in law, to join the army, spend 2 or 3 years as attorneys in the military, and when they come back they're not going to be residents of the State and therefore won't be able to become judges or justices until they have actually physically lived here for another 5 years, even though they have been licensed to practice for maybe 10 or 12 years. So I do see a problem with this language."

Delegate Ikeda, on a point of inquiry, asked if the reason for restoring the residency requirement was because of the total removal of licensing requirements. Upon the movant's affirmation, Delegate Ikeda spoke against the amendment, referring to the residency problem that had been pointed out.

There being no further discussion, the motion to amend the amendment was put by the Chair and failed. Delegate Hagino, speaking for Amendment No. 2, made the following statement:

"Mr. President, I speak in support of deleting the requirement that judges must be lawyers. Chief Justice Warren E. Burger stated, 'We may well be on our way to a society overrun by hordes of lawyers, hungry as locusts, and brigades of judges in numbers never before contemplated.' Lawrence Silberman, a former U.S. deputy attorney, said, 'The legal process, because of its unbridled growth, has become a cancer which threatens the vitality of our forms of capitalism and democracy.' Some wonder whether the rule of law will prevail in the United States, or the rule of lawyers.

"This amendment seeks to delete the requirement that a candidate for judgeship be an attorney. During the Committee of the Whole deliberations, we created a judicial selection commission which will carefully screen candidates and choose the best-qualified individuals. This amendment would allow that commission greater flexibility in the selection process as well as expand the pool upon which the commission can draw.

"A judge should not be coldly objective and impersonal. When interpreting the law, a judge necessarily interjects our social philosophy. I feel that it would be appropriate to have non-lawyer judges in the family court, which has jurisdiction over family-related cases and must consider the welfare of the family as a unit of society. It is significant to note that in contested divorce cases, the evaluations and recommendations of the social worker and, when deemed necessary, the psychiatrist, weigh heavily in the final determination.

"Non-attorneys might also be placed on the supreme court. The legal field has expanded into areas unheard of 10 years ago and since one of the most important functions of the supreme court is to formulate and develop the common law, perhaps there is a need for the non-attorney who can give an overview of a case before the court. According to the 1978 Book of the States, 46 states presently allow non-attorneys to sit as judges in some court in the state. Also, according to a recent survey by the National Center for State Courts, there are 8,000 to 10,000 judge positions for non-lawyers; approximately 7,000 of them are being filled by non-attorneys.

"An important fact to note is that there has been a trend toward educational programs leading to certification for non-attorney judges. Even in Hawaii, newly appointed judges sometimes go to judge schools. In regard to this trend, I would just like to point out that Florida, Idaho and Kansas have such programs. Mahalo."

Delegate Shon rose to speak in support of the amendment. Observing that constitutional delegates and legislators were not required to be attorneys, and since the judiciary also played a major role in defining and setting laws, he suggested that it too should not be limited to attorneys. Attorneys, he pointed out, played the role of technicians and technicians were more properly advisors, but it was the philosophers who should set precedents, define social values and interpret the "gray areas" of the law.

Speaking against the amendment, Delegate Campbell remarked that it might not be wise for a lawyer to speak against the amendment but that perhaps only a lawyer could understand how serious its adoption would be. Addressing a concern of the movant--that a judge who must make decisions should have a deeper dimension in his background than simply the black and white letter of the law--she explained:

"That only means we need to select better judges. In the family court that concern is taken care of because we have an integration of the behavioral system into the judicial. There are attached to the family court psychiatrists, psychologists and social workers who give that added dimension of the human element, so that problems not soluble purely by the black and white letter of the law are solved by and with the assistance of behavioral scientists.

"I think it takes a lawyer to know that if you had someone sitting on the bench who did not know the law of evidence, for example--I cannot see that a lay person could understand some of the intricacies of the laws of evidence without being schooled in them. The fact that newly appointed individuals would go to school to learn how to be judges is not at all unusual. My feeling is that it should be an ongoing process. Judges should be trained in how to be judges; just because you're a lawyer doesn't necessarily mean you know all you need to know about being a judge. To approve this kind of an amendment would be extremely dangerous."

Delegate Hamilton then rose to speak against the amendment, stating:

"I recognize that lawyers are an irritating lot, and in addition expensive. I have frequently quoted Dickens with approval: 'The law is an ass.' But the fact remains that we do need on our bench individuals trained in the law. There are many who are humane and understanding, but I think it is important to have on the bench someone trained in the law, as it is important in surgery to have someone trained in the arts of a physician."

Delegate DiBianco also spoke against the amendment. There was, he said, a serious misunderstanding about attorneys and what they did, which stereotyped them as evil and without humanity, but a review of the attorneys in an area would show that they run the gamut of political and social philosophy. There was also, he continued, a misunderstanding as to exactly what went on in the courtroom, explaining:

"In most courtrooms, judges do not sit around trying to decide the great social questions of the day. What they usually decide are such questions as whether or not the parole evidence rule will be applied to a contract where one party is claiming fraud and inducement and the other is claiming estoppel and pay. Now, whether a non-lawyer can handle that kind of problem without sufficient training is something that remains to be seen. But I do know it took me one entire year of law school just to learn how to use the research tools available to attorneys to find out what other courts have done in these circumstances. Our body of law is built upon established precedent, and we don't make decisions as they come to us. Judges and justices make decisions based

upon the decisions of previous courts. This doctrine, known as stare decisis, is the foundation of our legal framework. I don't think that a non-attorney could grasp the essentials of this particular type of system without so much training that he would in fact become an attorney himself, whether issued a license or not.

"There is a lot of opportunity for community input into the judicial system. Anybody who wants a decision by his peers need only request a jury. That reduces the function of the judge to only the arbiter of the law. In family court we have psychiatrists and social workers; in the criminal courts we have probation officers and presentence reports written by probation officers. In extreme cases, where a court feels that it does not have the expertise necessary to decide a complicated question, it can always retain on its own an expert from the general community. So there is plenty of opportunity for social input. But probably the most important way society makes its input felt in the law is through the judges and justices themselves, who, I would remind you, are also members of our society, who do read the newspapers and I do not think represent one type of view as opposed to any other in society.

"The remarks that Chief Justice Burger and Lawrence Silberman have been making about not being overrun by hordes of lawyers and judges are not complaints against licensed attorneys but against unnecessary litigation, which is something that has troubled the chief justice ever since he assumed the position. There is unnecessary litigation to some extent; attorneys may be at fault for that. But we only represent our clients after all, and our clients are the general public. I agree that it is true law has gotten into many fields that were unheard of 10 years ago. That's because these fields have become so increasingly complex--areas of probate and trust and ecology law. There was no such thing as ecology law 10 years ago; now the federal regulations governing it go on for volumes. It's impossible to delve into these regulations without appropriate training. I think attorneys are the only people you can turn to for this. Attorneys are not special people, they are simply people with special training. I would urge you to reject this amendment because I think you're opening up a dangerous area here, the results of which could be staggering when you consider what could happen if we did have, in fact, a supreme court with non-lawyers on it."

Delegate Kaapu then spoke in favor of the amendment, pointing out that it was less an attempt to get rid of lawyer judges than to admit that occasionally there may be persons of substantial although non-attorney background with the capability of serving well as judges. He emphasized that they should be judged on capability and noted that the judicial selection process would eliminate almost anyone but a person of great merit. But, he added, a process that would eliminate such a person should be more open.

Delegate Sterling also spoke in favor, explaining that he supported the amendment because of instances in which immunity was granted for reasons not understood, or plea bargaining took place with known criminals released. The amendment, he noted, just offered an alternative; it did not prohibit, but simply broadened the areas of choice and could make possible the best representation available.

Delegate Ikeda, speaking against the amendment, pointed out that it was not the type of provision they would want in the Constitution and explained:

"I don't doubt there are certain types of cases--a limited number--where a non-attorney could possibly be well qualified and could function as an attorney. But, as pointed out previously, judges handle a wide range of situations involving not only social policy but also very precise matters of evidence, fact and law that are intermixed. We want to have judges who can handle a whole gamut of problems, not just one or two specialized cases. That is where the problem in having a non-attorney comes. At least with an attorney judge he has the basic qualifications to handle that kind of problem range. This is not any kind of elitist requirement; it is a necessary occupational requirement. If anything, I think it's

a lot easier to find an attorney with the kind of outlook you would presumably expect from a non-attorney, than to find a non-attorney with the particular technical qualifications of an attorney. For that reason I would urge all the delegates to vote against this amendment."

Delegate Chu then spoke against the amendment, explaining that although she favored government participation by people from all walks of life, it might be more appropriate in the legislative or executive branches. She noted that the intent of the amendment was good, although there was an unfortunate anti-lawyer feeling, and then explained:

"Rules of procedure and laws have become very complicated because our democratic system has attempted to make laws that would be fairest to the greatest number of people. The rules of procedure allow an adversary system to operate, for both sides to plead their case and to argue and defend it in every way possible. It is still important when a matter of personal property rights or personal liberty is at stake that the greatest amount of fairness be accorded to each individual in the litigation.

"There is no question that lawyers are technicians, but I feel that if they were merely advisors the system would be much too complex. Who is at the head and who is wagging the tail? That could be a real problem."

Delegate Crozier, speaking against the amendment, observed that when a person took on new responsibilities he normally went through a period of uncertainty. In a job that dealt with people's lives, he pointed out, the period of uncertainty should be minimized and having lawyers as judges was one of the best ways to do it.

Delegate Tamayori spoke in favor of the amendment. Referring to the argument of using outside expertise to add another dimension, he observed that law clerks could add this other dimension and serve as the technical factor and non-lawyers would provide the human factor. Lawyers, he added, were not special and should not be the only ones specified as judges in the Constitution. Should special training be needed, he noted, the merit selection process would make those decisions. Rather than precluding lawyers from judgeships, he concluded, the amendment opened it up for other qualified people.

Speaking in favor, Delegate Alcon referred to the screening process to determine qualifications and pointed out that the selection commission was to be composed of lay people as well as lawyers. He reminded the delegates that in earlier times lay people had been allowed to practice law and added: "I think there are places for lay people in our court system--in traffic courts, family court--where a lay person is capable of sitting in judgment. After all, the burden of the proof of evidence will be on the lawyers, and all the lay person would do as a judge is sit in judgment."

Delegate Rachel Lee rose to speak against the amendment, voicing her apprehension at having lay persons as judges. If a person needed help in a particular area, she pointed out, he went to a specialist--a person who had been well trained for that particular job. And there should, she emphasized, be no exception for judgeships.

Delegate De Soto then spoke in support of the amendment, mentioning her own experience in helping people in her area. The amendment, she observed, did not seem to be a threat to attorneys. There were some unscrupulous attorneys, she pointed out, just as there were unscrupulous housewives, but you did not condemn the whole profession.

The courts, she continued, like many segments of society, had become so specialized that sometimes the human element was lost. She then pointed to the lack of communication between the judge and defendant, and the fact that the defendant had no opportunity to give his reasons for committing the crime. There was room for lay people, she concluded, and she would rather be judged by her peers than by a professional.

Delegate Odanaka rose to speak in support of the amendment. You did not need a law degree, she pointed out, to make decisions concerning people and their lives, and added that the amendment would eliminate the current stereotyping of lawyers.

Speaking in opposition, Delegate O'Toole pointed out that the amendment, rather than keeping politics out of the judiciary, would make it easier to bring politics in. Considering the fact that seven of the nine commission members were picked by politicians, he stated, it would be easier to pick non-lawyers because of the large list to select from. He also noted the importance of sensitivity, that the person should understand and be able to respond. And to do that, he concluded, you have to have the expertise.

Delegate Dennis Ihara then spoke against the amendment, pointing out that as a social worker and a lawyer he could perhaps see both sides of the coin. It was not, he observed, the decision-making that was important, but rather the procedural aspect and what had been termed a "lawyer-like manner." A layman could make worthy judgmental decisions, he noted, but the interpretation itself and the application were the important aspects.

Delegate Barnes, speaking against the amendment but in favor of the concept, explained:

"The problem with this particular amendment is that we could have lay persons considered for the supreme court and our newly created appeals court. An appellate court's primary job is to find reversible error or an abuse of discretion by a judge below. This appears to require a vast knowledge of law and evidence. This provision, as I read it, would allow that possibility of a problem.

"On the other hand, I strongly support the concept of perhaps a neighborhood court system or small claims court, or at the university level--in landlord-tenant disputes, these could be handled by citizen panels or lay judges. I would strongly support such an inclusion of lay people, but probably by the legislature. For those reasons, I speak against this amendment."

Delegate Chun then rose to speak against the amendment, pointing out that eventually an attorney would have to advise the lay judge. He then raised the question of the advisors, pointing out that the merit system was only to select the judge and that there was no assurance that the advisors would be competent too. The attorney, he remarked, would then be a translator of legal words, and translators did not always translate with complete accuracy. The way to address the inhumanity that was built into the legal system, he suggested was to revamp the system.

Delegate Souki, speaking for the amendment, pointed out that one of the best trial attorneys was Perry Mason, and he was a non-attorney.

Also speaking for the amendment, Delegate Pulham remarked that they had reached that phase of the discussion when it seemed that "by division we shall conquer and by confusing the issue to the point where no one knows what's going on, we then have to call in the attorney to tell us which way to head." He then stated:

"We've heard attorneys say that lay judges would be all right if used at the lower level. The attorney who is the chief justice of our supreme court testified that he would be perfectly willing to see these people used in the entire tribunals where you have panels, and there is a need for interjection of the common sense that might be supplied by a lay individual.

"I realize that this is seen as kind of a roadblock by certain segments of our society interested in the self-perpetuation of that particular segment of society to the detriment of all other segments of that society regardless. So I think, as somebody mentioned earlier, if we're going to make any progress in the legal field we are going to have to make at least this one small stand here. We have built into the report by the judiciary committee--which is essentially a very good one--the selection system. I certainly don't see them running out and selecting wholesale lay persons to take over the courts. That's not going to happen. But certainly where there is presently more than one judge, sitting in panels, I think there is

room to believe that somewhere in this great state of ours there happens to be a lay person with not only enough common sense but enough technical expertise to be of value therein. What the opposition is saying is very clearly that in no case, in no way, are you or anyone else qualified to get involved, even this little bit, in our kuleana. And I'll tell you, that's a bunch of crap. Thank you."

Delegate Les Ihara, speaking for the amendment, pointed out that the key lay with the judicial selection commission, which would be responsible for weeding out those who qualified from those who did not. Therefore, he concluded, it wasn't necessary to specify that judges be attorneys because they probably would.

Delegate Penebacker, on a point of inquiry, questioned whether the attorney delegates had a conflict of interest. The President responded that those who had a conflict would know and would or would not vote as each saw fit.

Delegate Takitani then rose to state that he would be voting in favor of the amendment but was speaking against it. If one of the concerns was that too many lawyers turned politician and eventually became judges, he pointed out, with the weak partisan merit selection system they had created, he could see many non-lawyer politicians becoming judges.

Speaking in favor, Delegate Sterling questioned the reasons behind the amendment, suggesting the serious social problems of the times, the inequities of the system, the bureaucracy in the courts. The amendment, he noted, was addressed to those problems and offered an alternative, not a prohibition.

Delegate Tamayori, on a point of information, inquired as to the number of states with lay judges. Delegate Hagino, referring to the 1978 Book of the States, replied that 46 states currently allowed non-lawyers as judges in some court. He added that Hawaii was one of only four states with no non-lawyer judges.

Delegate Crozier then rose to ask how judges had been selected in the territorial days. Delegate Ikeda, in response, explained that the judges at that time had been appointed by the federal government with senate consent, and he believed there had been a requirement that they be attorneys.

Delegate Crozier then spoke against the amendment. He reminded the delegates that during the territorial days judges were brought in from the outside through political pressure, and he cautioned that with the amendment a similar situation could develop. With the amendment, he indicated, anyone in the United States could become a judge after living in Hawaii for only 30 days.

Delegate Burgess also spoke against the amendment. He pointed out that the lay judges in the 46 states referred to were limited to courts of the smallest jurisdiction, where the cases involved only \$100 or \$200. Hawaii, he added, used to have a similar law but it was changed because it was not satisfactory. The reason for requiring that judges be licensed attorneys who have practiced for at least 10 years, he further explained, was that the best training for a judge was the practice of law, adding:

"A lawyer, through his practice, gains experience not only in the technical aspects of the law but in seeing that there are two sides to every question. He learns to understand the human element. He does not lose that just because he practices law. If he is going to be a successful practicing attorney, he has to have not only the technical skill but he must also have skills in dealing with people; without that it's not possible. If he doesn't have that training, it takes more than just going to a school for judges for a few months. If he doesn't have that training, he'll go into court and--let's suppose it's a simple case involving an automobile accident. One of the attorneys might say it was contributory negligence. That is a simple thing on the surface and yet it has many ramifications. Then the other attorney could say that the doctrine of last clear chance applied and therefore contributory negligence was not a complete defense. And every time the lawyer made a statement like that, the judge would have to say, 'Excuse me,

what was that you said?' The courts are congested enough now, but if you have to spend hours and days in simply educating the person on the bench as to what you mean by something--and these are basic things that a practicing lawyer knows and understands--it would really cause congestion. Therefore, there is very sound reasoning for the requirement that judges be lawyers, especially at the circuit and appellate court levels. I hope this amendment will be voted down."

Delegate Anae, speaking in favor of the amendment, stated that it preserved the rights of the minority; an astute, highly motivated person with some legal background who chose not to go through the system and be certified should not, he maintained, be discriminated against simply because he did not conform to the system.

Delegate Laura Ching then rose to speak against the amendment, pointing out that the field of law, like many others in an age of specialized professionalism, had become highly specialized. If her life depended on her case, she stated, she would not want a lay person deciding it. There already was, she added, sufficient lay participation in the court system.

Delegate Kaapu then related questions that people had asked about city-county licensing requirements, noting that some found it difficult to understand why they were not allowed to make certain home repairs when their work would pass the inspector's tests. He then explained:

"The U.S. Constitution was written by lay people, some of whom were also lawyers. The State Constitution is being written by us to a certain extent and was written by people like us, some of whom were lawyers. The federal statutes were passed and written by non-lawyers and lawyers together, and so were our state laws. Why should it not be possible for at least one person somewhere in this State, or this country, to have sufficient excellence in his field and adequate knowledge of the law to lend a degree of excellence to our judicial system. If there is one such person, if there are several such persons, I think that our Constitution should provide for that possibility."

Delegate DiBianco, again speaking against the amendment, stressed one point--neither he nor any of the other attorneys who opposed the amendment spoke against it in order to protect the kuleana of attorneys. They did so, he explained, because the kuleana of their clients was being invaded. He then stated:

"I have a duty to my client--and if that's a conflict of interest I declare it now--in that I don't want to have to take a client to court, try a case before a non-lawyer, have him make a mistake, take it up on appeal, have it reversed, bring it back down again, have another mistake made, take it up on appeal, bring it back down again and go through this several times in order to reach a just decision, and all the while having to charge the client for my time and effort on his behalf. The judiciary of this State needs improving, and I think that downgrading it by this type of proposal is something that our judicial system can't afford. We do not have the system that 46 other states have, whereby non-lawyers sit as justices of the peace and hear civil matters up to \$100 and traffic matters. Our judges rotate from court to court. You might be able to put a non-lawyer into a small claims court in Honolulu, which is the only county with a sophisticated enough judicial system to actually have a separate small claims court, but in 2 months when he rotates and starts hearing criminal cases, he's going to have some problems. When he rotates again and starts hearing civil cases with jurisdiction up to \$5,000, he's going to have problems. But unfortunately it's my clients who are going to have the problems when I have to keep appealing those cases, with great expense to them.

"For these reasons I think the amendment should be defeated. Somewhere there may be somebody worthy of sitting on the bench who has no legal training whatsoever or has legal training but not a law degree. I don't contest that those people exist. My fear is that the

selection commission, if told through our Constitution that it should be selecting non-lawyers, will choose non-lawyers whether they are good, bad or indifferent, just to satisfy the clamor of the public--as if somehow these non-lawyers will be the resident human beings on a panel of attorneys who are otherwise not human. I object to the amendment for those reasons."

Delegate Alcon then rose to speak in favor of the motion, pointing out that they had created an appeals court because of the many mistakes made in lesser courts. If the lawyer judges did not make mistakes, he noted, there would be no need for another level in the court system. He noted that there would be lay people on the selection commission, observing that if they were good enough to judge judges, they were good enough to become judges. CPAs, he added, were allowed to practice in court even though they did not have lawyers' licenses.

Delegate de Costa, speaking against the motion, pointed out that mechanics were required to be licensed in order to fix cars, and drivers needed licenses, concluding: "Would you have me as your judge?"

Also speaking against the amendment, Delegate Kojima reflected that with the abundance and variety of lawyers in the State, they should be able to find those who could serve the needs of the common people as judges, mentioning also that he had confidence in the merit selection process for finding good judges.

Speaking against the motion and as one who sat as per diem judge in district court, Delegate Lewis agreed that a lawyer was not necessary on traffic or small claims cases. However, he continued, since district court judges were rotated from traffic court to small claims court to criminal and civil courts where a judge got into complex legal areas, training was necessary.

Delegate Tamayori then pointed out that the work of a plumber or mechanic, referred to earlier, could not accurately be related to that of a judge since the plumber's work involved a standard procedure of operation with no objective thinking, whereas a judge dealt with human beings. He admitted the probability of procedural problems in the lower courts but indicated his belief that the commission would pick people with law degrees for the circuit and supreme courts, adding that the final choice should be up to the people.

On a point of inquiry, Delegate Alcon asked whether the legislature could create offices for lay judges when the Constitution required that judges be lawyers. In response, Delegate Lewis explained that the legislature would have to specify the exact areas--that, for example, judges in small claims could be non-lawyers, or judges in traffic court in cases involving violations rather than misdemeanors.

Delegate Peterson, speaking against the amendment, said another approach was to allow all the skilled people in the community to attend law school, receive training and then be eligible to sit as judges.

Delegate Hagino, speaking last for the amendment, pointed out that the amendment did not mandate that non-lawyers be judges; it merely left the option open. He reminded those delegates concerned about incompetency that European countries had separate lawyer and judge schools, observing that with Hawaii's fairly new law school the costs should be minimal to add a school for training new judges as well as retraining current judges. Restrictions as to type of judge candidate, he added, should not be placed in the Constitution.

He then noted that the judicial selection commission should be allowed to set their own requirements and in so doing leave the door open for non-lawyer judges, and expressed confidence that they would make wise choices. He concluded by quoting Robert McKay, former New York University law school dean: "If war is too important to be left to the generals, surely justice is too important to be left to the lawyers."

There being no further discussion, the question to amend Com. P. No. 10, RD. 1, by Amendment No. 2 was put by the Chair. Delegate Alcon at this time requested a roll-call vote and the Chair, on determining that there were ten seconds, so ordered.

Roll call being in order, the motion was put by the Chair and failed to carry by a vote of 29 ayes, 62 noes and 11 excused; with Delegates Alcon, Anae, Andrews, Barnes, Barr, Blake, Chong, De Soto, Fujimoto, Hagino, Hale, Hokama, Hornick, Les Ihara, Iwamoto, Izu, Kaapu, Oadanaka, Penebacker, Pulham, Sasaki, Shon, Silva, Souki, Sterling, Takitani, Tamayori, Villaverde and Yoshimura voting aye; Delegates Barnard, Blean, Burgess, Cabral, Campbell, Calvin Ching, Laura Ching, Chu, Chun, Crozier, de Costa, DiBianco, Dyer, Ellis, Fernandes Salling, Fukunaga, Funakoshi, Fushikoshi, Goodenow, Hamilton, Hanaike, Harris, Hashimoto, Hayashida, Hirata, Hironaka, Hoe, Dennis Ihara, Teruo Ihara, Ikeda, Kaito, Kimball, Kojima, Lacy, Ledward, Rachel Lee, Lewis, Liu, Marumoto, McCall, Miller, Nakamura, Nishimoto, Nozaki, Okamura, O'Toole, Peterson, Sakima, Shinno, Stegmaier, Stone, Sutton, Taira, Takahashi, Takehara, Takemoto, Tam, Waihee, Weatherwax, Wurdeman, Yamashita and President Paty voting no; and Delegates Chang, Donald Ching, Haunani Ching, Chung, Eastvold, Hino, Ishikawa, Kono, Marion Lee, Ontai and Uyehara being excused.

Delegate Hagino then rose on a point of personal privilege to express his thanks to all the delegates for his day in court.

At 12:12 p. m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 2:05 p. m.

Delegate Blake moved for the adoption of Amendment No. 3, seconded by Delegate Shinno, which amended section 5 of Com. P. No. 10, RD. 1, to read in part:

There shall be a judicial selection commission that shall consist of nine members. [The governor shall appoint three members to the commission, the initial appointments to be for terms of two, four and six years respectively. The president of the senate and the speaker of the house of representatives shall each respectively appoint one member to the commission, the initial appointments to be for a term of two years respectively. The chief justice of the supreme court shall appoint two members to the commission, the initial appointments to be for terms of four and six years respectively. Members in good standing of the bar of the state shall elect two of their number to the commission in an election conducted by the supreme court or its delegate, the initial election to be for terms of four and six years respectively.] The President of the Senate and Speaker of the House of Representatives of the state legislature shall each appoint one person to serve upon this commission for four and two years respectively. The councils of Honolulu and Kauai shall each elect one citizen from their respective counties to serve upon this commission for a term of four years. The councils of the counties of Maui and Hawaii shall each elect one citizen from their respective counties to serve upon this commission for a term of two years. Members in good standing of the bar of the state shall elect three of their number to the commission in an election conducted by the Supreme Court or its delegate, who will serve on this commission for terms of four, two and two years.

The commission shall be selected and shall operate in a wholly nonpartisan manner. After the initial formation of the commission, elections and appointments to the commission shall be for staggered terms of [six] four years each. No member of the commission shall serve for more than one full [six] four year term on the commission.

Speaking for his amendment, Delegate Blake made the following statement:

"This proposal asks that four members of the commission of nine be selected by the counties, one by the president of the senate, one by the speaker of the house and three by the Hawaii bar. My reason for this is--there's been a tremendous amount of flak throughout the State on the court system. In this morning's paper some of the comments against the Con Con--let me just read one here: 'The same thing applies to the selection of judges. The Con Con seems to be doing nothing to rectify the present unfair procedure.' I believe we have a responsi-

bility to the public. There has been a sincere plea from the State that we do the best we can in our court system and selection of judges.

"I'm not saying the present selection is not the best. But I can't say we have all the best quality people on the bench. This, without question, is what I am looking for and the people of Hawaii are looking for--the best quality we can get. We need quality people to carefully select these nominees that will be presented to the appointing body. I don't believe the governor, if he is going to make the final appointment, should be selecting any members on this commission. I speak from my own experience. After commissions are appointed, I've had commission members ask me who I want. I say, 'That's what I appointed you for. You people go out and pick the people and send the names to me. I don't want to get involved.' Without question, the governor would do the same thing. But we should prevent these embarrassing situations for the governor. The fact that the governor selects three and the chief justice two overweighs the selection on one side. To sell this to the public--I don't think it's an easy package to sell. Consequently the courts and our counties and the legislature will select. They listen to the people, they see the people. As I stated, the courts are within the various counties that we have.

"With regard to law expertise, we count on the Hawaii bar association to render that decision. I'm trusting that they too will select people of the highest integrity and the best quality. I'm sure that the senate and the house will also select men or women of the highest quality to represent the people of Hawaii in making the selections. I ask all of you to seriously consider the amendment that's before you. Thank you."

Delegate DiBianco, speaking for the amendment, pointed out that it gave the counties some statewide input into the merit selection system. There was always a danger, he noted, that when the appointing authorities were all in Honolulu the appointees would tend to be drawn from there, and the amendment guaranteed they would come from different parts of the State. County input had been desired by the judiciary committee, he explained, not just in the way of testimony but in the actual decision-making, and one way to assure it was by having a member from each of the counties on the commission. He also pointed out that the actual selection procedure was not being changed at all by the amendment.

Delegate Goodenow rose to speak for the amendment. She observed that the governor of Hawaii had more power than the governor of any other state and would probably be relieved not to have this added responsibility. She then urged the delegates to vote for the amendment and have all the counties working together on the matter.

Speaking against the amendment, Delegate Ikeda explained that although he was sympathetic to the idea of geographic representation, he felt it was not proper to have representation as structured as this, where at least four of the nine members would specifically be from the counties. Judges, he pointed out, were appointed statewide and often assigned from one jurisdiction to another. A commission with this kind of makeup, he submitted, could have members operating like extra wheels, not attending meetings or having the required interest except for the appointments directly affecting their jurisdictions. He was not, he emphasized, against having a geographic breakdown but it was very inappropriate to have it so structured.

Delegate Takitani then rose to speak in favor of the amendment, stating:

"Though I don't think this is as good as it could possibly be, it is definitely an improvement. Merit selection of judges would be a positive move for Hawaii or anyplace in a representative democracy. If you don't start off with a commission that is as nonpartisan as is humanly possible, there is no way to expect this commission to make nonpartisan recommendations. This is the whole idea of merit selection--nonpartisanship in the selection of judges.

"By eliminating the governor and chief justice appointments in favor of county appointments, we have allowed for a broader base to our judicial selection commission. Allowing more people to be involved in the selection process of this commission definitely attempts to remove some of the partisan politics involved. Therefore I hope all delegates will consider adoption of this amendment. Thank you."

Delegate Sterling then rose to speak in favor of the amendment, reminding the delegates that they had made a commitment to the counties and pointing out that the amendment kept the counties not only as political subdivisions but also as elected representatives. As an example, he described the potentially explosive situation in Kona where hostilities and resentments had developed between local and mainland youths. Having representatives on the commission who were familiar with local problems, he explained, would be of benefit to the individual small localities.

Speaking for the amendment, Delegate Campbell pointed out that the purpose of a merit selection system was the de-politicization of the system and that the committee's proposal offered very little if any improvement over the existing appointive system. The amendment, she noted, reduced the political influence at least to a tolerable degree.

Delegate Pulham then moved, seconded by Delegate Hale, to amend the amendment by adding at the end of the first paragraph after the words "for terms of four, two and two years" the following sentence: "No more than four members of the commission may be licensed attorneys."

Speaking for his amendment, Delegate Pulham observed that under either the committee proposal or the amendment the commission could very likely end up with from eight to nine attorney members, who would then be selecting from among themselves whomever they wanted to be a judge. If they were forced to have attorneys making all the decisions, he continued, lay people should at least be allowed input into the system, as they were very qualified to make decisions about who at least would be on the list.

Delegate Blake then rose to voice his support of the amendment to his amendment, pronouncing it a good idea.

Delegate DiBianco, also speaking in favor, observed that none of his earlier expressed objections to non-lawyers sitting as judges pertained to non-lawyers sitting as commission members. Evaluating credentials to determine adequacy of character and training, he pointed out, did not require a law degree.

Delegate Les Ihara then inquired whether this amendment precluded consideration of the next amendment, which added the same words. The President, in response, advised that both amendments were in order.

There being no further discussion on the amendment to the amendment, the motion was put by the Chair and carried.

Delegate Shon then rose to speak against the original amendment, explaining that the interests that should balance in a statewide merit selection system were not geographic but rather attorney v. lay person interests, executive v. legislator interests, political v. nonpartisan. What, he asked, was the purpose of the geographic balance, adding that he couldn't see its applicability.

Delegate Burgess, speaking in favor of the amendment, pointed out that the cornerstone of the merit selection system was a nominating commission that was independent of the appointing authority. The makeup of the commission, he explained, was crucial and the key to making it work was its independence. He observed that under the amendment no one was appointed by the governor, who was the appointing authority. That point, he noted, had been raised in many of the deliberations that had been going on since 1913 when the first merit selection commission had been proposed, and he read from the book on this:

"Although there is little argument over the desirability of including non-lawyers since their inclusion assures that public expectations concerning the judiciary are influential and the non-professional attributes of a good judge are recognized, the general practice of having the

governor appoint these lay members has been criticized as an invitation for political assignations. Since merit selection is intended to deprive the executive of the opportunity to make judicial appointments solely on the basis of his political motivations and to remove the political pressures on him to do so, it is thought to be self-defeating to permit the executive to have a direct say in the appointment of the nominating commissioners."

The amendment, he concluded, although different from other merit plans, did take away from the appointing authority that direct control over the appointment of the commissioners and thus achieved independence.

Also speaking in favor, Delegate Hale explained that one reason to consider geographic representation was the fact that too often neighbor island talent went unrecognized or overlooked when selecting for statewide office. Another reason, she continued, was to assure that cases involving neighbor island people which eventually went to Honolulu would be considered by those with statewide interests and concerns, and she urged that neighbor island input in the selection process not be overlooked. As to attendance at commission meetings, she suggested that neighbor islanders would be more available, noting their better attendance records on statewide boards and attributing it to their per diem. There was merit, she further noted, in not allowing the governor and chief justice to dominate the system by appointing a total of five commissioners, as the committee had proposed.

Delegate Ikeda then spoke against the amendment, stating that it was not the intent of the commission to disregard neighbor island people in making appointments. In fact, he indicated, the committee report specified that every vacancy would be considered a statewide appointment and neighbor island nominees included. But, he continued, the committee realized there might not be enough qualified applicants from any particular county and people outside the county would have to be considered.

He then brought up the subject of office terms, noting that the amendment changed the term from 6 to 4 years. The commission, he reminded the delegates, was not necessarily going to meet monthly as judicial appointments came up on an irregular basis. If judicial expertise in the selecting process were to be developed, he explained, it was felt that 6 years rather than 4 would be necessary. Merit selection, he concluded, primarily related to the nominees for judicial position, but it could also relate to the selection of commission members.

Delegate Shon then pointed out that although the amendment had been referred to as de-politicizing the selection process, it could increase the political factor because county commission members could be under pressure to promote favorite son candidates.

Delegate Goodenow, speaking for the amendment, agreed first that removing the gubernatorial appointments did make it a fairer board, and second that geographic representation was important and the outer islands did have responsible citizens capable of selecting judges.

Delegate Takitani then rose to speak again in favor of the amendment, remarking that it solved two of the four problems he had perceived with the committee proposal. The amendment, he noted, offered a broader base of input in the selection process, rather than just geographic representation, and made the process as nonpartisan as possible, and he urged the delegates to vote in favor of it.

Also speaking in favor, Delegate DiBianco reminded the delegates that it was the governor who chose the chief justice and then the governor and chief justice between them chose five of the nine commissioners. In no way, he observed, could it be considered merit selection, adding that this was their last chance to correct the problem.

Delegate Hale, speaking for the amendment, pointed out that if the commissioners were not selected on merit, how could they be expected to select nominees on merit. She then moved to amend the amendment, seconded by Delegate DiBianco, by changing back the second sentence of the last paragraph, to read: "After the initial formation of the commission, elections and appointments to the commission shall be for staggered terms of six years each."

Speaking for her amendment, Delegate Hale explained that the committee chairman

had said the 6-year term was necessary for the members to develop the necessary expertise. If, she added, that was the only problem with the amendment, they should vote on the problem and not jeopardize the main amendment.

There being no further discussion, the question was put by the Chair and Delegate Hale's amendment to the amendment passed.

Delegate Hale then spoke again for the original amendment, reiterating that this would be their last opportunity to get a nonpartisan commission. Referring to what the amendment did, she noted that, if passed, the governor and chief justice would no longer appoint a majority of the commissioners; they would, she stated, still appoint the judges.

Speaking for the amendment, Delegate Blake commented that as far as qualified commissioner nominees, he felt that the neighbor island caliber was as good as any in the State. In reference to the "favorite son" comment, he observed that he, like many people, felt that neighbor island appointees should sit on Oahu and not on the neighbor islands. With regard to geographic balance, he continued, this had nothing to do with merit selection; each member on the commission, he specified, should represent the State and all the people. With regard to political pressures, he further stated, he had confidence that the people picked would be strong enough to withstand pressures and stand on their own two feet. He then urged the delegates to give the amendment their serious consideration.

There being no further discussion, the question to amend Com. P. No. 10, RD. 1, by Amendment No. 3 was put by the Chair. At this time Delegate Sterling requested a roll-call vote and the Chair, on determining ten seconds, so ordered.

Roll call being in order, the motion failed to carry by a vote of 38 ayes, 53 noes and 11 excused; with Delegates Alcon, Anae, Barnes, Barr, Blake, Blean, Burgess, Cabral, Campbell, Crozier, De Soto, DiBianco, Dyer, Eastvold, Ellis, Fernandes Salling, Goodenow, Hale, Hamilton, Hanaike, Harris, Hironaka, Hoe, Hornick, Kaapu, Kimball, Lacy, Rachel Lee, Liu, Marumoto, Miller, Odanaka, O'Toole, Peterson, Pulham, Sterling, Takitani and Wurdeman voting aye; Delegates Andrews, Barnard, Calvin Ching, Laura Ching, Chong, Chung, de Costa, Fukunaga, Fushikoshi, Hagino, Hashimoto, Hayashida, Hino, Hirata, Hokama, Dennis Ihara, Les Ihara, Teruo Ihara, Ikeda, Ishikawa, Iwamoto, Izu, Kaito, Kojima, Ledward, Marion Lee, Lewis, McCall, Nakamura, Nishimoto, Okamura, Penebacker, Sakima, Sasaki, Shinno, Shon, Silva, Stegmaier, Stone, Sutton, Taira, Takahashi, Takehara, Takemoto, Tam, Tamayori, Uyehara, Villaverde, Waihee, Weatherwax, Yamashita, Yoshimura and President Paty voting no; and Delegates Chang, Donald Ching, Haunani Ching, Chu, Chun, Fujimoto, Funakoshi, Kono, Nozaki, Ontai and Souki being excused.

Delegate McCall moved for the adoption of Amendment No. 4, seconded by Delegate Blean, which amended section 5 of Com. P. No. 10, RD. 1, to read in part:

There shall be a judicial selection commission that shall consist of nine members. The governor shall appoint three members to the commission, the initial appointments to be for terms of two, four and six years respectively. No more than one of the three members shall be a licensed attorney. The president of the senate and the speaker of the house of representatives shall each respectively appoint one member to the commission, the initial appointments to be for a term of two years respectively. The chief justice of the supreme court shall appoint two members to the commission, the initial appointments to be for terms of four and six years respectively. No more than one of the two members shall be a licensed attorney. Members in good standing of the bar of the state shall elect two of their number to the commission in an election conducted by the supreme court or its delegate, the initial election to be for terms of four and six years respectively. No more than four members of the commission shall be licensed attorneys.

Speaking for his amendment, Delegate McCall explained:

"The effect of this proposed change would be to limit the total number of attorneys who would serve on the judicial selection commission to no more than four. It would also limit the governor and the chief justice to appointing not more than one attorney each.

"With all due respect to the attorneys in this State, I think it is important that a certain balance be maintained on this commission and that we ensure that no one group have too much power or similarity of interests. At the present time there are no limits on the number of attorneys that could be on the commission. There is a possibility that the governor, the chief justice, the house speaker and the senate president would all appoint attorneys to the commission in addition to the two selected by the bar. We could have a situation in which a majority of the members would be attorneys. In order to preserve the independence of the commission and also to maintain openness and diversity of thought among the commission members, some limits on the number of attorneys are necessary.

"This amendment not only provides for such limits but also allows for a situation in which only two attorneys would be on the commission. In other words, this provides that the commission have at least two but never a majority of attorneys on it. I believe that in this way we can preserve the obvious value of the legal profession's input while fostering the openness and varied viewpoints beneficial to it. For these reasons I urge all my fellow delegates to vote in favor of this amendment. Thank you."

Delegate Ikeda then rose to speak in favor of the amendment, observing that while it was important to have input from attorneys on the commission, no single group, including attorneys, should be dominant.

Delegate Takehara, speaking in favor of the amendment, mentioned her feeling of the delegation's empathy in the need for layman input into the judicial system. Commission screening, she pointed out, when done by a diversified group of citizens, could help in locating nominees with the qualities they had mentioned in their discussion of lay judges.

Delegate Hale then rose to speak against the amendment. She stated that the key was not how many attorneys there were but that this amendment would retain the same commission as in the original committee proposal--one in which a majority of the members were appointed by the governor. The present system, she commented, might as well be retained since they would then at least know where to put the blame.

There being no further discussion, the question to amend Com. P. No. 10, RD. 1, by Amendment No. 4 was put by the Chair and the motion carried.

Delegate McCall then moved for the adoption of Amendment No. 5, seconded by Delegate Hagino, which amended section 5 of Com. P. No. 10, RD. 1, by deleting the fifth paragraph of the section entitled "The Judicial Selection Commission."

Speaking for his amendment, Delegate McCall explained:

"The material to be deleted concerns the disqualification of members on the commission who appear before a nominee for justice or judge. In the course of discussion in the Committee of the Whole, two things became apparent. First, the provision concerning disqualification as it now stands is overly broad and ambiguous. Second, the commission can itself promulgate rules of ethical conduct concerning disqualification. Provisions written into the Constitution should not be detailed, and the commission will be in a far better position to describe with the necessary detail the circumstances under which ethical considerations would require a member of the commission to disqualify himself. The court system itself can also, in the assignment of cases to the various courts, often avoid potential conflicts of interest. For these reasons and to make it much easier for an attorney to be a member of this commission, I ask you to support this amendment."

Delegate Barr then rose and moved to amend the amendment, in the interest of clarity, by changing the first paragraph to conform with the amendment just passed, seconded by Delegate Cabral. The question on the amendment to the amendment was then put by the Chair, and the motion carried.

Delegate Burgess then rose to speak in favor of the original amendment, noting the practicality of deleting the mandatory disqualification provisions and permitting the commission to make its own rules. It also, he added, left open the most likely solution--for the court assignment judge to assign that case to another judge.

Also speaking in favor of the amendment, Delegate Ikeda acknowledged that the intent of the original language could be better carried out by rules set forth by the commission or by the courts in the assigning of judges.

There being no further discussion, the question to amend Com. P. No. 10, RD. 1, by Amendment No. 5 was put by the Chair and the motion carried.

At 3:14 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 3:15 p.m.

Delegate Yamashita moved for the adoption of Amendment No. 6, seconded by Delegate Shon, which amended section 5 of Com. P. No. 10, RD. 1, to read in part:

Each member of the judicial selection commission shall be a resident of the State and a citizen of the United States. No member shall run for or hold any [other] appointed or elected office under the United States, the State, or its political subdivisions except merit appointments under civil service laws. No member shall take an active part in political management or in political campaigns. No member shall be eligible for appointment to judicial office of the State so long as he is a member of the judicial commission, and for a period of three years thereafter.

Speaking in favor of his amendment, Delegate Yamashita then made the following statement:

"Today we are not here merely to shape a document for temporary convenience; we are dealing with a document which, I believe, is of great importance in our political and social institutions. Here is where my priorities lie. Therefore, Mr. President, I rise to speak in favor of the amendment. The effect of the amendment before you is to prohibit commission members from holding any appointed office for the federal, state or county governments while serving on the judicial selection commission. This would be in addition to what is stated in the committee report against running for or holding elected office.

"The second part of this amendment would prohibit commission members from taking an active part in political campaigns, or the management of political campaigns. The intent of this amendment is simply to implement the stated desire of the judiciary committee report, of insuring that the selection of judges will be based on merit and not partisan politics. First of all, the composition of the commission approved by this body gives the governor three appointments, the supreme court two, the house and senate one each, and the attorneys of the bar two. It is fairly obvious that any combination of any of the groups would be sufficient to push through candidates not on the basis of merit as we have intended but instead for partisan political reasons.

"I believe it is crucial that we try to eliminate as much as possible all situations in which politics could be used to influence the actions of the commission members. First, unless we prohibit commission members from holding appointed positions in government, it would not be inconceivable to have members whose jobs and livelihood would be dependent upon the whims of the governor. If it is our intent to introduce merit selection into our judicial appointment system, we must screen out those areas of possible partisan abuse which might affect not only the process but also the newly created commission.

"The second part of this proposed amendment is intended to answer another area of possible partisan abuse; that is, those situations in which commissioners are heavily involved in political campaigning, especially in management of that campaigning. It is not aimed at curtailing any or all political involvement but that amount of political activity which might harmfully affect, or give the appearance of affecting, the nonpartisanship of commissioners. I believe the public's confidence and support for this commission are two important factors which we must carefully consider. The intended effect of this amendment would help to foster the public's confidence in our judicial system and our judges, as well as insure that the trust is not misplaced. I would like to remind all my fellow delegates that when we were elected many of us pledged our best efforts to fully and openly consider all issues which came before us, and also our commitment to try to put forth the best product possible for the good of all our people. To submit this proposal as is, without any limit on the political involvement of commission members or any limit on other possible avenues of political abuse would be, I believe, to leave our commitments unfulfilled and our promises empty. My mother often told me when I was young that if there's anything worth doing it's worth doing well. Therefore, I urge you to vote in favor of this amendment. Thank you."

Delegate Shon rose to speak in favor. He related his experience while serving on the ethics committee, at which time the committee was faced with a blatant indiscretion by an ethics commissioner who was actively involved in political campaigning. He was, he declared, very proud of the strong stand which the committee and the Convention took in their proposal to eliminate this type of abuse. It was right to do so, he noted, as ethics and judicial commission members should be above reproach. A judicial selection commission, he continued, just like an ethics commission, must be as nonpartisan as possible--perhaps even more so because the judges selected would touch many more lives in a very personal way than the ethics commission did.

Delegate McCall stated that although he supported the purpose of the amendment he disagreed with a portion of it. He then moved to amend the amendment, seconded by Delegate Funakoshi, by deleting the words "appointed or" in the sentence, "No member shall run for or hold any appointed or elected office under the United States..." as well as the last phrase, "except merit appointments under civil service laws."

Speaking for his amendment to the amendment, Delegate McCall stated:

"The rationale for this suggested change is that the language is a little bit too inclusive. As I read it, it would bar from service on the commission such persons as legal aid attorneys, and certainly some staff members in government who are not necessarily tied in with the political system. It would probably also remove many of the contractual employees of the three governmental services--county, state or federal--and I am sure many others that I don't know of at this time. To use the fishnet example, I think that the mesh described in the next sentence is quite adequate to catch the fish that we are after--'No member shall take an active part in political management or in political campaigns.' This, I believe, is what we're after and it would not catch the small fish."

Delegate Hale, on a point of information, asked if the movant intended that any appointed or elected officer could be appointed to the commission. Delegate McCall in response conceded that the word "any" was not correct, that some appointed officers or members of government could be appointed but that if the appointed official had taken or was taking an active part in political management, he was not eligible.

Speaking against the amendment to the amendment, Delegate Takitani observed that as much as possible politics should be taken out of the selection process. There were a lot of people in the State to choose from, he pointed out, and they could find good people by leaving the amendment as it stood.

Delegate Hale, on a point of parliamentary inquiry, asked if the question could be divided and each section voted on separately. The President in response advised that

the amendment to the amendment would be addressed first and then the division if so requested.

Delegate Burgess then inquired as to the type of appointed officers who would be available to sit on the commission. Delegate McCall replied that the original amendment would eliminate legal aid attorneys, for example, as well as many of the staff people working in those offices not covered by civil service laws, and probably many others in the state, federal and county systems.

Delegate Waihee, speaking in favor, agreed that if the language were left as proposed, it would exclude a substantial number of public employees.

Delegate Yamashita also spoke in favor of the amendment to his amendment, agreeing that the present language was restrictive. There were many employees, he stated, who were by formality appointed who should not be restricted from serving on the commission.

There being no further discussion, the motion to amend the amendment was put by the Chair and carried.

Delegate Crozier then rose to speak in favor of Amendment No. 6. Referring to previous discussions on the injustices to the Hawaiian people, he pointed out that one of the major tools used to rob them was the court system, adding that the amendment assured that no special interest group, whether political machine or big business, could do again what had been done during the territorial days.

Delegate Ikeda, speaking in support of the amendment, indicated that he was not speaking as chairman of the Committee on Judiciary, which had taken a contrary position. He explained that if the commission was to be truly nonpartisan, as set forth in the committee report, then they must make a complete statement as far as the activities of its members. A commission that selected judicial candidates who were expected to be nonpartisan, he remarked, should be composed of members who met the same criteria. Noting the similarity in language to the ethics commission requirements, he indicated that the differences between the ethics and judicial selection commissions were not sufficient to warrant differences in the requirement.

Delegate Waihee then rose to speak against the amendment, explaining that he did not understand the reach of the amendment and its effect on people exercising their First Amendment rights. Nor, he added, did he understand what "active part" meant. Everyone, he commented, would like to see the commission as nonpartisan as possible but a prohibition against activities widely participated in should not be included in the language. These prohibitions, he suggested, could be better handled by the commission itself, just as the disqualifications had been. He then recommended writing into the report that the commission or the judiciary formulate rules prohibiting specific levels of all activities considered not in the public interest.

Delegate Liu, speaking for the amendment, observed that it went far in eliminating conflicts of interest. Public confidence, he noted, was lacking in the "upper layer" of the legal system and without it the whole process of government was in jeopardy. Potential appointees, he continued, should be willing to work within the parameters specified. He then suggested that membership on the commission be considered another form of political participation.

Speaking for the amendment, Delegate Hale referred to its similarity to the ethics proposal and remarked that that provision had not taken away anybody's rights, as had been suggested there.

Delegate Campbell then rose to speak in favor of the amendment, explaining that if a person chose to become a member of the commission, he made the choice, and if his First Amendment rights were diminished, it was still his decision to make. What was more important, she pointed out, was that his conduct be above reproach and that he never appear to have any political involvement.

Speaking against the amendment, Delegate Silva observed that a person gave up a lot to become a member of the commission but that it should not be written into the Constitution. There was, he added, a code of ethics that all the members had to observe.

Delegate Burgess then spoke in favor of the amendment, stating that the idea of a person giving up his First Amendment rights to serve on the commission was inaccurate. He pointed out that many people gave up certain political activities when they chose their occupation, and even the Hatch Act prohibited federal employees from certain types of political activities. It was, he observed, an accepted part of everyday life.

A commission member who participated in political activity, he noted, made a terrible impression, and to delete this language from the proposal would mean the commission could be made up not only of appointed officers but even the governor's campaign manager, etc. He also pointed out that the public would lose confidence in the commission's ability to act in a nonpartisan manner. The cornerstone of any judicial selection system, he emphasized, was the independence of its commissioners, and virtually all states using the system specifically prohibited political activity. When all vestiges of merit were removed from the plan, he added, all that was left was the possibility that seven of the nine commissioners would be completely dependent on the appointive authority.

Speaking in favor, Delegate Harris noted that the amendment provided an opportunity to add a degree of merit to the merit selection process, remarking that "the merit selection process that this Convention has come up with has been viewed as a joke and a fraud by the public." He then urged the delegates to support the amendment.

Delegate Sterling then rose to speak in favor of the amendment, reminding the delegates that earlier they had voted down a proposal for the election of judges, thus taking politics out of the judicial selection, and that now they wanted to leave the politics in. If this amendment were voted down, he pointed out, they would lose public confidence.

Delegate Takitani, speaking in favor of the amendment, referred to the committee report, quoting: "[I]t was the near unanimous consensus of your Committee that a nonpartisan commission would be an improvement over the present selection process...." He then referred to the amendment's language: "No member shall take an active part in political management or in political campaigns." This, he pointed out, seemed to be the only consistent sentence that the proposal would have with the intent of the committee report, and it should be in the Constitution.

Also speaking in favor, Delegate Rachel Lee addressed the ethics committee, reminding them that they had voted in favor of eliminating members who participated in political campaigning and activity and that to vote against this amendment now meant they were double-talking.

Delegate Kaapu then made the following statement:

"I rise to speak in favor of the amendment, but not for the reasons that have been given by the previous speakers. In fact, I have to bite my tongue to keep from voting against this just because of the dire predictions as to the motives of those who vote against this. As one who voted initially for the proposal when it was placed before us after coming out of the Committee of the Whole, I thought we had made some progress, and I was willing for it to go forth as an improvement over the present system, just as I will continue to vote for matters that I think are more progressive than those which are offered or exist.

"Now, I'm willing to personally support this because I think it's an improvement. It would be a foolish governor or a foolish political system which would allow a campaign manager to serve in such a sensitive post. I think that the proposers of the original committee proposal, which was amended in Committee of the Whole, were trying to make an improvement, and they did a pretty good job of moving it forward. I think they could have done a little bit better, and I think this amendment does so--but only for that reason and not because to vote against it would be to betray the people or to go for political corruption or anything of that sort. I urge those who feel this is an improvement to vote on that basis alone and not for any other."

Delegate Goodenow, speaking in favor, urged the delegates to support the amendment.

Delegate Crozier then rose to speak for the amendment, pointing out that they should also consider the people selecting the commissioners, that those persons would tend not to select campaign workers as they would then lose the services of the person for up to 6 years. They would rather, he explained, select someone not too influential in the campaign, which would thus insure a nonpartisan commission.

Delegate Alcon, speaking for the amendment, noted that what the commission members might lose would probably be made up by the prestige of being on the commission. He added that he also supported the amendment because it specified that no member could be appointed to judicial office while a member and for 3 years after.

Delegate Barr then rose to speak against the amendment. He pointed out that the language of the amendment suggested that no member could take an active part in political management or campaigns while he was a member of the commission. It was easily possible, he noted, that the person could have been active politically before being appointed--the appointment could in fact be a reward for his services. He then questioned the value of denying continued partisanship, pointing out that at least they would know where that member was coming from, which was really the issue. It was, he explained, the nonpolitical people who should be denied membership on the commission, because "if they're really nonpolitical, they won't have enough interest, enough commitment, enough understanding of the process to pick good judges." What was needed, he continued, was not nonpartisanship but balance among the partisans. He then added:

"As a matter of fact, if this kind of thing drove a member underground, so to speak--so that he wasn't up front and honest about his partisanship--that evil would be far greater than the presumed evil of knowing where he's coming from and that it is partisan."

Delegate Souki, speaking against the amendment, mentioned that he agreed in general with the concept but that the method being proposed was not quite consistent with the ethics committee's deliberations. He then explained:

"The ethics commission language merely provides the tone for the State and local subdivisions as to the minimum standards they should have. Also, one of the considerations of the ethics commission was that anything that has to do with the judiciary, as far as disclosure of charges, etc., should then be referred to the judicial ethics commission, which the judiciary has. I think in this case this particular item here could easily be referred by resolution to the judicial ethics commission for their consideration.

"Let me go further. The State also has a code of ethics and it provides for regulation of the code of ethics for all the respective employees of the State, including appointees. Now, if we're going to make an exception only for the judiciary, then maybe we should include some language to provide for all of the appointees in the respective commissions. They all are very important commissions. They are just as important as the judiciary, and they also need, possibly, this kind of purist, theoretical thinking. I'm not opposed to that. But if you're going to do it for one, do it for all and in the proper jurisdiction. In this case, the jurisdiction would be either in the state code of ethics or in the judicial code of ethics, and not in the Constitution."

Delegate Shon then rose to speak for the amendment, explaining that the kind of abuse the amendment was intended to prohibit was that in which a commission member would utilize by implication the prestige of that commission in supporting a partisan candidate--which was, he added, the kind of abuse that in fact they had with a particular ethics commission.

Also speaking in favor, Delegate Hale acknowledged that the amendment probably didn't say what they said it did, but it did say what they had put in the ethics commission

proposal, and that was the point. She then reminded the delegates that the committee proposal for an ethics commission did not cover the judiciary, and that nothing in the Constitution covered the ethical conduct of the judiciary. They were assuming, she explained, that the judiciary had its own canons of ethics, an assumption that may or may not be true. Whether or not the language was the best, she continued, the intent of the language was there, and it was the intent that was referred to in the arguments for an ethics commission. She then concluded:

"I cannot see how anybody can think that an ethics commission is more important to this State and the people than a judicial commission. Judicial commissions can have an influence on whether we go to jail, delegates. Land use commissions do not."

Delegate Hamilton, speaking in favor, explained that he supported the amendment simply because it attempted, however imperfectly, to improve what they had done:

"Apparently there is some widespread if not universal feeling that the commission as now structured fails to meet the standards we had hoped. This amendment, in spite of the language, which troubles me a little bit in its lack of precision, tends to try to do it. I think it is important that we put the best possible light on what we have tried to do here. I too shall quote my mother--since this is the second time, I want to make certain no one assumes that I think my mother was any better than anyone else's mother, but I do think she had funnier lines. She used to say to me, 'If you have a pimple and you can't cure it, frame it.'"

Delegate Kojima then spoke in favor of the amendment, first stating that he took exception to the remark that what had been done thus far on merit selection was a fraud or a joke. He then observed that if they wanted judges who were nonpolitical, the people nominating them must be nonpolitical and free from political ties.

At this time, Delegate McCall rose and appealed to the delegates not to vote down the amendment just because it was an imperfect solution to a problem they wanted to solve. He noted that most of them realized this but didn't have a better substitute, and that at least this, if adopted, would make the purpose of the body rather clear.

Delegate Takehara, speaking against the amendment, explained her two reasons for opposing it: (1) that many spoke about encouraging citizen participation in education and government but contradicted themselves by prohibiting commission members from participating in political management and political campaigns; and (2) that the terms "active part," "political management" and "political campaigns" were relative and could be broadly interpreted.

Delegate Taira then spoke against the amendment, noting his agreement with a previous speaker that the amendment did not solve the problem. He pointed out that there was nothing in the law that would force the resignation or retirement of a violator, and putting the requirement in the Constitution could cause more problems in enforcement. He further noted that the political activity requirement, according to the language in the amendment, could not be enforced or even determined in the case of the two lawyer members elected by the Hawaii bar.

Speaking in favor of the amendment, Delegate Peterson pointed out that these individuals were not just ordinary citizens; they were nine commissioners chosen to select the judges of the State. They were people, he emphasized, in a very important position, who should of their own will choose to do the things required in the amendment.

Delegate Burgess, also speaking in favor, acknowledged the limitations of the amendment as far as past or future political activity of the members, but also pointed out that the amendment assured that members would not participate in political activity while on the commission. And that, he noted, was elementary in making a commission work. There were, he added, many people in the State who were not active politically, who were just the type of concerned, informed, intelligent people they would want.

Delegate Kaapu then spoke in favor of the amendment. He observed that while there

were many ways to get around the intent of the amendment, it did, although imperfectly, reflect the intent of the Convention and it was an improvement.

Delegate Waihee, speaking against the amendment, indicated his concern that the language did not accomplish what they intended and suggested that the commission establish its own rules to handle activity by members. He pointed out that it was inconsistent to precisely regulate the members' political activities, which were closer to fundamental rights, while at the same time providing no regulation at all in conflict of interest situations, which although not tied to rights could affect ethical situations.

Delegate Sterling then spoke in favor of the amendment. He referred to the method of choosing juries, pointing out that these were harsh, clear-cut rules, established at one of the lowest levels of the judicial system, and he questioned whether the same type of rules should not be insisted upon at one of the highest levels.

Delegate Campbell, speaking in favor, remarked that contrary to previous statements she could see nothing vague about the language in the amendment. And it should not, she stated, be left to the commission members to formulate their own rules. As convention delegates, she pointed out, they owed it to the people to explicitly set forth the requirement that the commission be as nonpolitical as possible. She then observed that previous political activity did not detract from an individual's capacity to serve apolitically once on the commission, as occurred with judges who previously had been actively involved in politics but once on the bench ceased all political participation, in adherence to the code of judicial responsibility and ethics.

Delegate Yamashita then spoke for his amendment, pointing out that the committee had started out with the premise of a nonpartisan judicial commission, and they should try to be consistent with that. Referring to comments made about the vagueness of the language, he argued that the amendment was very clearly worded, explaining:

"In the sentence, 'No member shall take an active part in political management or in political campaigns,' the word 'active' would simply mean things like canvassing--you would not be able to canvass, go door to door, you couldn't hold signs, or solicit or sell tickets. This would be taking an active part in a campaign.

"I think it's very clear what is intended. The amendment is very basic and is consistent with the intent of the committee report, which was for a nonpartisan judicial commission. I think the amendment should be passed. I'll leave you with this thought--if it is voted down, with the present language what could happen is that the chairman of the Democratic party could sit on this commission. I would question if this is the intent--not to say this is bad--but is it the intent of the committee? I don't think so. Thank you."

There being no further discussion, the question to amend Com. P. No. 10, RD. 1, by Amendment No. 6 was put by the Chair. At this time Delegate Calvin Ching requested a roll-call vote and the Chair, on determining ten seconds, so ordered.

Roll call being in order, the motion carried by a vote of 56 ayes, 39 noes and 7 excused; with Delegates Alcon, Anae, Barnes, Blake, Blean, Burgess, Cabral, Campbell, Chong, Chu, Chun, Crozier, DiBianco, Dyer, Eastvold, Fernandes Salling, Funakoshi, Goodenow, Hale, Hamilton, Hanaike, Harris, Hironaka, Hoe, Hornick, Dennis Ihara, Ikeda, Ishikawa, Kaapu, Kimball, Kojima, Kono, Lacy, Marion Lee, Rachel Lee, Liu, Marumoto, McCall, Miller, Nozaki, Odanaka, Ontai, O'Toole, Peterson, Pulham, Shon, Stegmaier, Sterling, Stone, Sutton, Takitani, Tam, Uyehara, Wurdeman, Yamashita and President Paty voting aye; Delegates Andrews, Barnard, Barr, Chang, Calvin Ching, Laura Ching, Chung, de Costa, De Soto, Fukunaga, Fushikoshi, Hagino, Hashimoto, Hayashida, Hino, Hirata, Hokama, Les Ihara, Teruo Ihara, Iwamoto, Izu, Kaito, Ledward, Nakamura, Nishimoto, Okamura, Sakima, Sasaki, Shinno, Silva, Souki, Taira, Takahashi, Takehara, Tamayori, Villaverde, Waihee, Weatherwax and Yoshimura voting no; and Delegates Donald Ching, Haunani Ching, Ellis, Fujimoto, Lewis, Penebacker and Takemoto being excused.

Delegate Taira then rose on a point of personal privilege and stated:

"I just wanted to say that this Convention--it's been called 'watch the majority floor leader'--and all that jazz is for the birds. This is an open convention, and the votes will go as the individual delegates see fit."

Delegate Takitani then rose and stated:

"Mr. President, on behalf of the minority members--and since we're on the subject of birds--we accept the crumb."

At 4:25 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 4:42 p.m.

Delegate Hirata at this time asked to withdraw his amendment and, there being no objection, the President so noted.

Delegate Ikeda then rose and asked if it was in order at that time to make a house-keeping amendment. He then stated:

"The amendment would transfer all the transitional provisions relating to the setting up of the judicial selection commission from page 7 of Com. P. No. 10, RD. 1, to page 9, section 6 of the proposal, under 'Transition; Effective Date.' It's purely housecleaning, but I understand this would make the work of the style committee much easier in handling the final form of the committee proposal, and I so move."

The motion was seconded by Delegate Hagino. Delegate Ikeda then spoke for his amendment, stating:

"We had included, in one of the sections of the proposal under the judicial selection commission, provisions relating to the setting up of the first judicial selection commission. These would be the provisions that set up the initial appointments of 2, 4 and 6 years for the appointments by the governor and 2 years for the members appointed by the president of the senate, the speaker of the house, and so forth. These, I understand, should properly be a part of the transitional provision as they are transitory in nature. So they should be transferred to section 6 of the committee proposal, under the transition section. It's a blanket changeover and concerns the ultimate preparation of the proposal."

Delegate Sutton, on a point of order, then moved to suspend the rules so that the amendment would be in order with the convention rules as a whole, seconded by Delegate Waihee. The motion to suspend the rules to consider the housekeeping amendment was then put by the Chair and carried. The amendment to transfer the transitional material then being in order, the question was put by the Chair and the motion carried.

There being no further discussion, Delegate Ikeda moved, seconded by Delegate Campbell, that Com. Whole Rep. No. 10 be received and placed on file and Com. P. No. 10, RD. 1 as amended, pass Second Reading. The question was put by the Chair and the motion carried.

GENERAL ORDER

Com. P. No. 15--RELATING TO THE BILL OF RIGHTS:

Delegate Weatherwax moved that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 15, relating to the Bill of Rights, seconded by Delegate Kaapu.

The motion that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 15 was put by the Chair and carried.

The President appointed Delegate Kaapu to be Chairman of the Committee of the Whole.

At 4:48 p.m., the President vacated the Chair and Delegate Kaapu assumed the Chair for the Committee of the Whole.

At 6:16 p.m., Delegate Kaapu vacated the Chair and the President resumed the Chair.

Delegate Kaapu, for the Committee of the Whole, reported orally that the committee had risen, reported progress and begged leave to sit again.

The President accepted the oral report and announced that the Committee of the Whole would resume its deliberations the next day.

ADJOURNMENT

At 6:30 p.m., on motion by Delegate Waihee, seconded by Delegate Crozier and carried, the Convention adjourned until 9:30 a.m. Saturday, September 9, 1978.

FIFTY-THIRD DAY

Saturday, September 9, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 9:30 a.m.

The President presided.

The Divine Blessing was invoked by the Reverend Jerry Appleby of First Church of the Nazarene.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present.

The President announced that the Journal of the Fifty-Second Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 80) informing the Convention that Stand. Com. Rep. No. 81, Minority Rep. Nos. 13 and 14, Res. No. 23, Com. Whole Rep. No. 14 and Com. P. Nos. 8, RD. 1, S. 1, and 14, RD. 1, had been printed and distributed.

On motion by Delegate Crozier, seconded by Delegate Takitani and carried, Stand. Com. Rep. No. 80 was adopted.

INTRODUCTION OF RESOLUTION

A resolution (Res. No. 23) relating to codification of the governmental sunshine and access principles was offered by Delegate Barnes.

The President thereupon referred Res. No. 23 to the Committee on Legislature.

ORDER OF THE DAY

Stand. Com. Rep. No. 76, Com. P. No. 7, RD. 2--RELATING TO LOCAL GOVERNMENT:

There being no objection, the President deferred action on Stand. Com. Rep. No. 76 and Com. P. No. 7, RD. 2, until Thursday, September 14, 1978.

Stand. Com. Rep. No. 81, Com. P. No. 8, RD. 1, S. 1--RELATING TO THE LEGISLATURE:

There being no objection, the President deferred action on Stand. Com. Rep. No. 81 and Com. P. No. 8, RD. 1, S. 1, until Tuesday, September 12, 1978.

DEFERRED MATTERS

Stand. Com. Rep. No. 77 (Com. P. No. 17) (Committee on Environment, Agriculture, Conservation and Land--Deferred from September 7, 1978):

There being no objection, the President deferred action on Stand. Com. Rep. No. 77 and Com. P. No. 17 until Tuesday, September 12, 1978.

Res. No. 22 (Committee on Style--Deferred from September 8, 1978):

There being no objection, the President deferred action on Res. No. 22 until Monday, September 11, 1978.

At this time, the President informed the Convention that Com. Whole Rep. No. 14 was still in the printshop and action on it would be deferred to the end of the calendar.

GENERAL ORDER

Com. P. No. 15--RELATING TO THE BILL OF RIGHTS:

On motion by Delegate Weatherwax, seconded by Delegate Calvin Ching and carried, the Convention resolved itself into a Committee of the Whole to further consider Com. P. No. 15, relating to the Bill of Rights.

The President appointed Delegate Kaapu to be Chairman of the Committee of the Whole.

At 9:48 a.m., the President vacated the Chair and Delegate Kaapu assumed the Chair for the Committee of the Whole.

At 12:08 p.m., Delegate Kaapu vacated the Chair and the President resumed the Chair.

Delegate Kaapu, for the Committee of the Whole, reported orally that the committee had risen, reported progress and begged leave to sit again.

The President accepted the oral report and announced that the Committee of the Whole would resume its deliberations later that day.

At 12:10 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 1:30 p.m.

On motion by Delegate Weatherwax, seconded by Delegate Dennis Ihara and carried, the Convention resolved itself into a Committee of the Whole to further consider Com. P. No. 15, relating to the Bill of Rights.

The President appointed Delegate Kaapu to be Chairman of the Committee of the Whole.

At 1:45 p.m., the President vacated the Chair and Delegate Kaapu assumed the Chair for the Committee of the Whole.

At 6:18 p.m., Delegate Kaapu vacated the Chair and the President resumed the Chair.

Delegate Kaapu, for the Committee of the Whole, reported orally that the committee had completed deliberations on the matter referred to it and recommended passage on Second Reading of Com. P. No. 15 as amended, and that a written report would be filed later. On motion by Delegate Kaapu, seconded by Delegate Weatherwax and carried, the oral report was adopted.

At this time the Clerk informed the President that for decking purposes Com. Whole Rep. No. 14 and Com. P. No. 14, RD. 1, relating to taxation and finance, had been printed and distributed.

The President thereupon placed Com. Whole Rep. No. 14 and Com. P. No. 14, RD. 1, on the calendar for Second Reading on Tuesday, September 12, 1978.

ADJOURNMENT

At 6:33 p.m., on motion by Delegate Silva, seconded by Delegate Waihee and carried, the Convention adjourned until 9:00 a.m. Monday, September 11, 1978.

FIFTY-FOURTH DAY

Monday, September 11, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 9:00 a.m.

The President presided.

The Divine Blessing was invoked by the Honorable Akira Sakima, delegate from the Sixteenth District to the Constitutional Convention of Hawaii of 1978.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present.

The President announced that the Journal of the Fifty-Third Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 82) informing the Convention that Res. No. 24 had been printed and distributed.

On motion by Delegate Crozier, seconded by Delegate Hayashida and carried, Stand. Com. Rep. No. 82 was adopted.

INTRODUCTION OF RESOLUTION

A resolution (Res. No. 24) requesting the establishment of a study commission to investigate the wrongs committed against, and the extent of the injuries to, the Hawaiian people and to recommend means of redress, was offered by Delegate De Soto.

The President thereupon referred Res. No. 24 to the Committee on Hawaiian Affairs.

ORDER OF THE DAY DEFERRED MATTER

Res. No. 22 (Committee on Style--Deferred from September 9, 1978):

Delegate Hamilton, for the Committee on Style, moved, seconded by Delegate Alcon, for the adoption of Res. No. 22, requesting the Committee on Style to consider all portions of the Constitution as to phraseology.

Speaking for the motion, Delegate Hamilton explained:

"Under the Rules of the Convention, the style committee is prohibited from reviewing any material other than that which specifically comes before it as a result of convention action. You did pass another resolution which called on us for action on discriminatory nouns, and that is on the way.

"However, the general totality of the Constitution, as far as phraseology and style is concerned, has not been reviewed since 1950. The 1968 convention did nothing about this and what this resolution does is ask the style committee to review the entire Con-

stitution for consistency, style and phraseology, and I would recommend its adoption."

There being no further discussion, the motion to adopt Res. No. 22 was put by the Chair and carried.

GENERAL ORDER

Com. P. No. 16--RELATING TO SUFFRAGE AND ELECTIONS:

Delegate Weatherwax moved that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 16, relating to suffrage and elections, seconded by Delegate Taira.

The motion that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 16 was put by the Chair and carried.

The President appointed Delegate Kaapu to be Chairman of the Committee of the Whole.

At 9: 25 a.m., the President vacated the Chair and Delegate Kaapu assumed the Chair for the Committee of the Whole.

At 12: 36 p.m., Delegate Kaapu vacated the Chair and the President resumed the Chair.

Delegate Kaapu, for the Committee of the Whole, reported orally that the committee had risen, reported progress and begged leave to sit again.

The President accepted the oral report and announced that the Committee of the Whole would resume its deliberations later that day.

At 12: 37 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 1: 10 p.m.

On motion by Delegate Weatherwax, seconded by Delegate Waihee and carried, the Convention resolved itself into a Committee of the Whole to further consider Com. P. No. 16, relating to suffrage and elections.

The President appointed Delegate Kaapu to be Chairman of the Committee of the Whole.

At 1: 12 p.m., the President vacated the Chair and Delegate Kaapu assumed the Chair for the Committee of the Whole.

At 6: 52 p.m., Delegate Kaapu vacated the Chair and the President resumed the Chair.

Delegate Kaapu, for the Committee of the Whole, reported orally that the committee had risen, reported progress and begged leave to sit again.

The President accepted the oral report and announced that the Committee of the Whole would resume its deliberations later that day.

At 6: 53 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 8: 24 p.m.

On motion by Delegate Weatherwax, seconded by Delegate Les Ihara and carried, the Convention resolved itself into a Committee of the Whole to further consider Com. P. No. 16, relating to suffrage and elections.

The President appointed Delegate Kaapu to be Chairman of the Committee of the Whole.

At 8: 25 p.m., the President vacated the Chair and Delegate Kaapu assumed the Chair for the Committee of the Whole.

At 11:56 p.m., Delegate Kaapu vacated the Chair and the President resumed the Chair.

Delegate Kaapu, for the Committee of the Whole reported orally that the committee had risen, reported progress and begged leave to sit again.

The President accepted the oral report and announced that the Committee of the Whole would resume its deliberations the following day.

ADJOURNMENT

At 11:57 p.m., on motion by Delegate Waihee, seconded by Delegate Goodenow and carried, the Convention adjourned until 12:05 a.m. Tuesday, September 12, 1978.

FIFTY-FIFTH DAY

Tuesday, September 12, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 12:05 a.m.

The President presided.

The Divine Blessing was invoked by the Honorable Larry S. Uyehara, delegate from the Seventeenth District to the Constitutional Convention of Hawaii of 1978.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present.

The President announced that the Journal of the Fifty-Fourth Day would be deferred.

ORDER OF THE DAY

Com. P. No. 16--RELATING TO SUFFRAGE AND ELECTIONS:

On motion by Delegate Weatherwax, seconded by Delegate Crozier and carried, the Convention resolved itself into a Committee of the Whole to further consider Com. P. No. 16, relating to suffrage and elections.

The President appointed Delegate Kaapu to be Chairman of the Committee of the Whole.

At 12:10 a.m., the President vacated the Chair and Delegate Kaapu assumed the Chair for the Committee of the Whole.

At 3:22 a.m., Delegate Kaapu vacated the Chair and the President resumed the Chair.

Delegate Kaapu, for the Committee of the Whole, reported orally that the committee had completed deliberations on the matter referred to it and recommended passage on Second Reading of Com. P. No. 16 as amended, and that a written report would be filed later. On motion by Delegate Kaapu, seconded by Delegate Weatherwax and carried, the oral report was adopted.

At 3:27 a.m., the Convention stood in recess until 1:30 p.m. that afternoon.

AFTERNOON SESSION

The Convention reconvened at 1:30 p.m.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 83) informing the Convention that Res. No. 25, Stand. Com. Rep. Nos. 84 through 87, Com. P. Nos. 10, RD. 2, S.1; 11, S. 1; 12, RD. 1, S. 1; 13, RD. 2, S. 1; and 15, RD. 1; and Com. Whole Rep. No. 15 had been printed and distributed.

On motion by Delegate Crozier, seconded by Delegate Fujimoto and carried, Stand. Com. Rep. No. 83 was adopted.

The Clerk announced that printing had just been completed and copies distributed

on Stand. Com. Rep. Nos. 84 through 87 which were on the calendar for that day. There being no objection, the President announced that action on these would be deferred until Monday, September 18, 1978.

INTRODUCTION OF RESOLUTION

A resolution (Res. No. 25) requesting abolishment of the "insanity" defense was offered by Delegate Tam.

The President thereupon referred Res. No. 25 to the Committee on Bill of Rights, Suffrage and Elections.

ORDER OF THE DAY DEFERRED MATTERS

Stand. Com. Rep. No. 77 (Com. P. No. 17) (Committee on Environment, Agriculture, Conservation and Land--Deferred from September 9, 1978):

On motion by Delegate Waihee, seconded by Delegate Hagino and carried, Stand. Com. Rep. No. 77 was adopted and the proposals enumerated within were filed; and Com. P. No. 17, relating to conservation and development of resources, passed First Reading by title and was placed on the calendar for further consideration on Thursday, September 14, 1978.

Stand. Com. Rep. No. 81 (Com. P. No. 8, RD. 1, S. 1) (Committee on Style--Deferred from September 9, 1978):

There being no objection, the President deferred action on Stand. Com. Rep. No. 81 and Com. P. No. 8, RD. 1, S. 1, until Monday, September 18, 1978.

GENERAL ORDER

Com. P. No. 18--RELATING TO THE USE OF NONDISCRIMINATORY TERMS IN THE CONSTITUTION:

Delegate Hamilton moved that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 18, relating to the use of nondiscriminatory terms in the Constitution, seconded by Delegate Crozier.

The motion that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 18 was put by the Chair and carried.

The President appointed Delegate Fukunaga to be Chairman of the Committee of the Whole.

At 1:45 p.m., the President vacated the Chair and Delegate Fukunaga assumed the Chair for the Committee of the Whole.

At 1:53 p.m., Delegate Fukunaga vacated the Chair and the President resumed the Chair.

Delegate Fukunaga, for the Committee of the Whole, reported orally that the committee had completed deliberations on the matter referred to it and recommended passage on Second Reading of Com. P. No. 18 as amended, and that a written report would be filed later.

On motion by Delegate Fukunaga, seconded by Delegate Hamilton and carried, the oral report was adopted.

SECOND READING

Com. Whole Rep. No. 14, Com. P. No. 14, RD. 1--RELATING TO TAXATION AND FINANCE:

Delegate Ishikawa, for the Committee of the Whole, and Delegate Lewis, for the Committee on Taxation and Finance, presented a report (Com. Whole Rep. No. 14) recommending that Com. Whole Rep. No. 14 be adopted and Com. P. No. 14, as amended in RD. 1, pass Second Reading.

The President, after reviewing the order of the amendments, called for discussion. Delegate Hokama rose and requested that Amendment No. 1 be withdrawn. There being no objection, Amendment No. 1 was withdrawn.

Delegate Ishikawa then moved for the adoption of Amendment No. 2, seconded by Delegate Lewis. At this time Delegate Waihee asked if Amendment No. 2 could be deferred to the end of the calendar. The President replied that if there were no objections it would be deferred. There being no objection, Delegate Ishikawa withdrew his motion for adoption of Amendment No. 2 and action on it was deferred to the end of the calendar.

At this time Delegate Izu, speaking on behalf of the movant, requested that Amendment No. 3 be withdrawn. There being no objection, Amendment No. 3 was withdrawn.

Delegate Izu, on behalf of Delegate Hirata, then moved for the adoption of Amendment No. 4, seconded by Delegate Silva, which amended section 3 of Com. P. No. 14, RD. 1, second paragraph, to read in part:

...The legislature by general law shall authorize political subdivisions to issue general obligation bonds and revenue bonds [and may authorize any board or agency of such political subdivision to issue revenue bonds] and[, in either case,] shall prescribe the manner and procedure for such issuance. All [general obligation] such bonds issued by or on behalf of a political subdivision shall be authorized by the governing body of such political subdivision [and all revenue bonds issued by or on behalf of a political subdivision shall be authorized by the governing body of such political subdivision or the governing body of any board or agency of such political subdivision authorized by law to issue revenue bonds]....

Speaking for the amendment, Delegate Izu explained:

"What we're seeking to do here is to delete all this language that refers to boards and agencies. I think most of us would agree that this is highly technical language, and we never realized the impact of this. We found out that this is really a substantive change and does make policy changes. It isn't what some of us believed to be just a matter of clarification for the benefit of bond counsel. The language in Com. P. No. 14 would authorize boards such as the board of water supply to issue general obligation or revenue bonds without the approval of the county councils. This was an issue that we hadn't really talked about very much, and we didn't want to make that policy decision at this time. Since the board of water supply has been operating well under the current language, we decided to just go back to the current language."

Delegate Lewis then rose to speak in favor of the motion, stating:

"As indicated, this was clarifying language, but when you talk about agencies as well as boards it does tend to expand the existing authority granted to these various boards, particularly the board of water supply. I've been in contact with the board of water supply, with bond counsel and people from the City and County of Honolulu, and they indicate that the board of water supply can continue to operate and sell bonds by having them issued and approved by the city council. And this would apply for the neighboring counties as well. So approval of this amendment would not impair the board of water supply's ability to finance its projects. On that basis I would speak in favor of it."

Delegate Ishikawa, also speaking in favor, explained that initially discussion on

the amendment had been contemplated during the committee meetings but it was found that more research was necessary. They had concluded, he added, that this was the proper way of dealing with the matter. He then explained:

"In brief, one of the main reasons for this kind of amendment is that Hawaii is known for its simple debt structure, and that's coupled with the fact that general obligation and revenue bonds are issued just by the State and the four political subdivisions. This kind of amendment would potentially open the gate for all kinds of agencies and boards to issue bonds. Because of this, because of the uniqueness of the State's bond structure, we at this point do not feel that we should open the gate for such additional boards and agencies. I apologize for this amendment coming up so late, but we do strongly recommend that the body adopt it."

At 2:08 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 2:12 p.m.

Delegate Peterson then spoke in favor of the amendment, noting that it addressed concerns that had been raised in the committee and also tightened up the section.

There being no further discussion, the question to amend Com. P. No. 14, RD. 1, by Amendment No. 4 was put by the Chair and the motion carried.

At this time, Delegate Marion Lee moved for the adoption of Amendment No. 5, seconded by Delegate Takahashi, which amended section 3 of Com. P. No. 14, RD. 1, second paragraph, to read in part:

...All general obligation bonds issued by or on behalf of a political subdivision shall be authorized by the governing body of such political subdivision and all revenue bonds issued by or on behalf of a political subdivision shall be authorized by the governing body of such political subdivision or the governing body of any board or agency of such political subdivision authorized by law to issue revenue bonds.

Special purpose revenue bonds shall only be authorized or issued to finance facilities of or for, or to loan the proceeds of such bonds to assist, manufacturing, processing or industrial enterprises, utilities serving the general public, health care facilities provided to the general public by not-for-profit corporations or low and moderate income government housing programs, each of which is hereinafter referred to in this paragraph as a special purpose entity. The legislature, by a two-thirds vote of the members to which each house is entitled [and by a separate bill for each authorization and for each different type of project, by general law may authorize] may enact enabling legislation for the issuance of special purpose revenue bonds separately for each special purpose entity, and by a two-thirds vote of the members to which each house is entitled and by separate legislative bill may authorize the State [or political subdivisions, or both,] to issue special purpose revenue bonds [and, in such case, shall prescribe the manner and procedure for such issuance;] for each single project or multi-project program of each special purpose entity; provided that the issuance of such special purpose revenue bonds is found to be in the public interest by the legislature. The legislature may enact enabling legislation to authorize political subdivisions to issue special purpose revenue bonds. If so authorized, a political subdivision by a two-thirds vote of the members to which its governing body is entitled and by separate ordinance may authorize the issuance of special purpose revenue bonds for each single project or multi-project program of each special purpose entity; provided that the issuance of such special purpose revenue bonds is found to be in the public interest by the governing body of the political subdivision. [No special purpose revenue bonds shall be authorized or issued ex-

cept to finance facilities of or for, or to loan the proceeds of such bonds to assist, manufacturing, processing or industrial enterprises, utilities serving the general public, health care facilities provided to the general public by not-for-profit corporations or low and moderate income government housing programs.] No special purpose revenue [bond] bonds shall be secured directly or indirectly by the general credit of the issuer or by any revenues or taxes of the issuer other than receipts derived from payments by a person under contract or from any security for such contract or special purpose revenue bonds and no moneys other than such receipts shall be applied to the payment thereof....

Speaking for her amendment, Delegate Marion Lee made the following statement:

"This particular amendment serves to be more of a housekeeping type of amendment. It is primarily to clarify the language and style of the amendment that was passed last week. The language was written by the attorneys so as to avoid any type of ambiguity or doubt as to the intent of the original amendment. The concept of the two-thirds vote is retained. There is no conceptual change; it is merely a change in the language and style of the amendment, and also relocating certain sentences to a different order. Therefore, because it is primarily a language and style change, I urge you to vote favorably. Thank you."

Delegate Shon then rose, on a point of information, to ask if the amended material on the two-thirds vote and separate bills could be construed as an option to authorize rather than a mandate that any authorization must be by two-thirds vote and by separate bill.

In response, Delegate Marion Lee explained:

"This process is in two steps. There are four different categories--utilities, housing, manufacturing and hospitals. Each of these four categories would have an act which has to be prepared and passed by two-thirds vote. Thereafter, if that particular category which is to authorize bonds--it must go back to the legislature and by a two-thirds vote authorize the issuance of bonds for the projects. So, the answer to your question would be no."

Delegate Izu then spoke in favor of the motion, advising Delegate Shon that she had had the same questions and on checking with the attorneys had been assured of that answer.

Delegate Hornick then rose to speak against the amendment, noting that she too had had the same questions and that if the amendment were a housekeeping one the original language preserved the intent much more clearly.

Delegate Hale then requested a short administrative recess.

At 2:19 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 2:23 p.m.

At this time Delegate Hale rose to speak against the amendment, remarking that because of the words "to assist, manufacturing, processing or industrial enterprises" she would be voting against the amendment.

Delegate Kono then spoke in favor of the amendment, stating that he was a member of the taxation and finance committee and had no objection to the language. The intent, he advised, seemed to be merely one of clarification. He then asked if the committee chairman could go over the specifics and reasons for the changes made in the language.

Delegate Lewis pointed out that it was not his amendment, whereupon Delegate Kono explained that it was his understanding the amendment had been prepared by bond counsel and he had therefore assumed the committee chairman might have some input as far as the rationale for the changes.

Delegate Lewis yielded to the movants for clarification, whereupon Delegate Marion Lee rose and explained that the amendment had been prepared by LRB and the attorney's office and also bond counsel.

Speaking against the amendment, Delegate Crozier explained that the words "may enact enabling legislation" made him nervous since it could also mean the legislature may enact for a group or an entire industry at one time, and not just one company.

Delegate Hirata then rose and offered the following clarification:

"At first I was somewhat hesitant because of the use of the permissive 'may.' But what this says is that the legislature may so choose to authorize a special purpose entity--they shall then enact the legislation, if the legislature chooses to. But they would have to enact enabling legislation for the special purpose entity. Above it's defined, what the special purpose entities are--public utilities, not-for-profit hospitals, government housing programs and also for manufacturing, processing and industrial enterprises. So, it's only for those industries that the legislature then may enact enabling legislation. After the legislature enacts enabling legislation which enables each specific entity to issue revenue bonds, then that entity will have to come back to the legislature and then have a bill passed which would appropriate the money. So in other words, each entity will have to come back twice--first to enact the enabling legislation, and that would have to pass by two-thirds vote, and then they would have to come back again for appropriations. That would also have to be by a two-thirds vote."

On a point of information, Delegate Crozier questioned the phrase "appropriate the money," explaining that he had understood the State wouldn't be involved with moneys. Delegate Hirata responded that the State would authorize the issuance of the bonds and would not be involved in appropriating.

Delegate Blake then questioned the term "may enact," asking if it had been the intent to use a permissive term, or if the word "shall" should have been used. In response, Delegate Hirata explained that "shall" would mean the legislature had to enact legislation for each special purpose entity, while "may" allowed the legislature to look at the needs of each requesting entity and judge each on its own merits.

Delegate Blake then asked if there might be a collective number of projects coming up that legislation might be enacted on, if the legislature could support one and not the rest. Delegate Waihee answered that by using the word "may" the legislature was allowed to refuse to enact any legislation; if "shall" were used, he added, they would have to authorize anybody who came in.

Delegate Blake then questioned whether this was information given by bond counsel or his own impression. Delegate Waihee responded that the information was his understanding of what counsel had said, to which Delegate Blake requested confirmation by the committee chairman.

Delegate Lewis confirmed the interpretation, adding, "Bond counsel as well as the Legislative Reference Bureau and house attorneys confirm that law, Chapter 205, Hawaii Revised Statutes."

Delegate Crozier, on a point of information, asked whether the term "shall" was not more definitive and explicit and had the power to enforce, rather than being just vague language. The permissive word "may," Delegate Hirata explained, referred only to the enabling legislation, and if the legislature chose to enact legislation it would have to do so by two-thirds vote.

If this were true, Delegate Hale then asked, why not insert "shall" in the last part of the sentence, that they "may enact enabling legislation for the issuance...and by a two-thirds vote...and by separate legislative bill" shall "authorize the State...."

In response, Delegate Peterson explained:

"I think the question which has been raised is a good question, and it's one that I was concerned with myself. However, the word 'shall' would require the State to authorize bonds for each issue that has had enabling legislation passed. By having the word 'may,' it says that the legislature may authorize bonds to be issued or it may decide not to authorize bonds--which I think is a protection. Otherwise, they would have to issue bonds. The question that was raised on the first word 'may'--'may enact enabling legislation'--if it were changed to 'shall,' then that would require the State to enact enabling legislation for industrial enterprises, for manufacturing, for processing, for utilities, for all of those different special kinds of projects. By this wording here, only those projects that the legislature decides it wants to pass enabling legislation for are passed. So I think this is a protection rather than a problem."

Delegate Hornick then rose to withdraw her objections to the amendment, thanking the committee members for answering her questions satisfactorily.

Delegate Hirata further clarified:

"There's been some concern that the use of the word 'may' would mean that the legislature would not have to enact enabling legislation. That is not true. Because this is a special purpose bond, the legislature will have to enact legislation which would deal with the reimbursements from the private corporations to the State so that the State can pay the debt service on these bonds. For this reason, this is not a self-executing clause in the Constitution. There is definitely a need to enact enabling legislation before authorizing the issuance of any special purpose revenue bonds."

Delegate Crozier questioned whether the reference that the State would have to pay the debt service meant that the State was going to have to pay out money again on this.

Delegate Hirata, apologizing for the confusion, affirmed that the State would not pay and explained that the debt service would be paid by the corporations, the public utilities or whatever entities the bond was issued for.

There being no further discussion, the question to amend Com. P. No. 14, RD. 1, by Amendment No. 5 was put by the Chair and the motion carried.

Delegate Ishikawa then moved for the adoption of Amendment No. 6, seconded by Delegate Blake, which amended section 3 of Com. P. No. 14, RD. 1, third paragraph, to read in part:

General obligation bonds may be issued by the State, provided that such bonds at the time of issuance would not cause the total amount of principal and interest payable in the current or any future fiscal year, whichever is higher, on such bonds and on all outstanding general obligation bonds to exceed: a sum equal to twenty percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance until June 30, 1982; and thereafter, a sum equal to eighteen and one-half percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance. Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance. Any bond issue by or on behalf of the State may exceed the debt limit if an emergency condition is declared to exist by the governor and concurred to by a two-thirds vote of the members to which each house of the legislature is entitled....

Delegate Ishikawa then spoke for his amendment, stating:

"The purpose of the amendment is to complete the commendable package set forth by your taxation and finance committee, by elevating the proposed debt limit provision to a level that will be unsurpassed by any existing state constitution. This amendment requires both the legislative and the executive branches to begin to be responsible fiscal managers of our public fund, by requiring the legislature to authorize only those CIP projects that are necessary, thereby requiring the executive to implement the legislature's intent.

"Under the present CIP planning and programming process, we are all aware of the conflict between the governor and the legislature caused by the governor selecting some CIP projects for implementation and withholding funds on others. There are those who contend that the governor has no power to impound CIP funds authorized by the legislature but that the legislature has abdicated its powers to the chief executive. As chairman of the Committee of the Whole on taxation and finance, I was unable to speak to the concept contained in this proposed amendment. I listened very carefully to all the discussion on the matter and was pleased with the arguments made in favor of improved controls over bond authorizations. Anyone reading the debates would agree that the vote did not correspond to the weight of the arguments in favor of the then proposed amendment. I therefore hope to correct this by offering a proposed amendment which is concise and simple to understand.

"From July 1976 to May 1977, I was a member of a project team consisting of consultants from a large international certified public accounting firm, a large New York based investment banking firm, and a public financial consultant from Philadelphia. This project team extensively studied Hawaii's debt management program, and among over 20 recommendations, strongly recommended: (1) that the debt limit formula be tied to the ability to pay--that is, the debt ratio formula; and (2) that the bond authorizations be controlled in order that the capital budget can become a realistic spending plan which sets forth those projects that both the executive and legislative branches expect to implement, thus minimizing if not eliminating the past practice of authorizing capital projects having little hope for implementation.

"Standing committee members have often referred to this study as a basis for debating questions relating to debt limit and lapsing of bond authorizations. With this background, I actively supported in those standing committee deliberations the concept of controlling bond authorizations in order to encourage the executive and legislative branches to prepare a CIP project that represents a realistic spending plan. Without control over bond authorizations, the existing CIP budget as we've had it in the past 10 years is meaningless.

"To meet this problem the standing committee offered a 2-year lapsing provision aimed at laundering authorized but unissued bonds. The Committee of the Whole extended the 2-year lapsing provision to 3 years. Proponents of the lapsing provision indicate that either amendment should significantly, if not completely, eliminate the situation that in the past has caused the State to amass in excess of \$1 billion in authorized but unissued debt. Today we have before us another proposed amendment that might extend the lapsing period to 4 years, which is the status quo, bringing us back to the \$1 billion backlog of authorized but unissued debt. My understanding of the proposed lapsing provision which would indicate the authorized but unissued debt problem may reduce the \$1 billion backlog up to \$300 to \$500 million.

"There are two reasons to support this conclusion. Because there is, at this point, no limit on the amount of bonds that the executive branch can propose and the legislative branch can authorize, it is very probable that the bond authorizations will exceed the amount that the debt limit pro-

vides for by at least \$50 million a year. The Peat, Marwick, Mitchell & Co. study referred to above shows that the practice has been that the legislature adds their bond authorizations on top of the executive budget request. Therefore, since the executive budget plans to sell \$150 million in 2 of the next 3 years and \$225 million in the third year, we can expect the legislature to add its amounts onto the executive budget rather than substitute their projects for executive branch projects.

"Before the lapsing provision takes effect, we would have accumulated at least \$150 million of authorized but unissued debt. It is then that \$50 million might lapse, but then be replaced by another \$150 million. Therefore the \$150 million backlog shall be on our books ad infinitum. In addition, from \$100 to \$200 million of authorized but unissued debt to meet federal financial aid and reimbursement requirements is also possible. It is therefore conceivable that through the lapsing provision we have no protection against irresponsible bond authorizations. Where does this leave us? This leaves us with the situation that we have today, except that we have protected the public from a reckless administration which might be inclined to sell more bonds than the market wishes to bear. But today we still have a problem that many of us have been trying to address throughout this Convention, and that is to balance executive power by returning to the legislature power abdicated to the executive.

"The concept of limiting bond authorizations is not new. In fact, its existence in our present constitutional debt limit indicates that the framers of the 1968 constitutional amendments intended that bond authorizations be tied to the debt limit. As a result, appropriation bills contain two parts: the first is the appropriation which lists the capital improvement projects and their related amounts; the second part is a bond authorization which sets a dollar limit on the amount of debt authorized, and this amount equals the sum of the projects appropriated. Why might we have objections to a bond authorization constraint now? No objections were given in the past because the existing debt limit which is on both authorizations and issuance was so generous and therefore meaningless. This is clearly demonstrated as the bond market has allowed the State to sell a little over a billion dollars of debt, while our existing debt limit allows another billion dollars to be sold. The generous debt limit, coupled with the practice of front-loading by the executive branch and unnecessary legislative pork barrel projects, has rendered the capital improvement planning and programming process a meaningless exercise, since the end product--the capital budget--is not a realistic spending plan of CIP expenditures.

"Now that we have approved a reasonably restrictive limit on the sale of bonds, we must follow the precedent set in the 1968 convention and control bond authorizations. For these reasons, I submit to this Convention that they consider very seriously this amendment. Thank you."

Delegate Lewis then rose and made the following statement:

"Mr. President, I rise to speak against the amendment. Your Committee on Taxation and Finance deliberated on this question at some length--that is, the question of whether there should be a limitation on authorized bonds as well as a debt limit on the actual bonds issued. The Committee of the Whole also discussed this concept at some length in connection with Delegate Kono's amendment to have a 140-percent limitation on authorizations. In both cases, the committee on taxation and the Committee of the Whole rejected the concept of a limitation on authorization.

"It should be pointed out that under the new proposed debt limit we are shifting away from authorized to issued. In other words, under the current debt limit, the limitation is on the bonds that are

authorized, and as a result we have \$2.3 billion bonds that can be authorized even though we only have \$1 billion actually issued. Under the new fairly restrictive debt limit formula, we shift our emphasis over to the actual debt service ratio which relates to the actual debt which is outstanding. This is a more meaningful measure of standards by which we can measure our debt, and it will operate as a more meaningful restriction on the debt which the State can limit. I would add that in terms of what the Committee of the Whole has done by a series of amendments, these amendments do in fact tend to restrict the amount of authorized debt. In other words, the first one relates to the 3-year lapsing provision which has already been adopted. The second provision relates to the majority vote as opposed to a two-thirds vote; this will tend to limit the amount of bonds authorized. The third area relates to the fact that in 1980 the legislature has to deal with the outstanding \$1 billion of authorized but unissued bonds. In other words, either these have to be reauthorized, they have to be encumbered or they lapse.

"And finally there is the restraining effect of the strict debt limit, which I just referred to. This strict debt limit will tend to restrain the legislature from authorizing bonds in excess or, I might add, considerably in excess of the actual debt which can be sold. For these reasons, Mr. President, I urge the delegates to vote against this amendment."

Delegate De Soto, on a point of inquiry, asked whether the amendment affected the amount of bonds that the Hawaiian homes department could issue. In response, Delegate Ishikawa explained that it should not, as all projects had to be submitted and considered on the basis of their merit and priority within the debt limit.

Delegate De Soto then rose to speak against the amendment, stating:

"Historically, the Hawaiian homes department has been a victim of whim--pork barrel and just pure whim. We just proposed some amendments for the public in consideration of funding. I think that this, despite the honorable delegate's mana'o, will indeed hurt the Hawaiian homes department. You see, Hawaiians may not be considered a priority someplace along the line. So therefore I speak against this amendment."

Delegate Sterling questioned whether the fact that 30 percent of the State's general fund budget was federal funds would affect the amendment.

Delegate Lewis responded that the federal fund exclusion related to the operating budget rather than the debt limit.

Delegate Sterling thereupon questioned if it was the committee's intention not to include it, asking if the debt limit included federal funds. Delegate Peterson rose to answer, explaining that as far as he knew the debt limit didn't include federal funds. He then addressed the question with the following statement:

"The amount of federal funds received by the general fund, which is the limiting factor, is less than 1 percent. The amount referred to in the article [in *Pacific Business News*] is probably the amount which was received through special funds, which is \$327 million, or about one third of all the amounts which are received. Unfortunately, our spending limit is only addressed to the general fund and does not look to any of these other funds. So it wouldn't provide any additional control to include federal funds as part of the general fund. Unfortunately, we have overlooked the whole area of special funds, which probably should be controlled. But by including the area of federal funds in the general fund we would not get any tighter control."

Delegate Kono then rose to speak in favor of the amendment, stating:

"In my opinion, this is the most important proposal in the entire

Convention to come before this body. I think the debt ceiling is a very critical factor here that most people are not familiar with. Because of the point in history we're in right now and the limited state resources that we have, I think this amendment is absolutely necessary.

"To echo certain comments made by others, the package coming out of taxation and finance does address the debt limitation problem--but only to an extent. It is a quite porous package, and it can be circumvented; we already know of several routes the package can be circumvented by. I must emphasize that this package only would restrain general obligation debt. It does not restrain, in any way, a revenue bond debt or special revenue bonds. I might add conjecturally that the Hawaiian homes commission, which another delegate was concerned about, would not really be looking at general obligation debt, which this amendment specifically refers to. The Hawaiian homes department has gone to contingency-guaranteed debt, which is another aspect of the debt package. It is extremely doubtful to me that the State would, in any event, engage in general obligation debt for housing projects, which is the reason that revenue bonds were set up in the first place.

"Now, turning back to the package and the reason that I think it is extremely important, the capital improvements project process at the present time is an extremely complex one and very unnecessarily so. You've heard many times that the authorized but unissued debt amounts to a billion dollars right now, which is twice the amount of debt that is outstanding. The confusion, as I explained the other day, from the grassroots point of view, is--why are there so many programs that are authorized but that never actually get funded? This confusion is absolutely unnecessary. I think that in a rational system you would expect that the amount you are authorizing to be issued would actually be issued, or have a very high probability of being issued. You wouldn't think you'd just throw all these moneys up for grabs and deceive the public into thinking that these projects would be eventually funded when in reality they were not to be. This is one of the major problems in the present process, and it becomes extremely confusing for someone who, say, feels the need for a new hospital to be built--as we did in Hilo--to confront this system with its complexities. And I think that this reduces tremendously the confidence people have in politicians and politics in general and the whole political system.

"We can very easily simplify this system, and this proposal would do that. I'd like to get into the history a bit, the reason that debt limitations are important at this point in our financial history. At the 1968 constitutional convention, the debt ceiling limitation formula was changed. It used to be the same formula that now applies to the counties, based on the total amount of property tax valuation. In 1968 the convention felt that a more rational debt limitation formula should be imposed and should be related to the State's ability to pay back the debt, not just the total amount of moneys and value outstanding in the State. At that time, however, finances were not such a critical function. It was a period of great growth all over the country, and we were in the midst of a period of phenomenal growth in Hawaii, which has carried through for the past 10 years. We've had a 10-percent growth rate per year in revenues in Hawaii, since 1968 to the present time. Going back to the Journal of the 1968 convention, it is obvious that although there were certain people--like the tax foundation--that were pushing for a conservative limit even at that time, that the convention delegates were not that concerned about imposing a strict limitation on general obligation debt. And that's why we have such a liberal formula. I might add that there were certain individuals in the convention at that time, including the chairman of the taxation and finance committee, who did want a more restrictive debt limit. However, his opinions and leanings were overriden by the committee.

"But what has happened in the ensuing 10 years, of course, is

the situation we have at the present time--that there's a billion dollars of authorized but unissued debt. And 1978, I would maintain, is a totally different period in time. First of all, we've seen several municipalities and states getting into tremendous financial difficulties; Delaware, New York and Ohio, among other states, are experiencing tremendous difficulties; Cleveland and New York are virtually in a situation of municipal default. This is a nationwide problem. I would maintain that in Hawaii we are certainly not above this type of financial difficulty. It is true that in the past 10 years we've experienced phenomenal growth. However, I think that if you were to have a sense of security about the future of the Hawaiian economy for maintaining its present rate of growth, which could sustain the present debt service program, that you would be quite mistaken. This is my own personal opinion, by the way. I might add that we had several economists who did speak to us on budget and finance, who said that they didn't have much fear for the economy of Hawaii. I would, however, offer to you that even at this Convention we are talking about environmental restraints, we're talking about the redressing of many social problems and ills that were created and built up over history and now have to be redressed. All these things bite into the economic growth that would be necessary to give us a risk-free environment, in which we could issue the kinds of debt that have been piled up in the past.

"It's time that we do go into a controlled growth situation in Hawaii, but we have to understand that by entering into this situation of maintaining this type of priority of slowing growth, that we'll have to somehow be able to fund the past obligations that were entered into. Now, Hawaii has an AA bond rating. I understand it's a rather shaky bond rating--in fact, I think last year Hawaii went out into the bond market and received interest rates that would be granted an A bond rating state. There are only five states in the nation that have A bond ratings. I think this would be sufficient warning to us that we ought to look after our financial affairs and shore them up.

"I'd like to say something about the reason that bond rating companies would assess Hawaii at A bond rating and why this is becoming more of a problem and more of a reality today. I've already mentioned the fact that there is great social unrest. You've probably read in the papers where investment companies, private industry, consider Hawaii to be one of the least receptive states--I think it was the least receptive state--to financial investment. Certainly this indicates the social priority that we have. At the same time, however, what happens if our tourist industry, which is the mainstay of our industry, starts to go under? If you look at the Caribbean experience and Miami, you'll see that this is not such a farfetched idea. We should all question, for ourselves, how many of us would like all of our children and grandchildren to continue to work in the tourist industry, which basically is a very subservient type of occupation. I can foresee, in the next 10 years, that there's going to be much greater resistance and more problems with people wanting to work in this type of occupation, which does not pay very highly and that requires people--"

At this time Delegate Haunani Ching rose on a point of order, to object to the speaker's reference to the tourist industry as being subservient and having low pay.

Delegate Kono then continued:

"The point I'm trying to make is that--and perhaps other people can confirm this, or 'disconfirm' it--that the Caribbean experience indicates that tourist industries tend to run into great difficulties after a period of time. It's a rather new industry in that sense, but I think that--in my opinion, it's not the kind of stable industry that you would like to stake your future on. I think that economists have realized this as well, in trying to diversify the economy of our State. The other problem, of course, is the sugar giant, that has been running into great financial

difficulties and is being hit by the double knock-out punch of foreign competition with cheaper labor, and the fact that they haven't had enough capital to build up modern technology to compete with foreign industry. So, I don't see our economic basis being that firm for the next 10 years. What does this mean if we ever enter into a recession or a depression? What it means is that, at the present time, we have a 16-percent debt-service-to-revenues ratio. This ratio will rise if the general fund revenues decrease in a period of recession or depression. It's going to become a greater burden than it is at the present time. I might add that our 16-percent debt-service-to-revenues ratio is the highest in the nation. Most states, in fact the national average, is about 4 to 5 percent. Our State is at tremendous risk regarding the debt situation we have.

"I just want to express my extreme concern about the fact that I don't think people quite understand the financial condition we are in and the necessity, at this point in history, to start looking at a firmer debt limit than we have. It is not the same situation as 1968."

Delegate Souki then rose on a point of information, requesting clarification as to the authorized but unissued debt. Delegate Lewis answered that under the current constitutional provisions, it was approximately \$1.1 billion.

Delegate Souki then asked whether the unissued debt was a real debt or a proposed debt. Delegate Lewis explained:

"Under the current debt limit provisions, we have a debt limit which is based on authorized bonds. This present debt limit is \$2.3 billion. Presently, there is only authorized and issued--approximately \$1 billion. There is authorized but unissued--another \$1 billion--leaving approximately \$300 million which is neither authorized nor unissued that can count against the debt limit."

Delegate Barr then rose to speak for the amendment, saying:

"Your delegate from the home of the Portuguese cowboy, Makawao--whose district, incidentally, includes the home of the Hawaiian cowboy, Ulupalakua--would like to speak in favor of this amendment. The principle contained in this passage is, in my opinion, a stroke of genius. I would like to applaud the movant for a creative improvement to our debt limit. The logic of what is intended here is very compelling. Its result will reduce legislative politics and increase responsible planning. Rather than programs being the victim of whim, as earlier expressed as a concern, when the legislature, following this principle, authorizes bonds, they're going to have to really mean it. They're going to have to be up front with the people about what it is they intend to have happen. It will also reduce executive manipulation of bond authorization and force the executive practice to become the faithful execution of legislative good-faith commitments. And that would be a terrific improvement. I speak in favor of this amendment."

Delegate Donald Ching, on a point of information, asked if the amendment would help the State's bond rating at all. Delegate Lewis responded that he doubted any impact one way or the other, as the bond rating agencies would be looking into the debt that was issued.

Delegate Kono then rose to elaborate, noting:

"I think I might have misled the body, perhaps, into thinking that the argument I was making was that the State's credit would be put at risk. The point I was making is that people should understand we're in a very difficult financial situation at this point--in my opinion, a financial turning point. I feel that all branches of government should realize this and take it into consideration constantly and continually in coming up with their capital improvement programs. In direct answer, certainly the governor does control the debt situation. No matter how much is authorized, the governor has

the final ability to issue the amount of debt, and he has followed prudent practices, which is perhaps why Hawaii still has the AA rating."

Delegate Donald Ching then asked if the \$1 billion plus amount appropriated but unallocated had anything to do with the credit rating of the State.

Delegate Lewis, in response, explained that, because of the large amount, there would be an asterisked notation on the current bond ratings when Hawaii was rated, indicating that there was over \$1 billion authorized but unissued that the executive branch could issue without any further legislative authorization.

Delegate Marumoto rose to confirm that the committee had received testimony that the large paper debt did tend to work adversely on their credit rating.

Delegate Donald Ching then continued on his point of information, asking if the appropriated and unallocated amount was the same as or twice the amount appropriated and allocated.

Delegate Kono responded that the total amount of authorized debt was \$1.973 billion, and the total amount of issued and outstanding debt \$990 million. Therefore, he concluded, the total amount of authorized debt was twice the amount of issued and outstanding debt, adding that it was a billion dollars more than the total amount of issued and outstanding debt.

Delegate Donald Ching then rose to make the following statement:

"I agree with everything the committee has done up to now. Setting the limitation at 15 and later on at 18.5 percent--I would have been very happy if the committee had set it at 15 percent and the Convention would so go on record. That doesn't bother me at all. The 2-year limitation which was first proposed by the committee I rose to speak against because, as a practical matter, I argued that it would give both the executive and the legislative branches a very difficult time in which to operate to come up with a meaningful capital improvement project. I think what a lot of the delegates do not realize is that the capital improvements budget is not like an operating budget, where it is worked on and put into effect in the next month or two after the legislature adjourns. It is a budget that is put together after the executive branch has come in with its recommendations and 76 legislators coming in and going over the executive budget and adding their own thoughts to it. This has been a matter of course. The figures show that the governor comes in with a set figure, the legislators then add to it to take care of local needs--more commonly referred to as the 'pork barrel' appropriation. Now as a result there is not enough--and I admit to this--there is not enough planning and not enough deep thought that goes into a capital improvement budget. But during the course of its implementation a lot of the chaff is separated from the wheat, and what is finally allocated in the executive branch of government are the things that are really needed by the people of this State. I don't think there's much argument with that.

"Now the \$1 billion, I realize, is a blight on the State's debt limitation--if you want to call it that--but it was a legislative limitation that was put on by the 1968 convention, rightly or wrongly. I was not in on the workings of the decision; I voted for the final implementation of it and that was about it. But I think that there has been too much to do about the \$1 billion. It has really not affected us in any way, shape or form. It has given the governor some operating room--maybe too much, though. Now, as to the battle between the legislative and the executive branches--there is no battle at all, really. The legislators individually try to go in and get the governor to implement. The governor in his wisdom, or lack thereof, will fund or not fund. I think that the system has been working, especially with a responsible executive. I've just been reminded--and I meant to mention during the course of my discussion--that on July 1, 1980, by the terms of the committee's proposal, that \$1 billion in and of itself will drop dead.

"So now we're faced with annual appropriations which by themselves will lapse after 3 years. Now this added proposal being suggested in Amendment No. 6 will really tie the legislators' hands so that they will have a very difficult time trying to operate within both the limitation at the back end and now the limitation on the front end, so that they're going to come up with projects that will take 2 to 3 years to implement. They might find themselves short of money and/or the necessary number of projects to give the administration enough room to maneuver with. I don't think that this is good for the people of this State, especially in the neighbor island areas where the needs are much greater than urban Honolulu. I plead with the delegates--I have no trouble with the rest of the proposal but if this were to be put in, I think that we're going to find a lot of problems in the implementation of this proposal. Thank you."

Delegate Sterling then rose on a point of information to ask Delegate Donald Ching's response to Delegate Kono's statement that the State was in a rather precarious or dangerous financial condition.

Delegate Donald Ching, acknowledging that he lacked the expertise of Delegate Kono in this area and that he too had some trepidation about the fiscal integrity and financial condition of the State, admitted that the system had been a little loose and he was glad the Convention was tightening it up.

Delegate Hoe then rose and stated:

"I tend to look at this issue in a much more close-to-home manner, and I feel the point here is not one of the credit rating of the State but the accountability of our government. I feel that for the people to be promised a project and to later have it thrown out is not, indeed, accountability. I rise to speak in favor of this amendment. If, indeed, the executive and the legislative branches together are responsible for the financial well-being of this State, it seems very strange that one branch of government would abdicate its control over our capital improvements budget process. It makes sound business sense that both the legislative and the executive branches of government should exercise meaningful influence over this budget.

"I am somewhat familiar with business practices. From my experience, I can say without hesitation that I would not enter into a business partnership in which I would allow my partner the total discretion to get our firm into a position of significant indebtedness. I would wish, rather, to maintain the kind of relationship wherein, even if my partner had much greater financial insight than I, that I would be constantly consulted whenever we would engage in debt and issuances. Since decisions on entering into debt are among the most risky and dangerous decisions in a business, it seems that our legislature over the past years has entered into a secondary relationship with the executive branch of government. With the present setup, the legislature may authorize many millions of dollars more than the executive branch, exercising sound financial management, can possibly issue. It seems by giving the executive branch of government what someone referred to as a grab bag of authorized projects from which the governor can issue funds for only 15 percent, that the legislature is allowing the executive its virtual autonomy in the final determination of which projects are to be financed.

"To return to my analogy of a business partnership, this would be the equivalent of me allowing my partner, by himself, the final choice of 15 projects from my proposed list of 100 projects, and at the same time allowing him to set the priorities on these projects. In other words, I would have lost the ability to be an equal partner and I would have accepted a watered-down rule of being able to suggest, in only the vaguest sense, those expenditures which I considered desirable. By tying our legislators' bond authorization limit to the amount of bonds the governor can actually issue, I feel that we will be creating a healthy and desirable relationship of checks and balances that should apply to all financial matters, whether they be private business or government."

Delegate Waihee then rose to speak against the amendment, explaining:

"First, as far as it is coming out in the debate, I don't know what effect this would really have in dealing with our debt limitation. Under our present system, debt is established--the debt limit is based on the bonds that are issued, which is the real course to the taxpayer. In other words, until a bond is issued, the general fund is not paying for it. But when that time occurs, there's a limitation on the amount of money that can go out. So we do have a very strict limitation on issued debt, which is the time that any bond starts to cost the taxpayer.

"Now, in addition, as has been pointed out several times, we do have a lapsing provision of 3 years for any authorized but unissued debt--which is some of the problem now, where in our present situation without that kind of provision, we have been able to accumulate a billion dollars of authorized but unissued debt. There is that lapsing provision to take care of that situation, as well as a provision that would in 1980 completely lapse the present debt.

"So, with these mechanisms in mind, one has to scrutinize what is being attempted by this amendment. It seems to me what we are trying to do through this amendment is to readjust the legislative and the executive powers through the taxation article. That's a very risky thing to do. But having attempted it, let's see whether it can really be accomplished. I say that it cannot--for one, because mainly the planning and the execution functions are still left to the governor. So the governor, in essence, would be picking the CIP projects because he would have the resources to plan as well as implement them--that would be the first problem. The second thing would be that the governor's ability to allocate funds or to veto any issuances still remains. So we haven't dealt with the fundamental problem, as to whether the executive branch has any discretion with the issuance of debt. It still does. So what we are creating here is another debt limit to attempt to reallocate powers between the legislative and the executive branch. In my opinion, it fails to accomplish that. Not only does it fail to accomplish that, it complicates our tax structure. For these reasons, I speak against this amendment."

Delegate Andrews, speaking in favor, made the following statement:

"I am one who believes debt is a very good thing as a method of investing in the future. But our debt structure must be visible and it must be responsible in order to be a sound investment in our future--visible in the sense that what is authorized should have the capability of being implemented. We all hear stories of going to the legislature, getting projects authorized and never seeing anything happen after that. With this amendment, the legislature will have to remain within the framework of what it is possible to fund and possible to borrow on and possible to implement. It brings about responsibility, because it brings about accountability to those who are authorizing the debt. The legislature will now be accountable because what it authorizes would be within the bounds of what can be issued. No longer will we have the legislature authorizing tremendously above the capability of our State to borrow and therefore allowing the governor to just pick and choose and have full reign over issuance. Again, this brings about more visibility and more responsibility. Therefore I urge you to vote in favor."

Delegate Blean then rose to speak in favor of the amendment, acknowledging his lack of formal training or knowledge in the subject. He then thanked Delegates Ishikawa and Kono for their clear concise language and proceeded to explain:

"For me to totally grasp this, I have to put it in a framework which I understand, which is land use planning. I know that if you take land and you have a hodge-podge development by which you zone some here and zone some there, you have conflicting authorities, conflicting jurisdictions. Some guy can develop, the other guy

can't develop, and you don't know what is going on. You end up with a patchwork quilt of uncontrolled development, and that is not planning. That is just confused growth, or confused existence. I'd like to relate this to the whole concept of financial planning, again in which I don't have that much of a background. I do know from the arguments I have heard today that if you have what I consider a patchwork system of financial planning in the State, where you authorize some, you issue some--some counts in the debt, some doesn't count in the debt--you don't have financial planning, you just have sort of financial existence. I think this amendment will get away from what I see now as a grab-bag system of political financing in the State, where the politicians try and get their little pork barrels for their district, and they take it out of the realm of sound financial administration. Therefore, I speak strongly in favor of this amendment, and I think that it will close what I view has to be a loophole in our state financial system--that is, using bonds to bypass stringent and much needed control on state spending."

Delegate Kaapu then stated:

"I rise to speak in favor of the amendment, though not with the desperate sense of urgency that has been expressed by some, because I don't feel that by instituting these policies my grandchildren will be spared menial labor or that the economy's base will somehow be shifted. However, I do recognize, as previously stated, that the governor's freedom and the governor's prerogatives and power are probably not to be affected greatly by this. But I do want to speak from the standpoint of one who serves on a legislative body in which we appropriate no more than can actually be issued. However, our flexibility is much greater because the availability of the members to meet and to make adjustments is facilitated by our schedule. However, I do realize that the State needs the flexibility, and yet with the removal of the two-thirds requirement there is less need for pork, or district appropriations. But we have the same phenomenon on the local level. However, in my legislative body there are only nine of us who can therefore share a larger portion for each, and yet the total amount may be less. Yet in the legislature, with a great number of people to satisfy, the removal of the two-thirds requirement of course will lessen that. I understand, that the limitation that is being proposed by this amendment is not so stringent as to create any pinch at the present time. But if there is a feeling that perhaps we should increase the lapsing period from 3 to 4 years, I would certainly feel that we should put some check on both ends of the debt picture. For that reason, though without expressing any extremely optimistic hope that this will make the State much better, I do feel it would be some improvement and therefore speak for it."

Delegate Lacy, speaking in favor of the amendment, mentioned the difficulty that legislators had in working with numbers that had to come out closely in a short period of time and still being able to track and plan a program. He pointed out the importance of their attitudes, in worrying about meeting money limits and not feeling that money wasn't all that important, advising that attitude was most important if the current trend was to be reversed.

Delegate Burgess then rose to speak in favor of the amendment, observing that the arguments by the three delegates who spoke against the amendment could be considered effective arguments in favor of it. The first speaker, he related, pointed out that the amount of bonds authorized would be limited, which would have a restraining effect on legislators, which was the purpose of a debt limit. He continued:

"The second delegate who spoke against the amendment, who has a great deal of practical experience in the operation and working of the legislature, pointed out that it is not an operating appropriation that this limitation applies to. This is a capital improvements budget, and that is put together by the executive and then 76 legislators add their own thoughts to it. He pointed out very candidly that that is known as

the pork barrel method of making capital improvement appropriations and admitted that not enough thought is given by the legislature to the appropriations for capital improvement. He said that there is no battle at all between the executive and the legislature and the only battle, or the only disagreement, is when individual legislators go to see the executive to try and get their own particular projects allocated.

"So when you think about it, the way that system works--the executive comes in with the proposed capital improvement budget--about \$100 or \$150 million per year--and then the individual legislators each have their allotment of pork barrel--I think the way it works, and someone can correct me if I'm mistaken, but I believe that each senator has \$750,000, each representative has \$500,000, and each one adds his project to the total. Now, that \$750,000 for each senator and \$500,000 for each representative comes to a total of about \$44 million. That amount is simply added on to the total which is authorized by the legislature every 2 years. So if you think about it, you find that the legislature doesn't really make any effort to question or analyze what the executive's budget contains; and each of the individual legislators has his own projects, and doesn't look into or question the advisability of any other legislator's projects. So no one in the legislature is making any effort to see whether the total amount that our State borrows is reasonable or unreasonable. Somehow, I don't know exactly how that got started, but I think--if you think about it, it's not a good thing to continue. It should be corrected, and I believe that the legislators who testified before our tax and finance committee actually are agreed that it is not a good system. Quite a few of them asked that we give them a method where they can say no. They agreed that they should have back in their hands some of the responsibility and some of the actual fiscal planning for the State. So analyzing that, I think that was the best argument for putting a limitation at the time of authorization as well as at the time of issuance.

"The third delegate who spoke against the amendment said he didn't know what effect this amendment would have on our debt limit. Well, actually this particular addition wouldn't have any effect on the debt limit, because the limit is established at the time of issuance. What this amendment intends to do, and hopes to do, is to put the legislature back into a position of co-partner in fiscal planning for the State. The legislature, I respectfully submit, is supposed to control the purse strings of the State, but now it does not do that. This simply restores that balance--where the legislature thinks it through and then the executive, at the time of issuance, also thinks it through--so you have a dual responsibility.

"The other argument I've heard against it is that we lapse projects if they're not funded within 2 or 3 years. Well, that indeed was the argument at the time of hearing and discussion in the committee, and we considered the present debt limit as based on the time of authorization. Under our existing Constitution you cannot authorize debt in excess of 3-1/2 times the average general fund revenues for the last 3 years. So it does apply to the legislature. The trouble is that it's so high that it really is no limit at all. We discussed at length the imposition of a more realistic debt limit at the time of authorization, but we were convinced that it was not necessary if we had a lapsing provision that was fairly short. That's why the committee put in a 2-year lapse period. The theory on that was that if a legislator gets a pork barrel project--say a park for his district--and then in 2 years that lapses because the money has not been allotted for it, he would be embarrassed to go back and do that again and keep reauthorizing the same thing. So the 2-year lapse period did tie in with the reasoning for not putting it in at the time of authorization. But in the Committee of the Whole, we increased that lapsing period from 2 years to 3 years, and we have before us for later consideration a provision to increase the lapse back to where it is right now--to another 4-year period. So if we do that, even with it now at 3 years, we don't have anything which would change what everyone agrees is a bad practice. If you just analyze all of this, basically the

only thing that this amendment does is require the legislature at the time it authorizes the issuance of general obligation bonds to make a finding as to what the total amount of debt service on those bonds will be and to make it binding that when those bonds are issued that the total amount of the indebtedness will not exceed the debt limit. It's not a very stringent requirement. It simply puts back in their hands the responsibility for our fiscal planning. I would respectfully submit that that's where it should be."

Speaking in opposition to the amendment, Delegate Hirata acknowledged that on its face the amendment was fiscally conservative and financially wise. However, he observed, the neighbor islands appeared to be at a disadvantage. He explained:

"One of the previous speakers spoke about pork barrel appropriations, whereby each senator is allotted \$750,000 and each representative \$500,000, to appropriate out. The way I interpret this would mean each representative and each senator would be given an amount but it would be smaller. What this amendment calls for is a balanced CIP budget, so that if the governor were to authorize all of the funds that were appropriated, the neighbor island counties would be at a disadvantage because they have fewer representatives and fewer senators.

"In total, there are only 6 neighbor island senators, compared to 19 from Oahu--that's 3 from Hawaii county, 2 from Maui and 1 from Kauai. In terms of representatives--5 representatives from Hawaii, 4 from Maui, 3 from Kauai, which is a total of 12 neighbor island representatives--and 39 from Oahu. Now, if you parcel it out evenly and the governor is required to release these funds, I think there would be a lot of capital improvement projects funded on Oahu. The neighbor islands, which really need some of these capital projects, will not be getting the money because now we're talking about having a balanced budget. You can't say that because you come from the neighbor island, this senator would be given a little more money. I think that each senator would be treated equally, each senator given an equal amount whether if he comes from Maui, Kauai, the Big Island or from Oahu. Where there is need for roads, like on the Big Island, or construction of a new hospital, these things may not be funded because there may not be enough representatives coming from that area or enough senators.

"If you're talking about fiscal management, this amendment is somewhat wise, but at the same time the neighbor islands are really going to be hurting. Presently, we do maybe authorize more projects than we can actually float bonds for, but I think that the governor will select projects in terms of priorities, or which area would need them more. If the need is on the neighbor islands, he would thereby, I would think, issue funds for those projects. So by this Convention adopting this amendment, the neighbor island counties will really be hurting a lot."

Delegate Hokama rose to speak against the amendment, commenting:

"I for one feel this is very bad, especially for my county. One thing that we've mentioned a lot is fiscal policy. I'd like to bring up my rationale, basing it on typical politics. Government was never meant to be, or to be run by, private industry--business. Politics is part of government, it is part of the representative forum, and I feel this amendment adds more politics into the fiscal management game. I feel you will find more in-house politics between members and the chairman of each fiscal management committee. Who is to say my CIP project for my county has less priority than your CIP project? Who is going to say now, between houses, that my senatorial CIP has higher priority than your CIP priority? When it goes to the executive, who can say to the governor that this legislative CIP project has higher priority than that CIP project? No one here that I know of can make such fiscal projections about bond issuances for a full

year and be in session for 3 months. Even the chief executive, I feel, will be the first to tell you that he cannot project very accurately for 3 months. No one here can. Then how can we limit our Constitution for a minimum of 10 years by such narrow and detailed fiscal policies, with no freedom to take in or count on additional revenue sources that may enter into the fiscal picture or less fiscal revenues that may enter the picture? I think we're adding more politics. We'll find it more difficult to get legislative approval, and you'll find a great backlash on each district's needs and projects."

Delegate Souki also spoke against the amendment, stating:

"First of all I wish to thank the adopted neighbor islanders from Honolulu who spoke wisely and so kindly for the neighbor islanders. Sometimes I wish we would look into ourselves and try to adopt some of the concepts. While it is basically true that the neighbor islanders are at an advantage in this type of project appropriation that we have, I think you must understand the political system of Hawaii, that it is not only the neighbor islanders that benefit from this system but the whole State. The political system, whether it's on a national level or state level or county, has a mechanism for its representatives to seek assistance for their constituents to the respective legislative body. It's true that it's the responsibility of the legislative body to provide the kind of assistance it still seeks. Certainly, whether it's on the national level or the local level, many times the amount that's being requested is more than we can possibly afford. However, it is within the priorities of planning within the executive that they can determine where the needs are. That is the way it should be. The legislators meet only for a relatively short time and do not have the capability to do the planning for the executive. That is why they come with budgets that go beyond. However, in concert with the executive and the legislature, they look for areas they can provide these needs.

"I wish to cite an example of things that are to come. The neighbor islanders are very dependent upon tourism, as has been cited. Tourism, and its allied products, is the major source of income that we have. Now, without any capital improvement programs you will not have the stimulus of dollars flowing into that community. The neighbor islanders and the outlying areas from Honolulu need these capital improvement projects to provide the cash flow. This cash flow is an important item for the respective communities of the State. I wish that all of you here who have any aloha and who can consider the need for the present system, please vote down this amendment."

Delegate Blake spoke in favor of the amendment, reminding the delegates what had caused the \$1 billion in authorized but unissued bonds. He then pointed out:

"The executive agency has not programmed the CIP carefully. In fact, they have no incentive to do so, if they have such a lengthy period to obligate funds. The net result is that the executive CIP program is in shambles. The \$1 billion pool represents hundreds of projects--who knows, perhaps even thousands--and nobody can tell either the public or the legislature which projects are still alive or which projects are dead. The legislature has been dipping into its bottomless pork barrel and has made all kinds of appropriations, many of which are meaningless and will never see light of day. The 1968 constitutional convention tried to deal with the issue of lapsing; the chairman of the 1968 taxation and finance committee strongly urged the convention to adopt a lapsing provision--and all this at a time when the State's authorized debt was less than \$300 million. Well, lapsing was scuttled by the politicians in 1968 and the CIP pool is now over \$1 billion.

"We all know--at least I know it well--it's not so difficult to borrow money. But when you have to meet the payments, that's another story. The amendment on the floor is one of responsibility and it places

responsibility where it should be. Mr. President, I urge that this amendment, this excellent amendment, be accepted by the delegation. Thank you."

Delegate Pulham then made the following statement:

"Mr. President, unlike a delegate who spoke a short time ago, I'm not so sure I am happy that every time this body seems to get around to a tough question, we start worrying about the neighbor islands, and all of a sudden this is a priority. While I should be thankful for this sort of thing--if it were substantive I think I would be--but we cannot exist out there on baloney. There is before this body a substantive amendment which would do much to correct a deficiency. I would urge my fellow delegates to stick to that and what it concerns itself with, which is fiscal responsibility, and not be alluding to helping the neighbor islands when there is only x number of dollars. We are only going to get what is appropriated by the governor. So don't be telling me that we're going to get more or we're going to get less by practicing fiscal responsibility. There is only x number of dollars, my friends, and that is all we have to work with. So let's not be talking about the sort of thing that does not relate to the essential problem--that is, whether this amendment does or does not contribute to the fiscal responsibility of this State.

"Now, I think we're all pretty familiar with the process by which the CIP is given out. We know how it's done, we know that it's split up; but the bottom line is still how many dollars are there for the governor to work with. Now, beyond this, how do we responsibly get those programs from the legislature to the governor, in what amounts and whether they can stand. I think that's essential right here, because here's where the baloney comes in. So what if we've got x billion dollars in CIP programs on the books and you give them all to us poor folk out on the neighbor islands. It doesn't do us a cotton-picking bit of good. There's no money coming in there. That's a sham. We're talking about being responsible. If I were a legislator and I were to go back to the Big Island with a CIP project, I would like to have some sort of certainty that it was going to come next year or the year after--certainly that it's not going to lie in the pork barrel for 10 years and hope the governor gets around to spreading a little of that stuff on it. I'm much more interested in sound fiscal management than all this window dressing we're talking about. So let's not delude this body. And let's not delude the public. We're either going to do something about fiscal management or we're not. It would seem to me, and I would beg your kokua, that this amendment goes a long way in that direction. I ask you to support it. Thank you."

Speaking against the amendment, Delegate Sakima rose to clarify a point--that the \$1 billion would cease on July 1, 1980 and that all the CIP would lapse after 3 years, not the 10 years that had been specified.

Delegate Andrews, speaking again in favor of the amendment, pointed out:

"I'd like to make it clear that the amendment is not restricting any more of the amount of debt which can be issued. It's basically asking the legislature to work within the framework we've outlined in the debt ceiling. When we do what we're presently doing--authorizing much more than can be issued--we're leaving that amount to the lobby groups, to the person who can lobby best, the person who can grab what is available and take it home with him. I don't know if this is the best. I think we should stick to trying to see that the funds are given out to that which was the intent of the legislation. The only way we can do that is to keep the legislature within the bounds of the debt limit. Again, we're not being restrictive; we're only asking the legislature to work within this framework. They, like the governor and the State, must authorize bonds within the framework. This will make the purpose of the bonds much clearer to everyone. The last thing I have to say is, I hope that you all vote in favor of the amendment. Thank you."

Delegate Peterson, speaking in favor of the amendment, observed that Hawaii, in its fiscal policies, when compared with other states was one of the most generous and least fiscally responsible states in the nation. He then explained:

"We have discussed Hawaii's history today, and I would like to consider what some other states are doing with regard to debt, to try and put some perspective on this. At random I chose three states-- California, Washington and Wisconsin. I didn't choose these states to demonstrate any particular viewpoint, I just asked my researcher to go and get constitutions from a few states, and these are the ones I got. As another delegate suggested, almost any other state we might consider will have more restrictions surrounding the issuance of debt. Let me read from some of these constitutions. The first is from the state of Washington. It says that the aggregate debt contracted by the state shall not exceed the amount for which principals and interest--which is the same kind of debt service ratio we're talking about--shall not exceed 9 percent. You note that the amount we're talking about is 20 percent for a few years, to be reduced to 18-1/2 percent. Compared to the state of Washington, we certainly do not have a restrictive debt limit.

"I'd like to call your attention to Wisconsin's constitution, but before I do, I'd just like to refer to an amendment which I considered submitting. The amendment would have read: 'All capital improvement project appropriations enacted by the legislature shall be subject to referendum. Any capital improvement project shall not be implemented unless approved by a majority of all votes cast upon the referendum.' This means that before the state can issue any kind of bond, they wouldn't have to have it approved by the legislature, approved by the governor or whatever, they would have to submit it to the people. Now you may say that this is unreasonably restrictive, but I would like to refer to Wisconsin's constitution, which reads: 'At any time after January 1972, by a vote of a majority of the members elected to each of the houses of the legislature'--so first it has to be passed by both houses of the legislature--'the legislature may declare an emergency exists and submit to the people a proposal to authorize the state to contract a specific amount of public debt. Any such authorization shall be effective'--now note this--'if approved by a majority of the electors voting thereon.' So, even after two houses of the legislature have passed it, it has to be submitted to the people.

"I'd like to draw your attention to the state of California, that this is exactly what is done in many cases in California. I'll just read a few of the propositions submitted to the voters in California for their approval. The State Higher Education Construction Program Bond Act of 1966 was passed. A number of others--Veterans Bond Act, Junior College Construction Program Act, Home Owners Property Tax Exemption, Hospital Loans, Apportionment of Local Sale and Use Taxes, University of California Health Science Facilities Construction Program, Clean Water Bond Law, Recreation and Fish Wildlife Enhancement Act, Veterans Bond Act, Bonds to Provide Community College Facilities, Bonds to Provide Health Science Facilities. The kinds of restrictions we're talking about are not the kinds of restrictions which they have found unworkable. They believe in these states that a program which has merit will be approved by the voters. Since the voters have to pay for it, they should be able to decide whether that program is one they want to pay for. So by looking at other states, I just want to provide a little perspective. We are not a restrictive state. The limits we are talking about in the committee proposal compared to other states would not be considered restrictive by any stretch of the imagination. The E. F. Hutton report, 1976 Summary of Hawaii Credit Analysis, says that there is no state which has higher state tax-supported debt as a percentage of personal income. It has another set of figures that say total state and local debt per capita--there are only two states that have higher per capita debt and three states that have a higher per capita debt as a

percent of personal income. There is only one state that has total taxes which are higher than state general revenues as a percent of personal income. These figures are just examples that Hawaii is on the leading edge, a frayed edge that is starting to become torn. One reason we aren't able to issue more of our debt that has been appropriated is that, frankly, the capital markets won't buy it. So even though we have a lot of appropriated debt, it would be impossible for us to issue this kind of debt.

"Just in summary, I'd like to answer some of the arguments posed by people who are not in favor of this amendment. Some delegates have said that because we are shifting from the point of authorization to the point of issue, we have solved the problem. But the problem was mentioned quite well by another delegate who spoke of the importance of giving the responsibility to the legislature and not allowing the governor to have such a number of programs to choose from. One delegate said that the current debt limit is relatively strict. Well, in my opinion that is not the case. We have heard comments about the 3-year lapsing period. I think that is very weak compared to the 2-year lapsing period, and in exchange for the 2-year lapsing period, we lost all the restrictions to appropriations whatsoever. So, even if we have a 3-year lapsing period, it would be possible for the legislature to pass billions of dollars of appropriations, even more than they are limited to now, without having any limit to appropriations which could make the problem even worse. Some have mentioned that we have a 1980 limit, at which time all of these authorized but unissued bonds would be wiped off the slate. That is not exactly the case. There is an exclusion for all projects which may have matching relationship with federal funds--those are excluded automatically. There is also an exclusion for all those projects for which some moneys have been encumbered. These are technical details but what they say is that this limit, which is supposed to wipe out all of the authorized but unissued, has a few loopholes that will not allow it to be completely wiped out.

"The question of the neighbor islands' local governments being disadvantaged by this amendment I think was covered very well by one of the delegates. A delegate mentioned a bridge which was authorized in 1948 but it hasn't carried any more traffic than if it had never been authorized in the first place. This amendment will not reduce capital improvement spending by one dollar. It merely lets the legislature decide which projects shall be funded. Although in some respects we are tightening general obligation debt, we are generously increasing debt excluded from the limit. In comparison with other states, our restrictions could be considered not strict but profligate. We are constitutionalizing one of the least restrictive debt limits compared with other states. The percent of general fund revenues spent for debt service is among the highest in the country. In order to justify calling this proposal a limit, we must approve this amendment."

Delegate Marion Lee then rose to speak in favor of the amendment, stating that the present system was not working and that there should be more accountability by the legislators in the CIP area. She pointed out that changing the general obligation bond issuance from two-thirds to a majority vote made issuance much easier and that they should therefore have an extra safeguard. The 3-year lapsing period, she noted, was not sufficient but stricter control could be instilled with the amendment. She then urged the delegates to take a conservative approach and put a stop to the present system.

Delegate Blake, speaking for the amendment, refuted the idea that by favoring the amendment they might lose their CIP for the counties, adding:

"You need a majority vote in the senate, and this requires a majority vote. And the neighbor islands come pretty close in assisting in this majority vote. You can rest assured that your senators will be working with the senators here--they need their support. Oahu won't stand

by itself. Like this Convention, there are many conflicting ideas, and they too have conflicting ideas as far as CIP is concerned. I would like to dispell this cloud of doubt floating over your heads that if you go along with this, we might lose the CIP. That's not true at all. So I'd like to ask all of you to seriously consider adopting this amendment."

Delegate Kono then rose to speak again in favor of the amendment, stating:

"I'd like to emphasize that I do consider this to be the most important amendment before the Convention. I'll try to make this as brief as possible. I've been impressed, in general, with the grasp that the delegates have shown of the issue at hand. I'd like to emphasize the fact that this in no way is going to limit the flexibility of our debt financing program. That is a false argument. The governor still controls the issuance of general obligation debt; this in no way interferes with his ability to issue debt. The only thing that this amendment does is it makes the legislature more of a co-equal partner in the entire debt management program. I have heard that there are concerns again being raised about the Hawaiian home lands issue. There is no general obligation bond issue that supports Hawaiian home lands programs at the present time. So this is in no way going to interfere with the present practice of the administration. It has not been issued in the past. It may be issued in the future. That is entirely up to the governor to decide and the legislature to so authorize. There are other avenues, however, that Hawaiian homes have employed in funding their housing programs, and they will continue to use that route, which is the contingent guaranty route.

"I would like to quote from a letter that was written on August 10, 1976. It comes from Mr. Tom Hitch and is addressed to the Honorable Jack K. Suwa, and says: 'I think we have to start this discussion with a recognition of the fact that the legislature has abandoned its control over the state's capital improvement budget and program.' And it goes on to say the legislature has politicked itself out of power over the capital budget. Further on in the letter he says, 'First, I would like to see the legislature reestablish control over the capital budget. I am old-fashioned enough to think that while the executive should exert strong leadership in government, it should nonetheless be the legislative branch that declares what should be done and when it should be done.'

"So, in other words, what we're really doing is strengthening the legislators' control over the authorization of debt. It in no way, however, interferes with the actual issuance of debt, which the governor prescribes unilaterally. The governor may decide, if he doesn't like the programs that have been offered by the legislature, to override them with a veto. To override a gubernatorial veto in a CIP authorization, the legislature would need a two-thirds vote. The other thing the governor could do would be to wait until the 3-year lapsing period goes by without funding the authorization by the legislature. He still controls the capital improvements budget. However, what we are saying is that the legislature now, at the point of authorization, will be more of a co-equal partner with the governor. They do not have this ability right now. At the present time, for all intents and purposes, the legislature has given up their political power over the capital improvements budget. So, we're strengthening the system.

"The other thing that this amendment will do, hopefully, will be to make the system more visible. Also, I might say, since the pork barrel issue has been brought up, this will in no way mandate that the legislature will not continue with their pork barrel projects. They may so decide to continue to issue pork barrel. It's just that the amount they'll have to play with will be reduced. So I speak very strongly in favor of this amendment, and I really don't see any substantive or negative argument against it. The only argument that can be brought up is that if you want to maintain the typical political system that we have now, then de-

feating this amendment would do that. For that reason I strongly urge that you adopt this amendment so that we can get rid of the so-called typical politics and turn it into a more responsible system."

Delegate Donald Ching, on a point of information, asked if there was anything in the amendment or the proposal that would force the executive to allocate the funds that were appropriated. Delegate Kono replied that the amendment in no way interfered with the executive's ability to issue debt, that that was entirely his province.

Delegate Donald Ching then rose to speak for a second time, stating:

"I think that the only way we can make the legislative branch co-equal with the executive is, in this particular area of state government, for the Constitution to mandate issuance of whatever is appropriated, whether in the way of operating budget or capital improvements budget--to somehow find some way--and as far as I know, no constitution, national or state, has come up with it yet. In fact, several years ago Congress had to file suit against the President to force him to spend moneys in a highway trust fund which were not being expended by the chief executive. Now, this is true in the present state of the State here. As I've said earlier, I think that the thrust of the whole proposal is in the right direction, and I agree with it. But what you are doing is really tying the legislators' hands a little more tightly and not doing anything as far as forcing the executive to carry out any kind of legislative mandate by this amendment."

Delegate Crozier, speaking for the motion, pointed out that just making the legislators more responsible for their own duties would relieve some of the governor's burden.

The Chair then recognized Delegate Ishikawa to speak last for his amendment, whereupon Delegate Ishikawa rose and stated:

"Mr. President, with respect to a previous speaker, there are two comments before I make my concluding remarks. The first is that if we cannot mandate the executive then I really question to what extent the legislature's appropriation bill makes any sense. And secondly, the purpose of this amendment is to address that problem that President Nixon faced when the Department of Agriculture sued him when he tried to impound CIP funds in the national government. There was a movement here 2 years ago, that perhaps the legislature might sue the governor. And that's the whole background behind this amendment.

"Let me summarize some of the items that this proposed amendment does not do and then summarize what it is supposed to do. It does not unduly restrict the executive and legislative branches' capacity to authorize capital improvement projects, since the debt limit allows from \$150 million to \$200 million a year of bond sales in the next 5 years, and up to \$300 million a year thereafter. It does not in any way affect the manner in which the proposed debt limit on bond sales operates. Nor does it establish an actual limit, which a delegate alluded to, since the amendment merely calls for the legislature to state that to the best of their knowledge, based upon available data and prudent assumptions, the bond authorizations would not cause the debt limit to be exceeded. Third, it does not require complex computations which are impractical, because its principal and interest estimates on all outstanding bonds and on all bonds outstanding, authorized and unissued are similar to the calculations that had to be made by and for the taxation and finance committee of this Convention in order to arrive at the debt ratio computation percentages in the proposal. Fourth, it does not hurt the neighbor islands; in fact, without this amendment neighbor island projects would more likely be lapsed because executive projects will be considered first.

"What the amendment does, first of all, is it provides a means for both the executive and legislative branches to demonstrate to the

public greater accountability and fiscal responsibility in the area of budgeting capital improvement projects and related bonds. Secondly, it makes the capital budget a realistic spending plan and consequently permits the legislature to recover the power abdicated to the governor over the implementation of CIP projects. And it gives all of us some assurance that those projects which the legislature appropriates will be implemented.

"Given a society without credit, people would only be able to spend as much as they had available. However, through credit instruments such as loans and mortgages, people may overextend themselves and consequently be unable to repay their debt as well as meet their current operating expenses. In like manner, a government can usually only spend as much as it has in taxes and other revenues. But government, like people, has been afforded a credit market that allows them to acquire facilities and pay for them throughout the years the facilities are used. This is done by borrowing through the sale of bonds. Therefore, to protect individuals and government from going bankrupt, it is critical that the ability to overborrow be properly constrained. You yourselves know how individuals are constrained to overborrow.

"Let me read you what needs to be done in government. We have taken, in Com. P. No. 14, RD. 1, a great step toward controlling the State's ability to borrow money. Through the amendment now being offered, we can provide the executive and legislative branches an opportunity to improve the State's capital planning and programming process and thereby enable them to clearly demonstrate to the public that they too can be responsible fiscal managers and accountable for their authorizations of capital improvement projects. Without this amendment the executive and legislative branches can authorize as many necessary, as well as meaningless, capital improvements projects as they please. This, I maintain, is irresponsible government that will inevitably succumb to public pressures for more and more projects beyond the State's ability to borrow more money.

"In conclusion, I submit that inclusion of this amendment in the Constitution will make Article VI the model of all other state constitutions. We would have established a debt limit provision unmatched by other states today. Article VI, as proposed and if ratified by the electorate, will give Hawaii two elements that promote good responsible government--a spending limit and a debt limit. If I may borrow an often-used phrase, I submit that spending limits is an idea whose time has come, and we have taken that opportunity to share in the leadership of that concept. I further submit that the debt limit, coupled with the provision for responsible bond authorizations by both the executive and legislative branches, is an idea that is long overdue. Therefore, I humbly ask all delegates to seriously consider the merits of this amendment and to submit to the electorate a progressive debt limit provision which includes control on bond authorizations, which shall lead the way for other states to follow. Thank you."

There being no further discussion, the question to amend Com. P. No. 14, RD. 1, by Amendment No. 6 was put by the Chair. At this time Delegate Blean requested a roll-call vote and the Chair, on determining ten seconds, so ordered.

Roll call being in order, the motion carried by a vote of 55 ayes, 38 noes and 9 excused; with Delegates Alcon, Anae, Andrews, Barnes, Barr, Blake, Blean, Burgess, Cabral, Campbell, Laura Ching, Chu, Chun, Chung, Crozier, DiBianco, Dyer, Eastvold, Ellis, Fernandes Salling, Fujimoto, Goodenow, Hale, Hamilton, Hanaike, Hoe, Hornick, Dennis Ihara, Ikeda, Ishikawa, Kaapu, Kimball, Kono, Lacy, Marion Lee, Rachel Lee, Liu, Marumoto, Miller, Nozaki, O'danaka, O'Toole, Peterson, Pulham, Shon, Stegmaier, Sterling, Sutton, Takitani, Tam, Uyehara, Waihee, Wurdeman, Yamashita and President Paty voting aye; Delegates Barnard, Chang, Calvin Ching, Donald Ching, Haunani Ching, Chong, de Costa, Fukunaga, Fushikoshi, Hagino, Hashimoto, Hayashida, Hirata, Hironaka, Hokama, Les Ihara, Teruo Ihara, Izu, Kaito, Kojima, Ledward, Lewis, Nakamura, Nishimoto,

Okamura, Penebacker, Sakima, Sasaki, Shinno, Silva, Souki, Stone, Taira, Takahashi, Takehara, Villaverde, Weatherwax and Yoshimura voting no; and Delegates De Soto, Funakoshi, Harris, Hino, Iwamoto, McCall, Ontai, Takemoto and Tamayori being excused.

At 4: 35 p. m. , the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 4: 48 p. m.

Delegate Ishikawa moved for the adoption of Amendment No. 7, seconded by Delegate Lewis, which amended section 3 of Com. P. No. 14, RD. 1, seventh paragraph, to read in part:

All general obligation bonds for a term exceeding two years shall be in serial form maturing in substantially equal installments of principal, or maturing in substantially equal installments of both principal and interest. The first installment of principal of general obligation bonds and of reimbursable general obligation bonds shall mature not later than five years from the date of issue of such series, the last installment on general obligation bonds shall mature not later than twenty-five years from the date of such issue and the last installment on general obligation bonds paid to the federal government, on reimbursable general obligation bonds and on bonds constituting instruments of indebtedness under which the State or a political subdivision incurs a contingent liability as a guarantor shall mature not later than thirty-five years from the date of such issue. . . .

Delegate Ishikawa then yielded to Delegate Lewis, who spoke in favor of the amendment as follows:

"The essence of this amendment is contained in the bottom part. There are no changes until you come down to about five or six lines from the bottom. And basically what this amendment does is it allows the State to issue 35-year term bonds for two new areas. The Committee of the Whole adopted language which said 25-year bond limitations, except for reimbursable general obligation bonds. Well, we have added two new categories for 35-year term bonds, and the first one is where the State or political subdivision 'incurs a contingent liability as a guarantor.' And the other one is where the last installment on general obligation bonds is paid to the federal government. Both of these situations, in terms of the contingent liability as a guarantor--if you will look at paragraph (h), which is an exclusion to the debt limit--this is the area we have been discussing the last few days, involving loans for aquaculture, farm loans, loans to the Hawaiian homes commission--Hawaiian home lands loans as well as Hawaii housing authority loans. These loans--because the security behind these loans may be questionable, and also because you want to provide the lowest cost in terms of the loan, it is recommended that we stretch the terms of these bonds from 25 years to 35 years.

"Now, with respect to the sale of bonds to a federal agency, the City and County of Honolulu presently has a \$5 million issue which has been sold to a federal agency for the life of 35 years at a very favorable interest rate of 4.371 percent. This amendment would cover those two specific areas and no others, and would allow the issuance of 35-year bonds as opposed to 25-year bonds for those specific areas and none others."

There being no further discussion, the question to amend Com. P. No. 14, RD. 1, by Amendment No. 7 was put by the Chair and the motion carried.

At this time the Chair recognized Delegate Taira, who moved, on behalf of Delegate De Soto, for the adoption of Amendment No. 8, seconded by Delegate Waihee, which amended paragraph (h) of section 3 of Com. P. No. 14, RD. 1, to read:

(h) Bonds constituting instruments of indebtedness under which the State or any political subdivision incurs a contingent liabil-

ity as a guarantor, but only to the extent the principal amount of such bonds does not exceed [six] seven percent of the principal amount of all outstanding general obligation bonds not otherwise excluded under this section; provided that the State or political subdivision shall establish and maintain a reserve in an amount in reasonable proportion to the outstanding loans guaranteed by the State or political subdivision as provided by law; provided further, that the State shall establish and maintain a reserve in an amount in reasonable proportion to the outstanding loans guaranteed to the Department of Hawaiian Home Lands.

Speaking for the amendment, Delegate Taira observed:

"Mr. President, first let me explain what is being done here so you can tie this in to your proposal. The first thing this amendment does is in paragraph (h), line 4, it proposes to change the 'six percent' to 'seven percent.' In addition, this amendment adds to the end of the paragraph: 'provided further, that the State shall establish and maintain a reserve in an amount in reasonable proportion to the outstanding loans guaranteed to the Department of Hawaiian Home Lands.' These are the two changes being made.

"Now, Mr. President, I move to amend this amendment by deleting the following clause: 'provided further, that the State shall establish and maintain a reserve in an amount in reasonable proportion to the outstanding loans guaranteed to the Department of Hawaiian Home Lands.'"

The motion to amend the amendment was seconded by Delegate Waihee. Delegate Taira then yielded to Delegate Waihee, who explained the reasoning for the amendment to the amendment, as follows:

"Mr. President, this amended amendment is proposed because the added clause is redundant. The first clause already takes care of it. There was some misunderstanding when this was originally proposed, that this type of clause should apply to every department. But if you read the preceding sentence, it says that the State or political subdivision--if this program goes into effect, the State is already mandated to provide reasonable reserves. So it's unnecessary to have this additional clause. The effect, which is the intent of the motion, would be by the deletion of this clause, simply raising the percentage amount for the limit from six to seven. So the reason for deleting this is that it's not necessary, and in fact may tend to complicate things."

There being no further discussion on the amendment to the amendment, the question was put by the Chair and the motion carried. Delegate Hale then rose to ask the purpose of the increase from 6 to 7 percent.

Delegate Waihee, speaking for the amendment, explained:

"What this amendment attempts to do is to increase the present limitation from 6 percent to 7. Now maybe I can explain what these bonds are, before we begin. This provision exempts from the debt limit bonds which are authorized to back up a guaranty that the department puts out for home loans. So they are not active issues. But nevertheless they do carry a moral obligation behind them. So, our initial thought in the Committee of the Whole was that we should perhaps establish some kind of limit to the total number of bonds that would be issued. In the conferences that took place between the agency and various members of both committees, the 6 percent was arrived at.

"Now, the problem of 6 percent is that it might not take care of all the projections as far as building homes are concerned for the Hawaiian homes program. As a matter of fact, as of this year the department estimates that \$14 million would be asked for. The 6-percent limit is about \$78 million; 7 percent would be about \$90 million. Now, this amount of money not only goes for Hawaiian homes but it

also goes for HHA, and special projects that the State wishes to undertake. Now, with respect to Hawaiian homes in general, for a long time the Hawaiian homes program did not embark on a home-building program, so that a smaller amount--which was about \$30 million--was enough to take care of their needs. But since the program has picked up increased vitality, there are long-range projections under its master plan to develop a lot more homes in the future, and it was felt that 7 percent would be about right for what is needed and still keep the program within some kind of a balance.

"By the way, I might explain that this 7 percent would also include anything that HHA would want to do, as well as other special projects. So this \$90 million is not only for Hawaiian homes--it's for Hawaiian homes and a number of other agencies."

Delegate Lewis then rose to speak in favor of the amendment, explaining that when they had come up with 6 percent they did not have all the facts in terms of projections for the Hawaiian home lands. It was not intended, he stated, to restrict the use by Hawaiian homes in any way, and therefore there was no objection to changing the figure to 7 percent.

Delegate Kono, speaking in favor, noted that when the issue was brought up in the Committee of the Whole, he had agreed to the 6-percent limitation, his one objection to the type of loan being that he wanted to be sure the State had a reasonable amount left in reserve. He then stated:

"I would like, if the amendment passes, to have the record reflect that it was the concern of this committee in passing this provision that the State does provide a significant and a prudent financial reserve to back up these contingent guaranty loans."

There being no further discussion, the question to amend Com. P. No. 14, RD. 1, by Amendment No. 8 was put by the Chair and the motion carried.

At 5:00 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 5:03 p.m.

Delegate Hokama rose to request that Amendment No. 9 be withdrawn and, there being no objection, it was so noted.

Delegate Ishikawa then moved for the adoption of Amendment No. 2, seconded by Delegate Blake, which amended section 3 of Com. P. No. 14, RD. 1, second paragraph, to read in part:

The legislature by a majority vote of the members to which each house is entitled shall authorize the issuance of all general obligation bonds, bonds issued under special improvement statutes and revenue bonds issued by or on behalf of the State and shall prescribe by general law the manner and procedure for such issuance. The legislature by general law shall authorize political subdivisions to issue general obligation bonds, bonds issued under special improvement statutes and revenue bonds and may authorize any board or agency of such political subdivision to issue revenue bonds and, in either case, shall prescribe the manner and procedure for such issuance....

Speaking for his amendment, Delegate Ishikawa offered the following comments:

"I hate to preface this by saying this is a housekeeping matter, but I shall and may be subjected to all kinds of questions. In a lot of the redrafting of Article VI, the committee with the help of bond counsel did some redefinitions. In so doing, there was a question on whether or not revenue bonds would include special improvement district bonds--in particular, those improvement district bonds issued by the counties. Therefore, this amendment ensures that there is a clear understanding that improvement district bonds as presently issued by some of the counties are not hurt in any way by the amendments.

"Secondly, at the state level this amendment provides for improvement district bonds because there is a need for this kind of financing at the state level, again through revenue bonds; but for the sake of definition, we clearly defined special improvement statutes to make sure there is no question as to the purpose of these special improvement district bonds. Thank you."

There being no further discussion, the question to amend Com. P. No. 14, RD. 1, by Amendment No. 2 was put by the Chair and the motion carried.

At this time, Delegate Taira rose and made the following statement:

"Mr. President, I rise to speak in favor of Com. P. No. 14, RD. 1, with regard to revenue bonds and special purpose revenue bonds for the land reform and housing programs of the State. As we all know, Com. P. No. 14 will provide the State with a financing capability which, among other things, will assist in alleviating a major problem in financing housing and land reform activities of the Hawaii housing authority. In testimony presented before the taxation committee, the HHA described a financing program which would not only increase the amount of mortgage capital to be made available in the local market but also enable the State to provide an inflow of capital funds during tight credit periods. Under the proposed HHA program of indirect financing, the lower interest rate is passed on to the young 'gap' group unable to afford the high purchase price of a home, the elderly and families wishing to rent dwelling units, as well as qualified families wishing to convert their leasehold residences to fee simple ownership under the land reform act.

"With this 'in house' capability to provide long-term financing for land reform and housing, the State will have sufficient tools to plan effectively and serve the thousands of families in need of decent and affordable shelter. Therefore, Mr. President, I would like to insert this into the record in behalf of all of my colleagues who feel very strongly that housing for the gap group, as well as the elderly and others in need, needs a lot of help in our State. Thank you."

There being no further discussion, Delegate Ishikawa moved, seconded by Delegate Lewis, that Com. Whole Rep. No. 14 be received and placed on file and Com. P. No. 14, RD. 1 as amended, pass Second Reading. The question was put by the Chair and the motion carried.

The Clerk announced that Com. Whole Rep. No. 15 and Com. P. No. 15, RD. 1, had been printed and distributed for decking purposes. The President thereupon placed them on the calendar for further consideration on Friday, September 15, 1978.

ADJOURNMENT

At 5:12 p.m., on motion by Delegate Silva, seconded by Delegate Waihee and carried, the Convention adjourned until 1:30 p.m. Wednesday, September 13, 1978.

FIFTY-SIXTH DAY

Wednesday, September 13, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 1:30 p.m.

The President presided.

The Divine Blessing was invoked by the Reverend Dennis Koshko of the Cathedral of Our Lady of Peace.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Cabral, Calvin Ching, Chun, Eastvold, Fernandes Salling, Ontai and Wurdeman who were absent.

The President announced that the Journal of the Fifty-Fourth and Fifty-Fifth Days had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORTS

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 88) informing the Convention that Stand. Com. Rep. No. 89 had been printed and distributed.

On motion by Delegate Crozier, seconded by Delegate Sutton and carried, Stand. Com. Rep. No. 88 was adopted.

Delegate De Soto, for the Committee on Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 89) recommending the adoption of Res. No. 24, requesting the establishment of a study commission to investigate the wrongs committed against, and the extent of the injuries to, the Hawaiian people and to recommend means of redress.

On motion by Delegate De Soto, seconded by Delegate Kaapu and unanimously carried, Stand. Com. Rep. No. 89 and Res. No. 24 were adopted.

ORDER OF THE DAY

At this time the Clerk reported that Com. Whole Rep. No. 16 had not been received and requested that action on it be deferred.

There being no objection, the President announced that action on Com. Whole Rep. No. 16 and Com. P. No. 16, RD. 1, relating to suffrage and elections, would be deferred until Thursday, September 14, 1978.

Delegate Chung then rose on a point of personal privilege, and stated:

"My point, Mr. President and fellow delegates, is that I wish to apologize to this body for my usage of an offensive word yesterday morning. I ask that this particular word be expunged. This all happened when we were talking about the old problem of initiative, and I just want to sincerely express my apologies to [Committee of the Whole] Chairman Kekoa Kaapu, who did a great job, and to all my fellow delegates and the spectators here yesterday morning. Thank you."

Delegate Crozier then rose on a point of personal privilege and stated his concern

about what was being done that day, that other than Res. No. 24 there had been no business conducted. With only 7 days left, he stated, the day should be used more productively--such as taking up those issues scheduled for Third Reading, rather than leaving them until the end when there would be a mad rush and possibly Sunday work.

The President responded that, relative to the Committee of the Whole discussion on environment, since Com. P. No. 17 had only passed First Reading the day before, it was customary to wait 2 days. He also pointed out that a number of delegates had indicated they were trying to resolve conflicting positions on some of the key issues and that inasmuch as there would be a full day available tomorrow, the Chair thought it wise to carry it over.

He then observed that, concerning Third Readings, it was not possible to schedule these on short notice but that they would in due time afford those who wanted the time on Third Reading a full opportunity.

Delegate Hale, on a point of personal privilege, rose to register a complaint about keeping the delegates in session until early in the morning, when, she stated, nobody could vote intelligently on anything--in view of the fact that there was almost nothing scheduled for that day.

ADJOURNMENT

At 1:52 p.m., on motion by Delegate Waihee, seconded by Delegate Funakoshi and carried, the Convention adjourned until 9:00 a.m. Thursday, September 14, 1978.

FIFTY-SEVENTH DAY

Thursday, September 14, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 9:00 a.m.

The President presided.

The Divine Blessing was invoked by the Reverend Gary Secor of St. Anthony's Church, Kailua.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present.

The President announced that the Journal of the Fifty-Sixth Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 90) informing the Convention that Com. Whole Rep. Nos. 16 and 17, Com. P. Nos. 16, RD. 1, and 18, RD. 1, and Res. No. 26 had been printed and distributed.

On motion by Delegate Crozier, seconded by Delegate Hayashida and carried, Stand. Com. Rep. No. 90 was adopted.

INTRODUCTION OF RESOLUTION

A resolution (Res. No. 26) relating to the care and maintenance of state moneys was offered jointly by Delegates Sakima and Barr.

The President thereupon referred Res. No. 26 to the Committee on Taxation and Finance.

ORDER OF THE DAY DEFERRED MATTERS

Com. Whole Rep. No. 16 (Com. P. No. 16, RD. 1) (Committee on Bill of Rights, Suffrage and Elections--Deferred from September 13, 1978):

There being no objection, the President deferred action on Com. Whole Rep. No. 16 and Com. P. No. 16, RD. 1, to Saturday, September 16, 1978.

Stand. Com. Rep. No. 76 (Com. P. No. 7, RD. 2) (Committee on Style--Deferred from September 9, 1978):

There being no objection, action on Stand. Com. Rep. No. 76 and Com. P. No. 7, RD. 2, was deferred to Monday, September 18, 1978.

GENERAL ORDER

Com. P. No. 17--RELATING TO CONSERVATION AND DEVELOPMENT OF RESOURCES:

Delegate Chang moved that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 17, relating to conservation and development of resources, seconded by Delegate Hagino.

The motion that the Convention resolve itself into a Committee of the Whole to consider Com. P. No. 17 was put by the Chair and carried.

The President appointed Delegate Okamura to be Chairman of the Committee of the Whole.

At 9:18 a.m., the President vacated the Chair and Delegate Okamura assumed the Chair for the Committee of the Whole.

At 2:28 p.m., Delegate Okamura vacated the Chair and the President resumed the Chair.

Delegate Okamura, for the Committee of the Whole, reported orally that the committee had completed deliberations on the matter referred to it and recommended passage on Second Reading of Com. P. No. 17 as amended, and that a written report would be filed later.

On motion by Delegate Okamura, seconded by Delegate Chang and carried, the oral report was adopted.

At 2:45 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 2:48 p.m.

At this time, Delegate De Soto rose on a point of personal privilege to express the appreciation of the Convention to the sergeant at arms and his staff for their excellent and dedicated service.

The President then commended Delegate Okamura for his fine job as Chairman of the Committee of the Whole and Delegate Chang for his leadership as chairman as well as the members of the Committee on Environment, Agriculture, Conservation and Land.

ADJOURNMENT

At 2:54 p.m., on motion by Delegate Silva, seconded by Delegate Waihee and carried, the Convention adjourned until 9:00 a.m. Friday, September 15, 1978.

FIFTY-EIGHTH DAY

Friday, September 15, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 9:00 a.m.

The President presided.

The Divine Blessing was invoked by the Honorable Marcelliano K. Villaverde, delegate from the Third District to the Constitutional Convention of Hawaii of 1978.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates DiBianco, Fernandes Salling and Ishikawa who were absent.

The President announced that the Journal of the Fifty-Seventh Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 91) informing the Convention that Com. Whole Rep. No. 18 and Com. P. No. 17, RD. 1, had been printed and distributed.

On motion by Delegate Crozier, seconded by Delegate Hayashida and carried, Stand. Com. Rep. No. 91 was adopted.

ORDER OF THE DAY SECOND READING

Com. Whole Rep. No. 15, Com. P. No. 15, RD. 1--RELATING TO THE BILL OF RIGHTS:

Delegate Kaapu, for the Committee of the Whole, and Delegate Weatherwax, for the Committee on Bill of Rights, Suffrage and Elections, presented a report (Com. Whole Rep. No. 15) recommending that Com. Whole Rep. No. 15 be adopted and Com. P. No. 15, as amended in RD. 1, pass Second Reading.

At 9:23 a.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 9:25 a.m.

Discussion then being in order, the President, noting that Amendment No. 1 had been deferred to the end of the discussion, recognized Delegate Ledward, who moved for the adoption of Amendment No. 2, seconded by Delegate Kaapu, which amended section 5 of Com. P. No. 15, RD. 1, to read:

Whenever a grand jury is [empanelled] impaneled, there shall be an independent counsel appointed [in accordance with] as provided by law to advise the members of the grand jury regarding [the] matters brought before it. Independent counsel shall be selected from among those persons [admitted to practice before] licensed to practice law by the supreme court of the [state] State and shall not be a public employee. [Term] The term and compensation for independent counsel shall be [established] as provided by law.

Delegate Ledward explained that this was a housekeeping amendment, changing the phrase "admitted to practice before the supreme court" to "licensed to practice law by the supreme court," and making a few other grammatical changes.

Delegate Sterling rose to inquire if the amendment was actually from the style committee, which Delegate Ledward affirmed, adding that it also had the approval of the committee chairman and that legal counsel had recommended its passage on the floor instead of in committee.

Delegate Weatherwax then voiced his approval of the amendment, adding that the changes would qualify things.

There being no further discussion, the question to amend Com. P. No. 15, RD. 1, by Amendment No. 2 was put by the Chair and the motion carried.

Delegate Hale then moved for the adoption of Amendment No. 3, seconded by Delegate Kaapu, which amended section 6 of Com. P. No. 15, RD. 1, to read:

With due concern for the interests of free speech and press,
the [The] right of the people to privacy is recognized and shall not be
infringed without the showing of a compelling state interest. The legis-
lature shall take affirmative steps to implement this right.

Delegate Hale, speaking for the amendment, explained that she was submitting it at the request of members of the press and that she had a statement of intent from their legal counsel, which she wished to have entered into the record. She then read the following statement:

"By equating the right to privacy with First Amendment rights and thus insuring its status as a fundamental right for purposes of constitutional analysis, it is not the intent of your Committee to interfere in any manner whatsoever or otherwise infringe upon the equally fundamental guarantees of freedom of speech and press. As the majority opinion of Justice William J. Brennan, Jr. makes perfectly clear in Time v. Hill, 385 U.S. 374 (1967):

'The guarantees of speech and press are not the preserve of political expression or comment upon public affairs, essential as those are to healthy government. One need only pick up any newspaper or magazine to comprehend the vast range of published matter which exposes persons to public view, both private citizens and public officials. Exposure of the self to others in varying degrees is a concomitant of life in a civilized community. The risk of this exposure is an essential incident of life in a society which places a primary value on freedom of speech and of press.'

"In this context, your Committee fully supports the sentiment of Chief Justice Warren E. Burger that:

'For better or worse, editing is what editors are for: and editing is the selection and choice of material. That editors--newspaper or broadcast--can and do abuse the power is beyond doubt, but... calculated risks of abuse are taken in order to preserve higher values.'

"It is the express intention of your Committee that the State Constitution should afford significant privacy protection against unwarranted and unreasonable governmental intrusion and abuse. As Justice Louis Brandeis concluded in Olmstead v. U.S., 277 U.S. 438 (1928), the most comprehensive right conferred by our founding fathers in the U.S. Constitution, and the right most valued by Americans, is the right to be left alone by the government. Thus, the U.S. Constitution has been inter-

puted to afford privacy from governmental intrusions into a wide spectrum of deeply personal decisions. These privacy rights have included the right to marry regardless of the race of one's spouse; the right to obtain contraceptives; the right to an abortion; and other personal decisions relating to family relationships and child rearing.

"To the extent that the right to privacy embodied in the proposed amendment relates to the protection of each individual from the government, in the words of Justice Brandeis, '...every unjustifiable intrusion by the government upon the privacy of the individual, whatever the means employed, must be deemed a violation of the [Constitution].'"

Delegate Hale then added that some members of the press had feared that, since the Convention had not confirmed their right of access to government records, they could be denied access. This, she explained, was the reason for the amendment--to assure that, in the interpretation of the right to privacy, the rights of free speech and a free press were not cut off.

Delegate Hino, on a point of information, inquired if, in those states that had a constitutional provision on the right to privacy, there was any information that the media had been harassed or injured in its function of informing the public, because of the provision. Delegate Hale responded that she had no information. Delegate Hino then rose to speak against the amendment, stating:

"The privacy proposal was purposely worded in general terms to stand the test of time and to give the courts the necessary flexibility to apply the provision to situations we may not foresee today.

"I respect the concerns raised by the delegate from the volcanic Island of Hawaii that the privacy provision could be abused as a cause of action against the press. But any provision in the Constitution is subject to abuse. We have seen the freedom of speech and even the freedom of religion provisions used as excuses or defenses for some shameful actions by people. Yet I would not have it any other way. I remind the delegates that freedom of the press too has been misused in irresponsible fashion on the local scene. I believe it is up to the courts to balance the various competing interests to achieve a sound decision in any dispute between the press and segments of the public it purports to inform.

"Just a few days ago, we debated at great length the concern that law enforcement would be hampered by the privacy provision, notwithstanding the fact that Article I, Section 5, relating to search and seizure, was left intact. If we were to accommodate the press and approve this amendment, we should, in fairness to the prosecutor delegate from Maui, add a clause exempting police officers. We should add to the list doctors and nurses, schoolteachers, aspiring political candidates, salespersons, telephone companies and so on, and on.

"Fellow delegates, I remind you again that this is a constitution we are amending, not a comprehensive code or statute. Where possible, we should only state broad principles and goals, and let details develop through statute and case law. For this reason we added, 'The legislature shall take affirmative steps to implement this right.'

"In the judicial arena the press is abundantly protected by basic First Amendment rights relating to freedom of speech and freedom of the press. The newspapers are presumed to meet the test of compelling state interest when they inform the public of daily events. The press is given greater protection than police officers and businesses in the performance of its function to inform the public and keep government honest. By the decision in New York Times v. Sullivan, the press is immune from suits for misinformation printed about public officials or newsworthy people and topics unless the aggrieved person can show that malice--not mistake or mere sloppiness--was the reason for the

damaging statement. The rationale was that out of all the utterances in the media, the public would finally perceive the truth. I would certainly not want the protection afforded the press to be expanded beyond this limit by approving the proposed amendment.

"If the press is truly concerned that the privacy proposal would require closer review of the news they print about ordinary people, I am elated, because the desired effect is taking place even before Third Reading. I hope the bureaucracy of the legislature, the executive and the judiciary would respond in like manner so that the rights of the poor, nonconformists and free-thinking people are given some consideration before restrictive rules are implemented. For these reasons, I would urge the delegation to turn down this amendment."

Delegate Weatherwax then spoke against the amendment, pointing out that as he saw it the amendment was unnecessary, being in an earlier section of the Constitution.

Delegate Sutton, speaking against the amendment, noted that the prefixed phrase referred to "concern for the interests of free speech and press" but the right to privacy was not limited to those two areas. The intent, he added, would seem to be only that of free speech and press, as the amendment was worded.

Delegate McCall rose to speak in favor of the amendment, observing that it would eliminate a possible conflict between two sections of the Constitution. The amendment, he noted, clarified that the right to privacy section was conditioned on the present Section 3 that guaranteed a certain amount of freedom of the press.

On a point of information, Delegate Burgess asked if the eight states with similar privacy provisions in their constitutions had two such provisions. Delegate Hino, in response, referred to Alaska's constitution which had a provision relating to invasions of privacy, pointing out that it had not been incorporated into the Fourth Amendment which they substantially adopted.

Delegate Burgess then rose to speak in favor of the amendment, explaining:

"Currently none of the other states--except perhaps Alaska, and I'm not sure what Alaska says--but no other state has two privacy provisions, and for that reason I believe this amendment is necessary to clarify the intent of that section.

"Our Section 5, which has been in effect since 1968, says: 'The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches, seizures, and invasions of privacy shall not be violated. . . .' That protects the people of Hawaii from invasions of privacy by the government and that's what Justice Brandeis was referring to, the very important right to be left alone by the government. And that's what we're trying to protect. Now the intent in adding this new section, which refers to the right of the people to privacy, is currently something above and beyond--and something more--than that time-honored and tested provision which protects all of us against invasions of privacy by the government. And because it's not clear what that means it could easily be construed to mean and to give the legislature specific authority to suppress information about government officials. It can be used, not as a means of protecting the people and protecting their rights, but as a means of suppression, and for that reason, if we have it at all, I think we should add this clarifying language that shows it is not intended to in any way abridge the rights of free speech and free press."

Delegate Hale then rose and stated:

"I had become a little disturbed during the debate that took place in the Committee of the Whole, as to the intent of the right to privacy section, and I put in a proposal, the right to privacy, that was taken directly from the Alaska right to privacy, and the reason I put it in was

based upon the LRB report on this particular section; it pointed out that Alaska's right to privacy would seem to be stronger than ours, and their supreme court had ruled that it was permissible to smoke marijuana in the sanctity of the home, and I think to cultivate it. And that was my concern. Now in committee the concerns got broadened, and in the Committee of the Whole I think even more broadened, to computer data and unwanted mail and Playboy magazine and all kinds of things, which was not my intent and which I had no inkling would be covered under the right to privacy. So I did agree to put in this amendment to make sure that the clarification was there.

"I think if we agree with the delegate who said that we have been redundant because we have the right to privacy now twice in the same article--Article I--and I'm possibly of the opinion now that if we are not willing to put freedom of the press in to make sure that this is not what we are aiming at--that we are not for a dictatorial government in which we don't know what's going on--then perhaps we should not put the right to privacy amendment in at all, because we already have it as far as searches and seizures, and perhaps a more liberal supreme court would interpret that searches and seizures could protect the person smoking marijuana in his own home. And to be honest, people have told me that when I said this, it would kill the amendment and that's too bad, but I want the record to show this is the reason I put it in. And if the rest of you don't agree, then perhaps we should take it out. But I think this amendment shows that we are concerned. Since we have right to privacy twice and it might be confusing, perhaps we should indicate the free press twice so there will be something for which the courts can take our intent in making an interpretation, if and when it goes to litigation.

"So I would hope that you vote for this amendment, but if you don't perhaps we should reconsider putting the right to privacy in at all, and vote the whole section down. I urge your adoption of this amendment."

There being no further discussion, the question to amend Com. P. No. 15, RD. 1, by Amendment No. 3 was put by the Chair and the motion failed.

Delegate Hale then asked if a motion would be in order to reconsider the previous action on the right to privacy section. The President responded that it would have been in order within 48 hours if Delegate Hale had voted on the winning side. Affirming that her vote had been with the majority, Delegate Hale inquired as to reconsideration or if the proper motion would be to delete the section. The President explained that since the action had been taken in the Committee of the Whole, reconsideration would not then be in order and a written amendment for deletion was necessary. Delegate Hale further inquired as to reconsideration on a proposal after it had passed Second Reading. The President responded that he did not think it was in order and called for a short administrative recess to check.

At 9:51 a.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 9:57 a.m.

The President at this time announced that Delegate Hale's amendment would be accepted although counter to the written form requirement. Delegate Hale thereupon rose and moved to amend Com. P. No. 15, RD. 1, by deleting section 6 in its entirety, seconded by Delegate Wurdeman.

Delegate Sutton, on a point of order, questioned whether a motion to suspend the rules would be in order, to which the President responded that the amendment would be accepted as stated, in the interests of accommodating the delegate.

Delegate Sterling then rose, on a point of information, to state that the matter should be submitted to legal counsel because of the possible conflict in sections relating to freedom of the press and invasions of privacy.

Delegate Les Ihara then questioned whether the amendment was out of order. If the amendment had been officially submitted, the President responded, it would have been in order and since an exception had been made, discussion would proceed.

Delegate Kojima, on a point of information, questioned the movant's change of mind, to which Delegate Hale explained:

"Yesterday George Chaplin of The Honolulu Advertiser phoned and said he had consulted with his legal counsel and, as a member of the press and as a publisher, was concerned; and his legal counsel had requested it. I think he called members of the committee, called the President, and called me. I seem to be the only one willing to submit an amendment on that basis. And, to the delegate from Kauai, my reasoning--I thought I explained very clearly--and I think you voted against the right to privacy because I told you my original intent was to protect the smoking of marijuana in the home. You said that as a school principal you couldn't and still have the respect of your children, and I respected your right to vote against it. Well, I am still for the right to smoke marijuana in the privacy of the home, but I am not for the right-- I submitted proposals to that effect--making marijuana legal, or putting it on the ballot--and those proposals were all filed, so this was a nice way of getting around it and I was told that this might accomplish it."

Then speaking in support of her amendment, Delegate Hale observed:

"I'm not sure that my original intent is going to be accomplished by this without the guarantee that we are not labeling this as an anti-press and free speech amendment which was requested. This concern was brought out in the Committee of the Whole and I almost voted against this proposal there because of this concern, but at that time I had nobody to give me any real legal advice on any concerns. But because I had fought for this in committee and because I still believed that it would protect these rights I was concerned about, I went along with the proposal as it was presented. But when it was pointed out that now, because we have two sections on privacy and only one section on freedom of speech, maybe this is going to do something to freedom of speech.

"My concern with freedom of speech and the press is far more than the concern to smoke marijuana. I don't smoke marijuana, you know--I had trouble with a teenage son who smoked it but I don't--but I don't think people should be put in jail for smoking it. But this is not really the question; the question before us is freedom of the press and speech, and I certainly would not like to do anything that would leave any doubt that I was somehow curtailing freedom of speech and press, and therefore, without that amendment to protect that right, I'm going to have to vote against the whole right to privacy."

Delegate Campbell then rose and asked if counsel for the bill of rights committee could state whether the right to privacy provision as written would jeopardize free speech as such. The President responded that that would not be in order, adding that presumably this had already been discussed.

On a point of information, Delegate Shon asked if this ruling was based on a difference in rules between this Convention and the 1968 one, in which they had recessed to consult counsel, whose opinion was then read to the delegates, or if this was an area they would just not be getting into.

The President responded that he had no objection to the procedure if it was felt necessary, repeating that the committee had presumably examined this area.

Delegate Weatherwax then rose to speak against the amendment to delete, explaining:

"We went through this in committee and in the Committee of the Whole, and at that time--at least in committee--legal counsel was avail-

able and the intent was made quite clear by legal counsel as to the relationship of the right to privacy, and to the press. The good delegate from Hilo perhaps should go back and recall the reference to that. The right to privacy was made clear and I would ask your support now at this time; here it is, the very last hour before consideration of Com. P. No. 15 on this particular issue--and this is one of its major planks--and now there's a change of mind by what I believe to be an unfounded fear, and that in fact the language should be left to the courts and I believe at that time there should be no problem. If there is a conflict, I think the First Amendment rights already in the Constitution have weight against the right to privacy and would be valid, but it would be for the courts to determine."

Delegate Hale, on a point of information, questioned where the committee report stated that this did not infringe upon the rights of the press. Delegate Weatherwax responded that his reference had been to legal counsel who had been available in the committee and that the question had been answered, although perhaps not included in the committee report.

Delegate Sterling then rose and requested an administrative recess in order to consult with counsel, because of the sufficient substance of the subject.

At 10:10 a.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 10:22 a.m.

At this time Delegate Burgess rose and made the following statement:

"Mr. President, we have spent the recess in discussion with counsel. I don't think we have, however, resolved any of the questions. I would like to speak in favor of the amendment and point out some of the considerations that we did discuss. The concern is that by putting in this new and second section relating to the right to privacy, that that would not only insure the right to privacy, which is already insured, but would go beyond that and might in fact be used as an infringement on the rights of speech and the press. And already under the United States Constitution, as interpreted by the U.S. supreme court, we are all protected against invasions of our privacy. The U.S. Constitution does not have language relating to right to privacy--even in the Fourth Amendment it does not--and yet in spite of that the U.S. supreme court has held in many specific instances that there is a right to privacy which may not be invaded. For example--I'll just mention some of the cases that counsel pointed out to me--in Griswold v. Connecticut, the state of Connecticut had a statute prohibiting the dissemination of information about contraception. It was held that this was a violation of privacy and that the person's right to gather information as to contraception was protected under the U.S. Constitution. In Stanley v. Georgia, the right of a person to have obscene materials in the privacy of the home was protected. Roe v. Wade was the abortion case where a woman's right to make her own decision as to whether or not to have an abortion was protected by her right to personal privacy. In Loving v. Virginia, which prohibited interracial marriages, that was felt to be unconstitutional because it was an invasion of the right to privacy. All of these protections were by the U.S. supreme court under the U.S. Constitution, which has no language such as this at all. And all of those protections are presently in effect and do protect each of us in the State of Hawaii against invasion of our privacy.

"And in addition, in 1968--as if we didn't have enough protection--in 1968 the words protecting us specifically against invasions of privacy were added to Hawaii's Constitution. So we do now enjoy substantial protection against invasions of our personal privacy. And the thing which disturbs many of us--and counsel for the newspapers indicated during the recess that he had spoken last night to Mr. Arthur

Miller who is a constitutional expert in Washington, D.C.--that the language of this section can be construed as a means and a method of harassment of not only newspaper reporters but anybody in the exercise of their free speech. So the risk, therefore, is that by trying to do a good thing, which is to insure that we are protected in our right to privacy, we are going too far the other way and that is, seriously infringing on those other fundamental rights which are so important in a democracy. So I would urge that this amendment be supported and this section be deleted. Failing that, I would respectfully ask that the report of the Committee of the Whole, or a committee report, should be worded so as to make it clear that adoption of this section--if this amendment is not voted upon favorably--does not intend in any way to infringe on the other fundamental rights of speech and press."

Delegate Sterling rose to voice his agreement and urged that the section be deleted.

Delegate Hanaïke then spoke against the amendment, observing that it had been their intention only to make a simple statement recognizing the fact that they had always had the right to privacy. The problem, she pointed out, had been with case law in different states, which law had been applied inequally by the courts. As far as the Bill of Rights, she continued, all rights were equal, and mentioning a word twice didn't make it any more so. She then explained that privacy had not been included in the Bill of Rights originally because it had not been a problem 200 years ago, but in recognition of its consideration today it should be added.

Delegate Anae, speaking in opposition to the amendment, referred to a case at Brigham Young University, in which the federal government had mandated that the dorms be integrated. Brigham Young, he pointed out, had based its case on the right to privacy, but it was not upheld. He then concluded:

"I am a concerned citizen, and I feel that in the State of Hawaii the same practice may occur with some of our private institutions because the right to privacy statute in our Constitution is not up to the level of the First Amendment rights. And this is the reason I am in favor of the original proposal and against the amendment to delete."

Delegate Crozier rose to speak for the amendment, explaining that he had thought the right to privacy provision would replace the other statement in the Constitution, and that if there were now to be two sections dealing with the same subject, he would support the amendment to delete.

Delegate Campbell then spoke in favor of the motion, stating:

"I do not recall of my own knowledge--and perhaps my memory fails me--that we ever discussed the rights of freedom of speech and freedom of the press juxtaposed with the right to privacy. I am very much in favor of the right to privacy and I do feel that the interpretations of the Ninth and Tenth Amendments to the federal Constitution have construed the right to privacy to protect the many areas which the maker of this original proposal had in mind. But if in any way the rights of freedom of speech and freedom of the press would be jeopardized, then to me that jeopardizes all of us."

"I have said before on this floor, and I am still very much concerned, that there are a number of areas which need to be explored by the press and which the public needs to know about in the area of crime. And if the press, for example, were to seek out and try to get information about organized or syndicate crime, and if this could be used as a weapon against a free press, then I believe that all of us would be in jeopardy. And for this reason I would urge my fellow delegates to vote in favor of this amendment. Mahalo."

Delegate Barnes, speaking in favor of the amendment, voiced agreement that in the privacy law area decisions had been on a case-by-case basis, and issues coming up would still be based on U.S. supreme court cases. This language, he pointed out, did not add anything that would be of help to a court in the future.

Delegate Chong then spoke against the amendment, stating:

"I can't really believe what I'm hearing this morning. It seems to me that this amendment came about because we did not allow any more privilege to the press, so now what you're doing is taking away my right to privacy by offering this amendment to cover the press. I resent that. I believe that I, as a private citizen, have a right to privacy. And I believe that if I make a statement I should be accountable for it, whether it's right or whether it's wrong. And I believe that the press should also be accountable for what they print, which many people pay to read. Nobody pays to read what I say, but they certainly pay to read what the press says, so they'd better be a little more careful of what they print.

"Now, I voted against giving legislators the same type of privileges that the press has, and I use the same argument--what makes the legislators on any higher a level than we are--what makes the press on a level any higher than we are as private citizens? Now I just ask for your fair consideration of this amendment--and really think of what you're doing; by now allowing the press the freedom, are you going to take it away from me?"

Delegate Weatherwax, speaking against the motion, observed:

"There was some mention that I previously discussed a case-by-case method, as filling out and giving meat to the language of the committee proposal. The several cases to some extent would give our supreme court some direction, no doubt about that, and I must also concur that in the federal Constitution there is no express language that details the right to privacy. Let us all realize we generally have a feel for the concept, with specific application in every case, and we've heard some examples here, with respect to dormitories, with respect to the smoking of marijuana, with respect to many things. However, I think it's necessary to have the language as broad as it is, and in the Constitution. And not, in contrast to the present three words in the Constitution--right now there are only three words that deal with invasion of privacy, and I believe that comes tied in with Article IV. There was some confusion in 1968, and subsequently because of the confusion the right to privacy was restricted more to wiretap situations or in the criminal area.

"So it was the committee's intent to broaden this, broaden it by not laying out specifics; we have to leave that to the courts, I believe, and also to the legislature because I think the proposal says that the legislature shall look at it and begin the filling-in process. And each of us individually may at some time require this. Although it's broad, we may find the particular circumstances where we would want the right to privacy, and it'll be there in the Constitution in a separate section, not tied in or colored by the criminal procedure side, but a separate section that deals with civil rights. And you'll go into court and hopefully give meat to this provision. Therefore I speak against the motion and ask that you support the committee proposal."

Speaking for the amendment, Delegate Tam reiterated that the right to privacy was already in the Constitution, in Section 5 of Article I, which the 1968 committee report had delineated as a very broad right to individual privacy. The new provision, he added, more than just being redundant, could stifle the exposure of political corruption and organized crime.

Delegate Burgess, on a point of information, asked if the committee chairman could reassure the delegates by acknowledging in the Committee of the Whole report that the section was not intended to stifle freedom of speech or freedom of the press. In response, Delegate Weatherwax explained:

"I concur with the delegate's concerns but in fact, as to whether

or not I can at this point amend the committee report--no, I could not do that, but I do recognize his concern. I too have that very same concern, but I believe it's unfounded because I think that under case law, as well as interpretations not only of our Constitution but also the federal Constitution, that freedom of the press will still be maintained. And I believe at this time there is a concern because of where the U.S. supreme court is going, that there have been some recent cases with respect to the rights of the press, and that's where I believe the concern is coming from. But the right to privacy here is not intended in any way to delete or to diminish the rights of the press."

Delegate O'Toole, on a point of information, then asked if it were true that the discussions on the floor, in Committee of the Whole or at Second Reading, were quite often a more significant factor in court cases in determining the Convention's intent than the committee reports.

Delegate Pulham, on being recognized, responded:

"I would say to the question that was just raised--how then if this discussion is what it is based on, whose side do they go on, the pro or the con--depending on which they lean? There are no facts other than those being brought out here, so I hope that that is not the total basis for deciding what we finally mean when we pass something.

"I'm going to speak in favor of the amendment to delete, for a number of reasons. First of all, it has been acknowledged by both sides that this is a duplication, and I cannot seem to find a reason, if we're going to take something out of the Bill of Rights and make a separate section and leave it in there, why we are singling out privacy to be included in a new section, plus leaving it in the other one. In that same area, if we simply intend to ask the legislature--and in addition the courts--to look at this and expand upon it, I have no reason to believe that they could not have already looked at those words in the Constitution and either legislatively or judicially expanded upon it, so there's no reason to believe that we are doing anything in this area. The fact that it's mentioned twice in that particular article I don't think gives it any more weight. I would certainly hope that poor verbiage does not make something more important than something else.

"There was also reference to this as a simple little statement; I think that the amount of discussion here indicates that it certainly is not a simple little statement. It is a simple little very complex statement with a lot of ramifications that apparently we can't all agree on, and therefore I don't really see why we need to leave it in there. I'm very much concerned because of admitted facts that, maybe not this amendment but similar or identical ones were submitted for a specific purpose, which is promoting the drug culture. And then that this--we're saying, in other words, publicly here that we are using this without saying so as a method or a route to get this more firmly entrenched in our society.

"Now if you believe as I do that we need to take a tougher stand on drugs, if you believe that we need to take a tougher stand on organized crime, if you believe the youth of our society need the facts on these, not some sort of tacit approval by saying nothing, I don't see how, with this in mind, and the fact that privacy is already protected--and in deference to some of my colleagues who see this as helping them in some specific instance, particularly as we are talking about what the federal government does--we should bear in mind that this body cannot tell the federal government, the supreme court of the United States, to do anything. So we are deluding ourselves if we think that our small kuleana is going to be increased by passing a second privacy section in our Constitution. What we are doing is furthering the ends and the aims

of organized crime and the drug culture, who are going to be ecstatically happy to see us leave this provision in the Constitution.

"Now, if you can leave here today with that on your conscience, if you can go home and face your children and your friends and neighbors and their children--why that's fine, you do that. There is no way that I in good conscience can. I urge you to support this amendment."

Delegate O'Toole then rose to speak against the amendment, noting:

"I share some of the feelings of the previous speaker but I don't think this amendment will have that much to do with promoting organized crime or drugs. I voted in favor of the privacy amendment previously, and not for the reasons that Delegate Hale evidently introduced it. My feeling is that if we're going to help fight organized crime or the crime situation, the things that are going to help are merit selection of judges, mandatory minimum sentences, and trying to get statutory methods whereby judges will be harder on criminals. I really don't see the previous discussion applying in this situation as far as crime is concerned."

Delegate Sterling, speaking in favor of the amendment, reminded the delegates that the question was freedom of the press and that Section 5 on invasion of privacy was not being deleted. The vital issue, he pointed out, was whether the right to privacy provision would jeopardize or infringe upon the freedom of the press.

Delegate Alcon, on a point of inquiry, requested a definition of "compelling state interest" in the provision. Delegate Weatherwax, in response, explained that this referred to a constitutional test used by both U.S. and state supreme courts in determining to what degree a particular right must be, or the value that the government sought to protect or promote, in contrast with the particular individual rights held. There must, he added, be an overwhelming or compelling state interest in the balance before the right could be diminished or removed.

Delegate Hino further clarified:

"In layman's language, 'compelling state interest' means that the government must have a damn good reason before they can interfere in your privacy. And secondly--it's a two-step situation--once they determine that there is a good reason to infringe on your privacy, then they must take the least intrusive means--not the kind where they would use a very large net with fine mesh. In other words, the net has to be big enough so that those people who are not affected would not be infringed upon."

Delegate Barnard then spoke against the amendment. It was her understanding, she explained, that the right to privacy provision was never intended in any way to infringe on the U.S. Constitution's First Amendment rights to the State Constitution Section 3 rights, which, she added, were absolutely necessary if this was to remain a free country.

Delegate Taira, speaking against the amendment, emphasized that he saw nothing in the privacy provision that would stimulate or encourage the growth of organized crime or the use of drugs, as had been alluded. If that were so, he added, he would be very strongly against the provision.

Delegate Kimball made the following statement against the motion:

"Looking at Section 5 of Article I, the title of that section is 'Searches, Seizures and Invasion of Privacy.' The title is not 'Privacy Rights.' Also, the section says: 'The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches, seizures, and invasions'--and to me those have limited application to judicial or legal proceedings, particularly in terms of the words 'searches' and 'seizures.' Those are the two compelling words

in that section, and therefore I think the present section has limited application. What we're doing in the committee proposal is making an affirmative statement in support of each and every individual privacy right. And there is a qualification for that, that if the State can show that something on the basis of society as a whole will affect the society, it has the right to override an individual's privacy rights. Therefore, since we are making a positive, affirmative assertion of our privacy rights, I speak against the motion to delete."

Delegate Tam then rose, in response to the previous speaker, to voice his disagreement with the interpretation that the right to privacy was limited. Speaking for the amendment, he pointed out that Stand. Com. Rep. No. 55 from the 1968 convention gave an expansive interpretation of the phrase "invasion of privacy," in terms of individual dignity and the right to privacy, and that it was not in any way limited.

Delegate Wurdeman, speaking in favor of the amendment, mentioned a previous allusion to the rights of citizens. Referring to Section 6 of Article I, she pointed out that in deleting the privacy provision they would be deleting redundancy. Clear language, she explained, but not clear constitutional analysis, was what they were striving for, and she concluded, "I believe that our societal values change. If we are concise in our constitutional analysis now, we'll need more flexibility for growth."

Delegate Campbell, speaking for the amendment to delete, stated:

"Mr. President, from listening to the various delegates speak, it appears that there still needs to be some clarification here. There is a need perhaps to disagree with certain delegates who feel their rights to privacy would somehow be invaded or lost if this amendment were to pass. There has been a distinction made by the court in the right to privacy as it is set forth in Section 5 of Article I, and that distinction is that it has been made to apply to such things as criminal searches and seizures, wiretaps and so forth; and for this reason it was assumed there was a need to set forth a specific civil right to privacy, which was to cover certain specific areas.

"However, I think it is very clear also that the U.S. supreme court has interpreted the Ninth and Tenth Amendments to the Constitution--and it surprised us as well--in such a way that the civil rights we are seeking to protect are being protected, and I believe the delegate to my left set forth a number of very important cases covering those areas. So it should be made clear to everyone that if this right to privacy section were deleted, it would not in any way derogate from the civil right to privacy, which each of us has, as the U.S. supreme court has interpreted, under the Ninth and Tenth Amendments."

Delegate Anae then rose to speak against the amendment, explaining that this was a basic right that everyone deserved, not just a small select group, and that it should not be deleted because it inconvenienced or placed some hardship on a few.

Delegate Stegmaier, speaking against the amendment, stated that the privacy provision reflected a genuine concern regarding technological advances in society at that time. He was in favor, he stated, of reaffirming and reemphasizing the basic, fundamental right to be free of potential technological abuse.

Delegate Hironaka, also speaking against the amendment, indicated his belief that the last sentence in the provision, mandating the legislature to "take affirmative steps to implement this right," cleared up some of the concerns expressed.

Delegate Kojima then spoke in favor of the motion, explaining that his concern was with the drug issue, that the provision seemed to provide license because of possible interpretations and its broad implications. He reminded the delegates of the interpretation by the courts in Alaska and pointed out that it could be similarly interpreted in Hawaii.

If the rationale for the deletion, Delegate Hirata then asked, was to prevent people from smoking marijuana in their homes, would the deletion also allow the police to break

into anyone's home on the grounds that they suspected it? Delegate Kojima responded that this was already provided for in the Constitution, that there were provisions that protected the privacy of individuals.

Delegate Goodenow, on a point of inquiry, asked if, according to the current laws regarding marijuana, the provision was contradictory to or would be breaking the law. Delegate Weatherwax responded by explaining that the state supreme court had made a determination on this, that it did not at this time fall under the right to privacy provision. That, he added, did not mean that supreme courts never changed their minds.

Delegate Alcon, also on a point of inquiry, asked whether the term "compelling state interest" did not in fact include the right of the State or law enforcement officers to go into a home to stop an illegal action. In response to this and a previous question, Delegate Tam pointed out that Com. Whole Rep. No. 15 gave an interpretation on page 3 indicating that "this privacy concept encompasses the notion that in certain highly personal and intimate matters, the individual should be afforded freedom of choice absent a compelling state interest." It could be interpreted, he observed, that "if you go behind closed doors in the privacy of your own home, you can do whatever you want."

Delegate Ontai spoke in favor of the amendment, reiterating that there was already a constitutional provision on privacy and a second provision would be redundant. He then pointed out that there would be a great many proposals on the ballot in November and with the public already confused, this provision would only add unnecessarily to the confusion.

Delegate De Soto then rose to speak against the amendment, stating:

"I've heard a lot of talk about what this amendment could do, what it cannot do, its redundancy, etc. I am a lay person, never having graduated from college. I live with my people, of all ethnic groups, we live together. And this is easier to see, that the right of the people to privacy shall be recognized. It doesn't say that we encourage underworld activity, it doesn't say anything about smoking pakalolo in your bedroom, it just says that the 'right of the people to privacy is recognized. . . .' I spoke a little the other day about our rights in the Constitution, as was pointed out by many speakers, but these rights have been infringed on, by helicopters flying over my house--maybe they think I'm growing pakalolo--and scaring us, all hours, police officers charging through my yard for whatever reason, which frightens us--all under one cloud called 'probable cause.' You see, with probable cause they can do almost anything, because you have to disprove that there is any probable cause. You can be stopped on the highway at night, yanked out of your car, searched, your entire vehicle stripped because the police officer had probable cause--an ambiguous statement, I feel.

"With respect to pakalolo, we have in our society the free choice of drinking beer, smoking cigarettes that the surgeon general says may be hazardous to your health. I think we've become a little paranoid--and that's for myself, I'm not calling anybody names--when we talk about rights. I think that this right to privacy is something we can give back to the people. If they don't want it they can vote it down--and I'd like to use the argument that at least we should put it on the ballot and give the people a chance to vote for it."

Delegate Souki, speaking for the amendment, pointed out that their nation with its rights and protections in Article I was envied throughout the world in having these inherent freedoms. To add this provision, he continued, with language like "compelling state interest" which could be misinterpreted or interpreted differently, could cause problems that none of them had anticipated.

Delegate Hale then rose to speak last for her amendment, stating:

"I would like to answer some of the concerns stated. I think as far as the delegate to my left here, his concerns about Brigham Young University and the dorm integration, it's been answered that that was

under the federal Constitution, and no matter what we do in the State of Hawaii it isn't going to affect that decision.

"As far as taking away anyone's rights, these rights are in the federal Constitution and we aren't taking away anything. Furthermore, we already have the rights in our own Constitution and what would protect my good friend, the delegate from Waianae, would be Article I, Section 5, where the 'right of the people to be secure in their persons...' against invasions of privacy is already outlined, and even with that we still have helicopters--and I agree they shouldn't be used, but not only for that reason but because they cost taxpayers too much money to run.

"But at any rate, the problem seems to be that the right we are adding here is so broad and it's such a big umbrella that everybody can find comfort in it, and I wonder if that's what we really want. I'd like to say that I don't smoke marijuana--I don't smoke cigarettes either--but I do feel that people should be protected in their homes in doing anything they want. But I'm not sure this is the right way to do that. It should have been a much more straightforward and honest approach, as some of my proposals were. And though I am for the right to smoke in your own home, I am not for the drug culture or promoting the sale of drugs. As it's been pointed out, this might be used to hinder prosecution of organized crime.

"On the other hand, I was concerned when the committee report came out, because four pages are devoted to this committee proposal and there's really nothing in there that says freedom of speech and freedom of the press are still guaranteed, as opposed to the right to privacy.

"As a lay person I was very much taken by this amendment, and I will admit that I was wrong and that there are areas in which I respect my lawyer friends and I probably should defer to their judgment, particularly when we're writing a constitution, which is going to give the law profession the basis for earning a living for many years to come. I think as lay persons we're reading into this amendment many things which may or may not be there, and we don't really know. And in answer to the question of putting it on the ballot, I'd say that if we don't really know or if we disagree--and almost everybody who has gotten up has given a different reason for being for or against--and if there are that many things that are sheltered by this umbrella, then how can we just say--right to privacy, yes or no. It is not that simple, and I think we already gave them the chance in 1968, when they voted for the right to privacy amendment, and to do it again in the confused state we are in, I think, is very unwise. And as my namesake always says, if you don't know, don't do anything. So I would suggest that we support the amendment to delete this, because maybe we really don't know and therefore we really shouldn't do anything."

There being no further discussion, the question to amend Com. P. No. 15, RD. 1, by the amendment deleting section 6 was put by the Chair. At this time Delegate Hale requested a roll-call vote and the Chair, on determining ten seconds, so ordered.

Roll call being in order, the motion failed to carry by a vote of 30 ayes, 60 noes and 12 excused; with Delegates Andrews, Barnes, Barr, Burgess, Cabral, Campbell, Crozier, Eastvold, Goodenow, Hale, Hamilton, Harris, Kojima, Kono, Lacy, Rachel Lee, Liu, Marumoto, McCall, Miller, Peterson, Pulham, Souki, Sterling, Takehara, Tam, Wurdeman, Yamashita, Yoshimura and President Paty voting aye; Delegates Alcon, Anae, Barnard, Blake, Calvin Ching, Donald Ching, Laura Ching, Haunani Ching, Chong, Chun, de Costa, De Soto, Dyer, Fukunaga, Funakoshi, Fushikoshi, Hagino, Hanaike, Hashimoto, Hayashida, Hino, Hirata, Hironaka, Hoe, Hokama, Hornick, Dennis Ihara, Les Ihara, Teruo Ihara, Ikeda, Iwamoto, Izu, Kaito, Kimball, Ledward, Marion Lee, Lewis, Nakamura, Nishimoto, Nozaki, Odanaka, Okamura, O'Toole, Penebacker, Sakima, Sasaki, Shinno, Shon, Silva, Stegmaier, Stone, Sutton, Taira, Takahashi, Takemoto, Tamayori, Uyehara, Villaverde,

Waihee and Weatherwax voting no; and Delegates Blean, Chang, Chu, Chung, DiBianco, Ellis, Fernandes Salling, Fujimoto, Ishikawa, Kaapu, Ontai and Takitani being excused.

At this time the Chair announced that they would not take up Amendment No. 1, which had been deferred, as the movant was absent. There being no further discussion, Delegate Weatherwax moved, seconded by Delegate Hino, that Com. Whole Rep. No. 15 be received and placed on file and Com. P. No. 15, RD. 1 as amended, pass Second Reading. The question was then put by the Chair and the motion carried.

The Chair then suggested that although it was not on the calendar for that day, they take up consideration at that time of Com. Whole Rep. No. 17 and Com. P. No. 18, RD. 1, in the interest of expediting such business as they could. He then called for a short recess while the amendment was distributed.

At 11:30 a.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 11:35 a.m.

The Clerk announced that Com. Whole Rep. No. 18 and Com. P. No. 17, RD. 1, had been distributed for decking purposes, and that consideration on Second Reading of Com. P. No. 18 was in order at that time.

Com. Whole Rep. No. 17, Com. P. No. 18, RD. 1--RELATING TO THE USE OF NONDISCRIMINATORY TERMS IN THE CONSTITUTION:

Delegate Fukunaga, for the Committee of the Whole, and Delegate Hamilton, for the Committee on Style, presented a report (Com. Whole Rep. No. 17) recommending that Com. Whole Rep. No. 17 be adopted and Com. P. No. 18, as amended in RD. 1, pass Second Reading.

Delegate Hamilton then moved for the adoption of Amendment No. 1, seconded by Delegate Waihee, which amended Com. P. No. 18, RD. 1, by deleting sections 2, 4, 16 and 17 and renumbering the remaining sections as appropriate.

Speaking for the amendment, Delegate Hamilton explained that this was a technical amendment reflecting the work done by the Committee on Style since the Committee of the Whole meeting.

Delegate Crozier, on a point of inquiry, asked whether all the technical changes being made would have to be included on the ballot. Delegate Hamilton explained that there would be only one item on the ballot, for approval or disapproval of the use of nondiscriminatory terms.

Delegate Takemoto, on a point of inquiry, questioned whether the change in Section 2 of Article I, from "Rights of Man" to "Rights of Individuals," would change the meaning, in that "individual" would then apply to individual persons instead of corporations, etc. Delegate Hamilton, referring to the provision in Article XIV on titles and subtitles in construction of the Constitution, indicated that it had no legal significance.

There being no further discussion, the question to amend Com. P. No. 18, RD. 1, by Amendment No. 1 was put by the Chair and the motion carried. The Chair then called for discussion on the adoption of Com. P. No. 18. There being none, Delegate Fukunaga moved, seconded by Delegate De Soto, that Com. Whole Rep. No. 17 be received and placed on file and Com. P. No. 18, RD. 1 as amended, pass Second Reading. The question was put by the Chair and the motion carried.

At this time the Chair mentioned that a suggestion had been made on their consideration of Com. P. No. 16 on Second Reading, that they take up the IR&R issue first and then the remaining sections.

Discussion being in order, Delegate Liu commented that it sounded like a reasonable way to handle it.

Delegate Pulham then remarked that he didn't care when IR&R was taken up, stating:

"I will again object very strongly to our not utilizing the time we have today to discuss the important matters that are before this Convention. We've been doing this all week--sliding along--and now we're coming to the weekend and again we have all these important matters to discuss. I see no reason why we should recess all afternoon and face the possibility of working all day Saturday and into the wee hours of Sunday morning. It seems a bit ridiculous to me and I just want the record to reflect that I object very much to this procedure."

The Chair reminded the delegates that in the previous discussion on that subject there had been no consensus, and as a result they would take up Com. P. No. 16 on Saturday. The question now, he noted, was which way to proceed relative to the proposal.

Delegate Hironaka then asked if they could take up the other sections of the proposal that afternoon, other than IR&R. He pointed out that in scheduling for weekends neighbor island delegates should be given some consideration when possible.

The Chair noted the concern but pointed out that other delegates might have made commitments in anticipation of the schedule announced yesterday, which might be difficult to change at that time.

Delegate Penebacker, referring to Delegate Hironaka's suggestion, requested that the decision be left to the body on whether to take up the other sections that afternoon. He then asked if they could take a straw vote on it.

Delegate Odanaka also rose to support the suggestion, pointing out that if she had been aware yesterday that they would be taking up IR&R first she would have voted differently.

Delegate Sutton, on a point of information, asked if there were amendments to the first half of Com. P. No. 16, and if they were ready for distribution. The Chair, noting that there were amendments, asked what the body wanted relative to the discussion.

At 11:48 a.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 11:53 a.m.

The Chair at this time made the following statement:

"The Chair finds itself in the same situation it was in yesterday, where in trying to accommodate one person or group of people you find yourself in total conflict with another. In view of that fact, the Chair would feel that the only thing we can do is to proceed as we decided yesterday, that we will take up Com. P. No. 16 tomorrow. The basis on which we'll take it up tomorrow will be decided tomorrow, in which case we have no further business and announcements are in order.

"The Chair regrets the inconvenience to the neighbor island delegates and wishes there was some way we could work this thing out, but under the circumstances it does not now seem possible."

Delegate Peterson then stated:

"I was under the impression that Delegate Penebacker had made a motion and it had been seconded. If that is not the case, I would like to move that we do consider portions of Com. P. No. 16 which have been received and that we do not exclude from consideration any matters which may be submitted tomorrow, and that we proceed this afternoon to consider those portions of the proposal which are not related to initiative, referendum and recall."

The motion was seconded by Delegate Funakoshi. The Chair then called for discussion on the motion. Delegate Les Ihara, on a point of order, questioned whether the motion

was in order according to the order of business. The Chair noted the point but indicated that the motion was in order at that time.

Delegate O'Toole rose to speak against the motion, observing that if most of the amendments were offered orally they could be there all day and night. Delegate Hale asked if it could be taken up on Monday if the problem was the Sunday scheduling. The Chair replied that their schedule would not allow this.

Delegate Sterling then stated:

"I speak for the motion that we consider those portions of the proposal this afternoon, but I think the record should also reflect that the President was concerned about this yesterday, in trying to set up a schedule. However, I have a question regarding oral amendments. I don't think there's any ruling on that--I don't see where the rules have been suspended on it. On the question that we'll still proceed according to the rules that we have, that there will be written amendments, I'm assuming that these amendments--if we take it up this afternoon--will be as we've always proceeded. I think the speaker previous to me brought up the idea of oral amendments."

Delegate O'Toole questioned whether this was fair to delegates who might want to put amendments in. Delegate Barr, on a point of information, asked if the motion had been only for amendments that were prepared. The Chair observed that it wouldn't be equitable to proceed on the prepared amendments and then backtrack tomorrow.

Delegate Pulham then commented:

"I agree with the concerns. I wonder--since we're being slightly informal--if we could know if somebody has an amendment. We've been on this a long time and I should certainly hope that by now they know where they're at, but if they would make that fact known to the body now--and not this afternoon when we start working on it, and say, I didn't have the time to get this done, or I didn't write it up--because we could very well take a 2-hour break for lunch and give them more than adequate time. Even if we only have one good copy, at least we've afforded them that courtesy. So my suggestion would be that at this time anyone in that situation, please rise and advise the body."

Delegate Hale then questioned the necessity of scheduling on Sunday, to which the Chair again stated that the problem was not enough time. Delegate Silva then spoke against the motion but noted that he was for the intent. He pointed out that when they had voted yesterday, they were concerned that there were people who would be coming there and that the changes had been made with that in mind.

There being no further discussion, the motion to consider portions of Com. P. No. 16 that afternoon was put by the Chair and failed.

ADJOURNMENT

At 12:07 p.m., on motion by Delegate Silva, seconded by Delegate Waihee and carried, the Convention adjourned until 9:30 a.m. Saturday, September 16, 1978.

FIFTY-NINTH DAY

Saturday, September 16, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 9:30 a.m.

The President presided.

The Divine Blessing was invoked by the Honorable Masu K. Dyer, delegate from the Twenty-Fifth District to the Constitutional Convention of Hawaii of 1978.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegate De Soto who was absent.

The President announced that the Journal of the Fifty-Eighth Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 92) informing the Convention that Res. Nos. 27 and 28, Stand. Com. Rep. Nos. 93 and 94, and Com. P. Nos. 14, RD. 2, S. 1, and 18, RD. 2, S. 1, had been printed and distributed.

On motion by Delegate Crozier, seconded by Delegate Hayashida and carried, Stand. Com. Rep. No. 92 was adopted.

The Clerk announced that Stand. Com. Rep. Nos. 93 and 94 had not yet been printed and requested that action be deferred to the end of the calendar. The President so noted.

INTRODUCTION OF RESOLUTIONS

A resolution (Res. No. 27) requesting the legislature to study the need for a national constitutional convention for the purpose of proposing amendments to the U.S. Constitution, and to petition Congress if such a need is found to exist, was offered by Delegate Laura Ching.

The President thereupon referred Res. No. 27 to the Committee on Revision, Amendment and Other Provisions.

A resolution (Res. No. 28) requesting the legislature to address the problem of rising health care costs and to establish legislation to reduce medical care costs in the State was offered by Delegate Laura Ching.

The President thereupon referred Res. No. 28 to the Committee on Public Health and Welfare; Labor and Industry.

ORDER OF THE DAY DEFERRED MATTER

Com. Whole Rep. No. 16 (Com. P. No. 16, RD. 1) (Committee on Bill of Rights, Suffrage and Elections--Deferred from September 14, 1978):

Delegate Kaapu, for the Committee of the Whole, and Delegate Weatherwax, for the

Committee on Bill of Rights, Suffrage and Elections, presented a report (Com. Whole Rep. No. 16) recommending that Com. Whole Rep. No. 16 be adopted and Com. P. No. 16, as amended in RD. 1, pass Second Reading.

At this time the Chair, in reviewing the order of the amendments, stated that the initiative amendment by Delegate Chong would be Amendment No. 1.

Delegate Pulham rose to ask the rationale for reversing the order from that previously used under the proposal. The Chair explained that it had been the consensus, as he had determined it, to address the major issue--initiative--early when everyone was present. Delegate Pulham thereupon conceded to the wishes of the Chair.

Delegate DiBianco then rose to suggest that the order be reversed, so the subsidiary matters could be taken care of first and then they could spend their time, as long as necessary, on the major issue of IR&R.

Delegate Penabacker pointed out that this had been the rationale for setting that day aside especially for this, and asked if they were now going to deviate from that plan. The order of amendments, the Chair noted, was not going to be changed without a determination of the wish of the body. He then put the question to consider the initiative amendments first and the motion carried.

Delegate Crozier, on a point of information, asked if the amendments dealing with the open primary could be taken up before the "none of the above" amendments, explaining that if adjustments were to be made for those delegates leaving early, the open primary issue had greater priority. The Chair observed that the order stated had been preferable, with the open primary as the concluding issue, but that it was a matter of what the delegation wished.

Delegate Odanaka rose to support Delegate Crozier's idea, indicating that she too believed the open primary issue was of more importance.

At 10:00 a.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 10:07 a.m.

At this time the Chair advised that the order of amendments would be that originally planned. If, he continued, the ruling of the Chair was appealed, it would then be decided what the body wanted.

Delegate Harris then rose and appealed the ruling of the Chair, explaining that the movant of the "none of the above" amendment had yielded and there was a feeling among the body that the open primary issue was more important. The Chair, referring to the substantial concern expressed against that revised order, explained that this was why they were reverting to the original order.

Delegate Crozier commented that if the traditional order had been followed--according to the order in the committee report--the registration and voting issue would be scheduled first, and noted that the Chair had earlier shifted from that by scheduling the IR&R issue first. If, he added, the Chair could shift the order, then if the movant of the "none of the above" amendment requested a further change, her wish should be respected.

Delegate Haunani Ching reminded the body that when the revised order was first explained--to take up the IR&R amendments first--everyone was agreeable. Now, she remarked, when they were ready to start the discussion, there were all these objections.

Delegate Hale then suggested that if a movant wanted an amendment at a certain time, that wish should be recognized. The Chair, she continued, may suggest an order but should honor any change proposed by a movant. Delegate O'Toole pointed out that the discussion was not whether initiative should be discussed first but whether the open primary issue should be taken up before "none of the above." Since the movant, he repeated, had stated her preference to take up the open primary issue first, this should be done as this had been the precedent.

Delegate Hirata then rose to speak in support of the ruling of the Chair, reminding

the delegates that at the informal vote taken the day before, a majority of the delegates had supported the Chair's revised order, putting IR&R first.

Delegate de Costa then moved that they take up the initiative amendment at that time and decide on open primary or "none of the above" when it came up. Delegate Izu then spoke in favor of the Chair's ruling, pointing out that the offerer of the amendment on "none of the above" was not "the delegate from west Oahu."

Delegate Kaapu, speaking in favor of the Chair's ruling, pointed out that the order of amendments proposed by the Chair was to the advantage of the maker of "none of the above" as all the delegates would more likely be present to vote on it.

Delegate Shon then rose to speak against the ruling of the Chair, remarking that, as the author of one of the "none of the above" amendments, he felt that the open primary issue should be taken up first.

Delegate Cabral, also speaking against the ruling of the Chair, indicated his conclusion that the way procedural matters had been taken up was "consistently inconsistent." The Chair, he pointed out, seemed to give favor to special requests by the majority faction, and he added:

"It seems inconceivable to me that we should change the sequence of addressing these proposed amendments. It appears to me more logical that we review them in a similar fashion to what we did in the Committee of the Whole. In that regard, we did take up registration and voting first, before initiative, referendum and recall. It seems to me just a special concession to the majority faction so they can kill the open primary proposal which successfully passed the Committee of the Whole."

The Chair at this time took strong exception to the opinion expressed. Delegate Penebacker rose to speak in favor of the Chair's ruling and to rebut the statements made, pointing out that if any concessions had been made to any faction throughout the Convention, they had been made to the so-called independents or minority faction.

Delegate Rachel Lee observed that since the rules had been broken so often the only decision should be on the order of open primary and "none of the above" amendments, and that the wish of the movant of "none of the above" should be respected and the open primary issue discussed first.

Delegate Sterling then spoke in favor of the Chair's ruling, stating:

"I'm really saddened at the language this morning. We elected the President to conduct these meetings. We may disagree with him--that is our privilege. But he's been given certain authority. I think that he's exercising his authority. We may not agree with it--that's our personal privilege--but to continue this kind of debate with so many important matters before us is uncalled for. Let's simmer down and keep our tempers. The President has the authority, I believe, to do this."

Delegate Goodenow then suggested that they get on with the business of the day and allow the Chair to make the decisions.

There being no further discussion, the question appealing the Chair's ruling was put and the Chair's ruling sustained. The Chair then stated:

"Before we begin, we want to remind the delegates that we would be proceeding on the same basis that we have in the past and as we handled things in the Committee of the Whole. We recognize that the issues before us are sensitive ones. They are of particular interest. We want to do everything possible to conduct our debate in an orderly, procedural fashion and provide every courtesy possible to those who have differing opinions. Much of the discussion on these issues has already been covered in the Committee of the Whole, and the Chair would suggest that, to the extent possible, we confine our arguments

to somewhat less of a total summation than was necessary in the Committee of the Whole. But that's for each delegate to decide."

At this time Delegate Chong moved for the adoption of Amendment No. 1, seconded by Delegate Liu, which added three sections to Com. P. No. 16, RD. 1, to read in part:

INDIRECT INITIATIVE

The people may propose, enact, or amend laws by the indirect initiative.

APPLICATION

(a) An indirect initiative is proposed by an application containing the bill to be initiated. The application shall be signed by no less than one hundred registered voters who voted in the preceding gubernatorial election, as sponsors, and shall be filed with the chief election officer. The sponsors of an initiative measure shall incorporate therein a ballot title, statement of purpose, full text of the proposal and summary of no more than one hundred fifty words; the aforementioned articles shall be descriptive or expository but not argumentative or prejudicial. If the chief election officer finds the application in proper form, the chief election officer shall so certify. The chief election officer shall not make any judgments as to the substance of the proposed measure. Denial of certification shall be subject to judicial review.

(b) An indirect initiative measure embracing more than one subject or naming any individual to hold any office, or naming or identifying any private corporation to perform any function or to have any power or duty, may not be submitted to the legislature.

PETITION

After certification of the application, a petition containing the text of the proposed measure and a summary of the subject matter shall be prepared by the chief election officer for circulation by the sponsors. All petitions for an indirect initiative measure shall be filed with the chief election officer no later than the first day of the second regular legislative session following a general election. All signatures required for an indirect initiative proposal to be submitted to the legislature and the electorate shall be obtained within the period between the general election preceding its certification and the first day of the regular session of the legislature in the next even-numbered year.

SUBMISSION; APPROVAL

An indirect initiative measure shall be submitted to the legislature by presenting to the chief election officer a petition signed by registered voters equal in number to no less than ten percent of the votes cast in the last general election for governor. In addition, the signatures on the petition shall be from all counties and the number of signatures from each county required on the petition shall be equal in number to no less than five percent of the number of votes cast in each respective county in the last general election for governor.

An indirect initiative, if not enacted in the original form by the legislature to which proposed, shall be submitted by the chief election officer to the voters at the first general election thereafter, together with the legislature's amended version, if any. If both the original and amended versions are approved, the one receiving the greater number of affirmative votes shall prevail.

Each measure proposed by the indirect initiative or the legislature shall be submitted to the voters by the chief election officer by its

ballot title and the question will appear in such form that an affirmative vote is a vote for change. An indirect initiative measure proposing to prohibit a specific activity or to terminate an existing right or privilege shall be submitted to the people in such form that a vote in the affirmative is a vote in favor of the right to engage in the activity or continuance of the right or privilege. Initiative measures shall be effective only if approved at the general election by a majority of all the votes tallied upon the question. All approved measures shall be effective immediately except measures requiring authorization of funds or providing for tax reductions or increases. Such measures shall take effect the following fiscal year.

An initiated law is not subject to veto and may not be repealed by the legislature within two years of its effective date. No measure enacted by a vote of the electors shall be repealed or amended by the legislature, except upon approval by roll call vote of two-thirds of the members of each house.

VOTER EDUCATION

The legislature shall provide methods of publicity of all indirect initiative measures with arguments for and against the statutes or amendments so proposed, including the issuance of a voter education publication. The chief election officer shall distribute such publication in such manner so as to reasonably assure that each voter will have an opportunity to study the initiative measures.

RESTRICTIONS

The initiative shall not be used to make or repeal appropriations for current expenses of programs and state departments, agencies, or other bodies that shall have been in existence for at least two years, to create courts or define the jurisdiction of courts, or prescribe court rules, to alter public employee collective bargaining agreements or to provide for the direct initiative.

DISCLOSURE

Funds contributed and expended to influence the outcome of initiative measures shall be disclosed in accordance with the laws and regulations that shall be prescribed by the campaign spending commission or the legislature. Public disclosure of funds shall be made by both the proponents and opponents of an initiative.

LAWS RELATING TO THIS SECTION

Laws may be enacted to facilitate the operation of this section, but no laws shall be enacted to hamper, restrict or impair the exercise of the rights herein reserved to the people.

This section shall be self-executing upon adoption.

Speaking for her amendment, Delegate Chong made the following statement:

"Shall there be a convention to propose a revision of or amendments to the Constitution?" The question was put to the electorate during the 1976 general election. By a wide margin the electorate decided that there ought to be a convention.

"It seems to me that contrary to the spirit of a representative form of government and the necessity for grass-root input to the governmental process, many delegates are taking it upon themselves to decide whether the State ought to have initiative. The actions of those delegates who are deciding the fate of such an important issue as though they possessed the consummate wisdom to decide what the public ought

and ought not to have will have far-reaching and very damaging implications throughout the State. As supposedly objective and impartial delegates to this Convention, we do not believe there can be any question as to the preponderance of evidence on the side of those who support initiative in the State Constitution as well as nationally.

"There has been lengthy dialogue on the subject of initiative, both in committee and during the Committee of the Whole. Numerous polls in Hawaii show support for initiative since the concept was rejected by the 1968 convention. The Star-Bulletin poll showed initiative had the most interest and concern of the people of Hawaii. First Hawaiian Bank and The Honolulu Advertiser in their polls also showed great concern for allowing an initiative process. This Convention received a petition with over 20,000 signatures in favor of initiative.

"There is overwhelming support for initiative from nearly all elements of the community. There are few opponents on this issue. The only significant opposition to date has come from the Chamber of Commerce, which primarily represents big business in Hawaii; however, a memo from the Hawaii Chamber of Commerce asks that the question of initiative be put before the people. Also in opposition to initiative is a coalition of the State's largest public employee union; however, the retirement organization of the State's largest union supports initiative. The fact that the overwhelming majority supports initiative is a primary reason we believe it should be put on the ballot.

"There is a vital need for additional checks and balances, a vital need for another avenue for the public to participate directly through initiative. The action to cause the demise of initiative, without letting the people decide for themselves, is contrary to the spirit of the Convention. There is a burgeoning mistrust of elected officials, to which the actions of some of the delegates would add by precluding the electorate from voting on the initiative measure. Such an action would show the public that even the delegates to the Convention divorce themselves from their campaign issues or constituents' concerns.

"I'm amazed to learn that a delegate would vote against a proposal as though he had the final say on whether it could become a part of the Constitution. The issue of initiative must be put to the people, regardless of personal feelings. The people of Hawaii should have an opportunity to decide for themselves whether they want initiative."

Delegate Cabral, speaking in favor of the amendment, echoed the thoughts of the movant that too many delegates there tended to forget that government was vested in the people. He urged the body to give the people the opportunity to decide for themselves whether they wanted that form of government.

Delegate Takehara then rose to speak against the amendment, stating:

"Though this issue has been heavily debated for many months, I believe my arguments will bring a fresh perspective to this proposal. In general, Hawaii's voting public is considered to be well informed on issues. Many voters take the time to educate themselves when they are faced with difficult political problems. This responsibility is not taken lightly. When voters are uncertain, they invoke the political process of directly approaching their legislators. However, in the initiative process, the voters are asked to assume the role of lawmakers themselves. In many instances, many ordinary citizens do not have the background, the time or the staff to conduct a thorough examination of each petition proposal. To expect a citizen to act in this manner before signing a petition"--

At this time Delegate Takehara was interrupted by an outburst from an individual in the gallery. The President warned that if the person was not silent he would be removed by the sergeant at arms. Apologizing for the interruption, he requested the speaker to proceed. Delegate Takehara then continued:

"To expect a citizen to act in this manner before signing a petition is an invasion upon him. A system like initiative allows special interest minority groups a greater opportunity to take part in the political process at the expense of the majority. Initiatives are expressions of a minority of citizens forcing their priorities upon others and their time, which then results in the majority of citizens"--

Again Delegate Takehara was interrupted, this time by a disturbance between Delegate Penebacker and an individual in the gallery, whereupon the President cautioned:

"Delegate Penebacker, please be seated. I remind the delegates that regardless of the circumstances, the sergeant at arms can take care of the gallery without adding to the Convention's proceedings in any way. I would certainly caution everybody to be as calm and as rational as possible. There's a long day ahead of us. Delegate Takehara, are you still prepared to proceed?"

Delegate Takehara then continued:

"--the results being that the majority of citizens would be unnecessarily burdened by the multitude of proposals facing them. Hawaii is rated seventh in the nation by the National Citizens Conference on Legislatures for its exemplary governmental system. Also, it is generally recognized that we are one of the most progressive states in the country.

"Fellow delegates, we love Hawaii. We love Hawaii's uniqueness, and we love Hawaii's style of living. We do not wish to become continually uptight and worried about what and how each petition may affect our personal lives. Our representative system has worked and is working well for us. It's accomplished much in the best interest of our total State and people. For these reasons I speak against this amendment."

Delegate Goodenow then spoke for the amendment, stating:

"I would like to remind the group of some of the background of the initiative, which I support. The first well-organized group of people in the United States ever to favor adoption of the initiative was the American Federation of Labor, which publicly supported it in 1892. Various Populist parties and labor organizations also adopted it in 1898. South Dakota became the first state to adopt the initiative; now we have 26 states that use it. No state--and I think this is very important--that has ever had it on the ballot has ever dropped it from its constitution, and many states such as California, Oregon and Washington use it frequently.

"I would also like to speak about our own state, Hawaii. Kauai and Hawaii counties provide IR&R for charter amendments and ordinances. Our own county of Honolulu allows only direct initiative for charter amendments. Maui county provides advisory initiative for charter amendments and IR&R ordinances.

"It is important to speak about having had it for as many years as our country has. It has been used most infrequently, although it is there and gives people an opportunity to participate. There has been a variety of legislation that has been voted on. I'd like to give you three brief types of legislation. Oregon voted down the sales tax. Oklahoma voted that public officials should be impeached for public drunkenness and excessive use of liquor. Nebraska voted for conflict of interest legislation and for unicameralism. I would like to end my brief dissertation by saying that it makes the voice of the people more efficient and is used as a last resort when government seems to be unresponsive. It lets people who are interested have an opportunity to influence the laws which govern them and gives them a chance in government. I would urge my fellow delegates to give this their deep consideration. Thank you."

Delegate Rachel Lee, speaking in favor of the amendment, observed:

"I would be remiss if I did not express some of the reasons initiative is, for me, the most important issue in this Convention. I would like to rebut the delegate who was against this motion. I say if the public is well informed so they can approach their legislators--that I agree with--but are they getting their wishes fulfilled? If they are, then why are they in large numbers--according to the papers, the media and surveys have indicated overwhelming numbers--in favor of initiative?"

"Also, arguments used against initiative based on racial issues have been brought up. I'd like to call your attention to the survey made by tele-vote. Although Caucasians showed the highest percentage--93 percent--in favor of it, 75 percent of the Japanese ethnic group also favored it. Note this--81 percent of the Hawaiians also favored it. This survey clearly directs our decision. Let's stop giving excuses on why initiative is not good. Let's give the public the right to participate in government. Let the public decide. Who are we to judge what is right? I recall a prayer by one of our delegates that was very impressive: 'Let's not judge, lest we be judged.' Did that prayer mean anything to you? Thank you."

Delegate Kimball then rose to speak in favor of the amendment, stating:

"I came to this Convention on a philosophical basis considering initiative in general as a complement to representative democracy. During the course of this Convention, I have heard concerns addressed by numerous delegates, including those from the outer islands, with respect to taxation and finance, and I speak strongly for this amendment before us because it addresses and provides for all those concerns. I'd like to point those out.

"First off, the safeguards in this initiative proposal before us include that a hundred registered voters are required before they can circulate an initiative petition, and they become the sponsors. Second, there is geographical representation, which takes care of the neighbor island concerns as far as Oahu domination. Third, this is indirect initiative; that means it will be referred to the legislature, and our legislative body will have the opportunity to review the petition and propose an alternative before it is placed on the ballot for the people's consideration. Fourth, it provides for voter education, which is important in terms of the concern that some initiative issues in other jurisdictions have been of an emotional type, and I can see where some of the issues here in Hawaii could be emotional. So voter education is important. This proposal provides for it. Fifth, there are restrictions as to subject matter, including some of the major ones with respect to operating budget and other tax and finance questions. Finally, there are provisions for financial disclosure of money spent in support or opposition to any initiative measure. For those reasons, I speak strongly for this initiative proposal.

"In addition I'd like to point out, in my philosophy and in thinking of initiative as a complement to representative democracy, if we do not offer people the alternative to redress grievances or participate in our legislative process, as initiative does, we are going to force them to go into civil noncompliance with the law--and I've seen this in my work in tax administration. Presently, we don't have problems with tax protesters and tax rebellions. But not given the opportunity to redress grievances or participate in the legislative process, these things will become problems in tax and other areas. So, without a means for the citizens of Hawaii to address their concerns, we will force them into civil noncompliance aspects. For these two major reasons, I urge you to vote for this initiative proposal."

Delegate Les Ihara remarked that he had intended to speak against the amendment,

but "after seeing what happened the last time... I'll choose not to speak."

Delegate Sterling, speaking in favor of the amendment, pointed out that, using the Convention as an example, the minority had been given an opportunity to speak, to register its thinking, to effect changes. If, he noted, it was feared that a minority would initiate great changes through initiative, this had not happened at the Convention. He then repeated that much had already been said about the issue and he urged passage of the amendment.

Delegate Campbell then made the following statement:

"Mr. President, perhaps one of the most significant observations made by Winston Crouch in his study entitled Initiative and Referendum in California, is that every type of group representing a population interest has actually made use of the initiative, including commercial, industrial, financial, reform and political. And history reflects that labor interests have also made use of it.

"I believe we ought to take this very seriously because it is reflective of the fact that initiative can have very widespread use in the community and is not narrowly applied. Dissatisfaction with the state legislature is not new in Hawaii, nor is it new in history. To go back to the late 19th century, there was a very widespread feeling throughout all the states that the legislatures were no longer representing the people. The citizens had become disheartened and demoralized because they felt that legislatures had become dominated by political bosses and special interests such as the railroads. And this was co-terminous with the growth of our labor unions and several Populist parties and was the genesis of initiative.

"I believe that initiative could have an extremely salutary spinoff--namely, that of involvement and education. If you will recall, the entire thrust of the Economic Opportunity Act of the model cities program was to get people involved at the grass-root level in government activities, so that ultimately they would move in the direction of self-determination. Involvement, fellow delegates, is the antidote to apathy. I believe it is the antidote to alienation and to frustration. I feel certain that all of us as delegates are desirous of having a participatory democracy in our State. And the indirect initiative proposal before you provides for this, because it designs a hand-in-glove relationship between the people and the legislature. It is designed for the maximum involvement of the people, for in going out and knocking on doors and securing signatures, they will unavoidably become educated themselves in the process of educating other people.

"This proposal before you is designed, then, not only to educate citizens but also to educate the legislature as to the needs of the people, which sometimes become lost in the shuffle and are not heard. With the safeguards that are built into this proposed amendment, including education and public hearings, I believe it is a correct measure to avoid abuse and to give the citizen the maximum opportunity to help himself. In helping himself, Mr. President, I believe we will all be helped."

Delegate Weatherwax rose on a point of information to question the meaning of the language in the amendment that indirect initiative "if not enacted in the original form by the legislature to which proposed, shall be submitted by the chief election officer to the voters at the first general election thereafter, together with the legislature's amended version, if any." He asked whether this was not in effect the same as direct initiative if the legislature did not act, and if so, if the same argument would apply.

Delegate Chong responded that she believed it was not and that had not been the intention. Delegate Eastvold then pointed out that an indirect initiative must go to the legislature for action, emphasizing that the legislature must be given the opportunity to come out with something equal or better.

Delegate Weatherwax thereupon rose with another question regarding the wording, "Each measure proposed by the indirect initiative or the legislature shall be submitted to the voters by the chief election officer by its ballot title and the question will appear in such form that an affirmative vote is a vote for change." He then asked the reason for the language, if it was to skew the initiative toward getting an affirmative vote.

Delegate Chong replied that it was for similarity to the Con Con proposals.

Delegate Liu, speaking in favor of the amendment, observed:

"Blackjack, roulette, keno--all games of chance. It seems to me that these are the kinds of images that those who have argued against initiative are trying to plant. Such portraits, I feel, are grandiose distortions of the initiative amendment and process before us.

"I wonder how much real risk of loss there is when at the present voter population over 30,000 people would be required to express their initial thoughts on a subject before this process is even triggered. How much risk is there in ripping apart the uniqueness of this island State when every Island's people, under this amendment, would have to show sufficient interest in the issue. Or else, regardless of how many people from one county, two counties or three counties want a particular issue to go to the legislature, unless all four counties in sufficient number sign the petition, that issue will not reach the legislature or eventually the ballot. No tyranny of the majority. Probably, even should an initiative fail because of lack of signatures from one Island, the legislature, as some have argued so eloquently, should if it is as responsive as many have argued, recognize the sentiments either for or against the piece of legislation. Thus, under this amendment we are not talking about a minority thwarting the will of the majority. Instead, we are talking about issues with broad-based support. The 10-percent signature requirement is unlike California's that requires only 5 and 8 percent, respectively, of the votes cast in the general election for governor, depending on whether it's a statutory or constitutional measure.

"In the last 16 years, only 26 of 148 initiatives filed have qualified for the California ballot, and the results have not yet proven catastrophic. California still stands. Of course the specter, to many, of Proposition 13 still lingers on. However, for Hawaii the probability of a Proposition 13 is like rolling 13 on the crap table; you just can't get dice to add up to that number. First, because the initiative process in California is different from the one we might have today. Secondly, this State does not have a multi-billion-dollar surplus as California has. Third, we will hopefully have shortly adopted a spending limit for this State, which California does not have. And fourth, we will also hopefully have a tax review commission to suggest changes to our tax structure every 5 years, which I think would diffuse any voter discontent with a burden of taxes.

"But for those who still feel that whatever has happened in California is too excessive and might happen here in Hawaii, I would refer them to Charles Price, perhaps one of the leading analysts of the initiative process throughout the United States. He feels that if one fears initiatives in California have been used excessively, it is because the state legislature became thoroughly professionalized. Special interests both liberal and conservative may have been thwarted by a tough professional legislature and been forced to take their proposals to the voters via the initiative. Well, I think Hawaii's legislature is not thoroughly professionalized. I think that we here in these halls have been very careful to maintain as far as possible some kind of citizen character in the legislature and therefore maintain its contact with the people. But regardless of this factor, I wonder if there is anything wrong with special interests being very aboveboard about their lobbying and taking their arguments to the public rather than perhaps merely in the darkened halls of the legislature.

"Lastly, some have spoken of priorities and the importance of this issue vis-a-vis others before us. You know, there is a very thin line between courage and arrogance. But on this issue, given the amendment's safeguards, given public sentiment both for and against the subject--to say no today would be nothing short of the height of arrogance."

Delegate Uyehara at this time moved to amend the amendment by substituting, in the first paragraph under "Submission; Approval," the word "ten" in place of "five" percent, seconded by Delegate Hale. Speaking for his amendment, Delegate Uyehara explained:

"This is to make it acceptable to the delegates on my far left. I want to bring it up to the original 10 percent, which I had supported previously. The 5 percent was so watered down it made me very leery as far as the support that I could have given. I am concerned not only for today but also for tomorrow, which we are here to plan for. Today there are many sign-holders who blanket the streets, the corners and the highways, and go house to house bringing brochures to the people. Today the people of Hawaii see the governor shaking hands at receptions, cocktail parties and even at rallies. I have seen him more than five times during this campaign already. But tomorrow the campaigners will be much more sophisticated, and more and more the media, the professional campaign organizations, will take over and less and less the candidate himself will be approachable. Tomorrow, when the population increases with the changing styles of our life, campaign tactics will change also, and our legislature will become less and less accessible. Elected officials will be less accessible to the public, to individual citizens and their concerns, and they will in the future be leaning their ears more and more to large interest groups, and the votes will go in that direction.

"I lean very heavily toward the 10-percent signatures from each county to make it a statewide interest, difficult enough to be broad and affect the majority of the citizenry and yet attainable to bring the concerns of each citizen of this State. Therefore I speak for the 10-percent signatures throughout the counties."

Delegate Hale spoke in support of the amendment, pointing out that 10 percent should not be difficult to attain if the people were interested. She then observed that the counties would appreciate having the same percentage as the State.

Delegate Chong also voiced agreement with the amendment.

Delegate Sterling, speaking in favor of the amendment, pointed out that it was fair and would better indicate the feeling for or against.

Delegate Peterson then spoke in favor of the amendment to the amendment, providing some of the rationale used in determining the 5-percent minimum:

"The issue is what I call the county veto where 85 percent of the population resides in the county of Honolulu and there is a possibility that a few voters in one of the other counties might make it impossible for a majority or a very high number of people in the State to make their wishes known. So the reason for providing a 5-percent limit would be to prevent one county from vetoing the will of all the other counties. However, as others have mentioned, if this makes the amendment more acceptable, I would speak in favor of it."

Delegate Blake expressed his support and urged the delegates to vote for it.

There being no further discussion, the question of the amendment to the amendment was put by the Chair, and the motion carried.

Delegate Miller then rose to speak in favor of the original amendment, pointing out that it was "overwhelmingly the single most important issue to the voters of the 11th representative district." She further observed:

"Since our near all-night session this week, there is disturbance, bitterness and even disrespect in Waikiki. The 11th district is the home of the second most vital source of the State's income--the visitor industry. The residents are doing all they can to build a higher moral and better scene for the industry in Waikiki, through such avenues as the Residents' Association, the neighborhood board, the Waikiki Improvement Association and other community groups. I have heard not one word of satisfaction toward the vote here. In this district the reaction to community issues and political issues is very fast. So therefore I ask that this most important issue to the 11th district be given a yes vote today."

Delegate Chu, speaking in favor of the amendment, observed that it was not contrary to the concept and practice of representative government because it was not a substitute. This merely gave the legislature the opportunity to be more responsive to the needs and views of citizens, she noted, especially those alienated from or outside the mainstream of the political process. She then related:

"I remember a Hawaiian man who testified before the bill of rights committee, who said that he felt very few average citizens really understand or know legislative procedures--the timetables involved and the techniques in preparing well-thought-out, well-articulated testimony. He felt that with it he would know better how to vote on a particular issue than from candidates waving signs at him. The legislative machinery is actually very complicated. The fact that this Constitutional Convention has had a great deal of difficulty passing certain measures, when we don't even have the final say, is an indication of how difficult it is, often, to get certain citizens' interests and views across and passed in the legislature.

"The initiative is the only way in which the people can directly affect legislation and have a say in the laws that govern them. In this post-Watergate era of disillusionment and distrust of government and politicians, and of increasing vocal criticism of slow-moving and often unresponsive government agencies snarled in bureaucratic red tape, initiative is a reasonable and necessary safety valve through which people may let off steam and discuss their views. Through the initiative, people can constructively channel their views and perhaps discontent, and have a say more directly in how they are to be governed. A recent poll has shown that citizens have become alienated from government and that they feel government does not truly care about them. Yet they are paying a big slice of their income to support this government.

"Government belongs to the people. Let's try to restore the faith of the taxpayers in this government. This particular indirect initiative amendment is no threat to our representative legislature. This method utilizes the legislature as a preliminary sounding board, or screening device, to weed out ill-conceived or hastily drafted legislation. This initiative acts as an effective device for public education and stimulates grass-roots interest and debate on important issues. It is thus a valuable device in reducing citizen apathy. Public interest and awareness are especially likely to be generated under an indirect initiative scheme. The legislature can make an amended or a counter-proposal, in which both the original and amended versions would be placed on the ballot. For the above reasons, I urge you to vote for this amendment for meaningful indirect initiative."

Delegate Barnes then rose and spoke for the amendment, stating:

"Mr. President, I did not speak in the Committee of the Whole on this issue, and I would like to address it fairly briefly today. I hope that each of us may try and set out who we think we're representing or speaking for today before we begin. I speak for 70 percent of the people in my district, 86 percent of the people statewide,

73 percent of the Japanese-Americans, 81 percent of the Hawaiians and part-Hawaiians, 93 percent of the Chinese-Americans, 96 percent of the cosmopolitan others that are the essence of Hawaii, and 92 percent of the Caucasians in Hawaii.

"In the Committee of the Whole, a delegate from Nuuanu asked, 'Can the proponents of initiative meet their burden of proof that we need initiative?' Today I will try to meet that burden of proof on behalf of the local people. First, we know that the most successful use of the initiative was the Coastal Zone Conservation Act, which was California's Proposition 20 in 1972. This initiative only came about after years of attempts by environmentalists and others to pass similar legislation in California's legislature. All these attempts failed. The corporate powers fought Proposition 20 with all the vast resources that had been more effectively used to block it in the legislature, and yet the people voted in this much-needed environmental act.

"Although I agree with some delegates who stated--in the unicameralism debates, for example--that we have a very responsive and progressive legislature, particularly in the area of social legislation, I submit to you that in the area of environmental legislation and in the area of tax reform, our legislature is desperately in need of the type of assistance that direct democracy can provide.

"Example No. 1--environmental legislation. State Senator Jean King, chairperson of the senate environment committee, testified in the bill of rights committee that she has repeatedly attempted to introduce a bottle bill in the legislature, yet the beverage industry has been able to bottle up this progressive legislation for three sessions running. Two bottle bills were introduced in '73-74; four bills were introduced in '75-76; 11 bottle bills were introduced in the '77-78 session--a total of 17 bottle bills. Senator King stated that with initiative she is confident that this progressive legislation, which can only benefit Hawaii by encouraging recycling and conservation of energy, could be enacted. We can see that the legislature has been unable to deal with this even though the public wants it.

"Example No. 2--the hotel room tax. The second glaring example of a need for direct legislation is in the area of tax reform. Hawaii is the only major tourist destination without a hotel room tax. This is the one single reform that has the potential to significantly change the State's cash flow problem to directly benefit local people. In 1974, 63 percent of Hawaii's people favored a room tax. In 1976, 75 percent of Hawaii's people favored a room tax. Today in 1978, 54 percent of Hawaii's people favor a room tax. It is clear that if Hawaii had initiative in '74 and '76, we would now be enjoying the benefits of increased income to the state general fund and a greater ability to purchase park lands. What did the legislature do with this issue? A bill for a room tax has been introduced every year since 1968--10 years running--and no bill has yet come out of committee. It is obvious the hotel industry has had no difficulty in keeping this issue locked in its room while the only avenue available to the people is the legislature.

"My fellow delegates, I have no doubt that people are in varying degrees aware of the problems mentioned. I submit to you that initiative and referendum provide a means for involving and educating the people in the legislative process. The people of Hawaii have now seen and heard about direct democracy through the media and the deliberations of this Convention. The people will not be denied. Thank you."

Speaking for the amendment, Delegate Hale stated:

"I would like to say to the one person who did have the courage to speak against this that I appreciate her courage. She brought up some

very important points that I would like to answer. One point was that people would sign petitions without knowing what they were. I would like to point out that legislators often sign bills they are not for because their constituents ask them to. Those bills either get buried or are not supported, but they are bills signed by request. So many unnecessary bills are introduced in our legislature by request but not acted upon. I'd like to point out that some of us as delegates did this also, so we can well understand why legislators would do this.

"I think people will sign petitions but only if they have some interest in the subject. People are very hesitant these days to sign their names to any document, and it isn't that easy to get them to sign a petition unless they find that they have a stake in the subject.

"I'd like to point out to those who oppose initiative that I am sure if the question of nuclear plants was put in the way of an initiative, the original proposal would have been voted in by the people. This could happen to other proposals, such as taking off the 4-percent food and drug tax that many delegates were for and that has not been passed by the legislature in spite of the public's concern and the many bills introduced on it. I admit that initiative can deal with very emotional subjects, but I think this amendment is the way to diffuse the emotional problem that arises with almost any kind of issue that directly affects people. Indirect initiative does this by involving the legislature and charging them to come up with a viable alternative with all their resources, studies, input from experts. If they can come up with a viable alternative on the ballot, I have faith that that alternative would pass. But whatever passes would be the will of the people.

"I feel that the basic question facing us today is--are we willing to give the people some stake in the process that governs their lives. Government on the state and federal level now governs our lives so we cannot even breathe or eat without some input from it. This will not be used often. It is not that easy to get 30,000 signatures, and another 3,000 or 3,500 from my Island, and maybe 3,000 from Maui and 2,800 or 2,900 from Kauai. It will only be used with issues of statewide importance that affect people's lives. The safeguard is that it does go to the legislature. But it is an escape valve for pent-up emotions on subjects that are near to the hearts of the people.

"It's been said some delegates have received threats. And that's too bad. Unfortunately nobody has threatened me--maybe they are afraid to, because I certainly wouldn't stand for any threats and I would tell anybody off. I would expect any delegate who feels he has been threatened to do the same because I feel we are here to vote our consciences. But I would like to say--and this is not a threat, it's a result of many years of practical experience in politics--that people will take repression so long and then they will revolt. I was part of the 1954 revolt when the Democrats took over the legislature. We elected only two Democrats that year to our county government, but I was also part of the same revolt that culminated in 1962 with the election of the first Democratic governor of this State and the first Democratic county chairman in 14 years. I do believe, firmly, in the people. And I do believe that this issue is so emotional and has generated so much heat, rather than light, that the people will look at our constitutional amendments in terms of what we have done for them as a whole on this issue. Most of us here have worked very hard in the last 3-1/2 months. There are a few things that all of us have done that I would like to see the voters uphold; but I fear very much that the unleashed emotionalism from voting down this initiative could very well reflect on all our work. I ask you to consider that, and consider whether it is not worth giving the people a chance to vote on this issue, so they can look at all the other issues before them in the light of reason and sanity and decide what is best in that vein rather than that we have denied them the one thing they expressly were for. I urge your consideration of this amendment."

Delegate Dyer then rose to speak in favor of the amendment. Addressing the argument that people lacked the sophistication, information and time to competently evaluate proposals, she commented that those same people had elected the delegates there and would be called upon to evaluate the Convention's work, by either ratifying it or rejecting it.

Delegate Hino then spoke against the amendment, congratulating the supporters of initiative for their arguments, which had raised sufficient doubts in his mind to necessitate his meeting with his constituents. After discussing the issue with them, he related, only one person had indicated support for the indirect initiative. He then added:

"I took time after the meeting to discuss the issue with this lone dissenter and found to my dismay that he had not even taken the time to vote in the Con Con. Needless to say, I was very disappointed. For these reasons and responding to the desires of my constituents, with a very clear conscience I will vote against the amendment."

Delegate Donald Ching spoke against the amendment, mentioning that he had not intended to speak as the issue had already been debated thoroughly and well. He then commented:

"I would like to discuss the effects of this issue on one who is involved in a political campaign--one who has been involved in several political campaigns. It is true there is quite a bit of interest generated by the media over this issue of initiative, referendum and recall. During the past few weeks I've attended coffee hours where naturally this issue has been brought up. And in talking to people, some of them very strong advocates, I've been able to sit down and discuss it with them on a very rational basis. No way can I do this over a telephone or even on a person-to-person basis when someone walks in and has a few minutes to talk with me about this, especially since they come in with very strong preconceived ideas. But I have found that in talking to a group of people who are quite open but still want to know my rationale for not supporting this issue, by and large after explaining my reasons for not supporting this and after answering their questions--some of them very hard questions--I think they go away somewhat satisfied.

"The argument has been raised that this is an added measure to representative democracy. I think rather than an addition it's a copout as far as representative democracy is concerned. I can just see those elected to the legislature saying, why should we put our best foot forward when all of this can be repudiated by a group of people who decide this is the way they want to do it and work hard enough at raising the necessary 10 percent. I think this will lead to the kind of legislature that we in Hawaii would not care to have. Thank you."

Speaking in favor of the amendment, Delegate Funakoshi stated:

"Initiative is a measure many of us are wary about because it is a change which is untested in this State. But remember that America was discovered because of a man who dared to sail the uncharted waters. The Wright brothers also dared, and helped mankind. Who are we then to say that people should not be given the opportunity to say whether they want to sail the uncharted waters. My fellow delegates, let us show that we have confidence in the people of Hawaii by putting this measure on the ballot. And let the 18,000 who are against this and the 20,000 who are for it and any others who want to voice their opinion decide whether they want it or not. Thank you."

Delegate Chang then rose on a point of information. Referring to the burden of proof, he asked if any delegate could explain the apparent contradiction in that the same forces that "would have opposed those landmark measures which were enacted into law were the parties that opposed whatever bills were suggested as being representative measures which were not enacted against the wishes of the people."

Delegate Barnes, in response to how the legislature could pass such good social legislation in some areas and yet not in others, explained:

"An example, in my view, is abortion, because there is no economic interest on one side or the other. They're able to take what I view as a leadership position in the area of abortion, and yet there are the two examples I gave of the large economic interests that were against those two types of legislation. That's the difference I can see."

Delegate Chang then referred more specifically to the Shoreline Protection Act and Hawaii's Environmental Protection Act, to shoreline access laws, the land reform act of 1967 and the land use law of 1963, which had direct economic impacts.

Delegate Hale, in response, answered:

"I think the issue is being confused. I don't think that anybody who is for indirect initiative is saying that the legislature is not doing a good job in certain areas. We do admit that the legislature has passed very progressive legislation. But I think--Delegate Barnes pointed out another area, the bottle bill, where they have not. So the only question is, are we going to give the people a chance to do something in those areas where the legislature has not?"

Delegate Chang, in restating his question, specified:

"It has to do with the burden of proof in the area of defining a problem--that is, accessibility to and responsiveness of the legislature. The question went to Delegate Barnes' remark that the bottle bill represented an example of an area where the legislature did not respond to the interests of the public. The question was, how does one explain the contradiction in that all of the landmark legislation which the legislature has passed over the years in the face of the very forces that would be ranged against something like a bottle bill be explained in terms of responsiveness and accessibility. There seems to be a contradiction in there which is not easily answered."

Delegate Sterling then responded:

"I think first of all it's a rhetorical question, but on the question of coastal zone management and those areas, there was much pressure to comply with the federal environmental acts. For example, on our Island we were told that unless we passed certain measures or complied with certain measures, there would be no federal moneys. There are many pressures, in answer to the delegate's question."

Also on a point of inquiry, Delegate Haunani Ching asked if the people in the states that had initiative were closer to their government and participated more in the governmental process because they had initiative. Delegate Chong, in response, stated that she believed they were "just as far away as we are."

Delegate Penebacker then rose to speak against the amendment, stating:

"Back in January when I decided to consider being a delegate to this Convention, I tried to look at the issues that were being presented. One of those was initiative, so I investigated to see what initiative was all about because I didn't know anything about it. And after listening to the pros and cons, I came to the conclusion that I was opposed to initiative. Since being in this Convention, since July 5, there's been created an atmosphere of fear, that if you don't do what I say you'll pay for it. I'm referring to the incident this morning when Delegate Takehara was presenting her view--someone was going to threaten her because she took that particular point of view. This past week I have been threatened bodily once, I've been threatened my car would be blown up, my house would be blown up, my office would be blown up. A lady, in particular, came to my office and said she was going to bury me behind my desk. This

is the exact type of atmosphere of fear that we do not need in Hawaii. We were all elected on our platforms. When I ran in the 26th district I campaigned opposing initiative, and I was duly elected by the people in my district. Why should I now, after campaigning for months on that platform, change my mind?

"After listening to the pros and cons even today, it reinforces my position. I don't think this threat that Delegate Hale alluded to is something we need. This is one of the reasons I've come out very strongly against it. We're here to make rational decisions and we need a clear mind to make those decisions--not whereby someone will say, if you don't you're going to pay. We've had letters saying if you don't vote against this, we're going to reject every amendment that you propose. That's your prerogative. This is America, you are free to do as you please as long as it does not infringe on the rights of others. And my right to say what I damn well please is my right. For those who say, if you say it you're going to pay for it--that's fine too. But those who say that better be prepared for the results also."

Delegate Penebacker then offered his apologies to the Chair and the delegation for his actions that morning.

Delegate Eastvold rose to speak for the amendment, remarking that he also campaigned in the 26th district but in support of initiative. Acknowledging that it was an emotional subject, he noted that there were misconceptions and ill-informed ideas being conveyed to the delegation and explained:

"One of the first speakers against initiative pointed out that she did feel our constituents were very well informed; however, she went on to elaborate that she was afraid the minority would overcome the majority. I'd like to point out that even if the minority comes up with an indirect initiative proposal and by chance it gets through the legislature, it still takes a majority to enact it into law. Therefore, there's no way in the world the minority is going to overcome the majority because it's the majority that has to vote on that particular initiative. I'd also like to ask that delegate, when she made the comment that there would be a multitude of proposals on the ballot, where her facts are as to why she would believe that. All the facts--and I have studied this quite extensively--on even the most widely used initiative, which is the direct initiative, not the indirect, which is used in California--there has been a maximum of 7 and an average of 3 annually. When we compare this to what the legislature in the State of Hawaii discusses in a 2-month period, nearly 2,000 bills--that's 3 as compared to 2,000, I don't think there is any comparison as far as believing that our constituents cannot handle 3 when a mere 52 representatives discuss 2,000.

"Another colleague also to my left was misled into believing that we were discussing referendum. His comment was that initiative would be used as a copout and why would the legislature want to act on any particular bill when the people could turn around and repudiate that bill. We're not discussing referendum here, we're discussing initiative. Using copout as an excuse is not one I've ever heard for initiative; it's always been for referendum. I'd like to clarify a point and finally get the chance to answer my colleague and the committee chairman as to why an affirmative vote is a response for change. This is one of the safeguards widely used by those states that have both indirect and direct. They have found through their experience--and I believe we'd want to utilize that experience--that it has caused much less confusion to have this positive vote, or a yes vote, for change if they so desire and a no vote for the status quo. If you have a variety of initiatives, with some saying no for change and some saying yes, it causes confusion. This basically is a safeguard against such confusion.

"All I can say is that we're discussing initiative. We've discussed it before. This is merely a spare tire. We're not asking for anything

great. I believe myself that it is the most important issue we're going to be discussing here, and the people have already expressed a desire for it. I have canvassed my district, I've taken a poll, and though my results conflict completely with my fellow delegate from the area, the people in my district do want initiative and I believe I am going to vote for it. Hopefully this Convention will do so also."

Delegate DiBianco then rose to voice his support for the amendment and to remind the delegates there were other issues to be taken up. Nobody, he pointed out, was changing anybody's mind. He then urged that the vote be taken.

Speaking for the amendment, Delegate Pulham mentioned that he had not campaigned on initiative and had therefore come with an open mind. He then observed:

"However, being in this body has been one of the key factors indicating to me that yes indeed, we truly need the initiative as part of our form of government in Hawaii. If you think about whether we're being responsive to the people, or that maybe the people might even need initiative to influence this body, then I think the conclusion would have to be that perhaps we do need to leave some things to the voters. And yes, I do happen to think that the voters in my district are intelligent enough to vote whether they want initiative. I'm going to take issue with something else that has been a recurrent theme throughout and that is the effectiveness and the golden halo we're placing around our state legislature. I don't happen to believe that. I think it depends on the particular issue and on which side of the street you happen to be on that particular issue, as to whether one happens to be a saint or a sinner. And if you don't agree, that's fine. But there are a great number of delegates in this Convention who are running to replace legislators, and if they are saints then we should leave them alone.

"So I say to you that there is room, and I would hate to think that this bunch of saints were going to cop out, as someone said earlier, simply because we had initiative. I find the two kind of hard to equate. I think they do need help; they need direction from the people, they need to know what the people are thinking. And if they should get it in this indirect form, it would on some very important issues give them that line of thought, at least for a portion of the populous. We're not twisting their arms. They would have the opportunity to put their particular version before the people, and if substantially different the other one would also be on the ballot and the people would have the final decision. Now, am I to believe that this body is opposed to this final decision? Are we opposed to what the Constitution says about the political power resting in the people? If we're not frightened of that, then we certainly have nothing to fear except, as someone said, fear itself. So I would ask you to vote for this measure. Thank you."

Delegate Lacy, speaking in favor of the amendment, commented that indirect initiative was acceptable to his constituents in the 11th district and that he felt it was an excellent amendment, being clear, reasonable and a compromise. He then urged the undecided delegates to consider that there were limitations but that it was an excellent compromise. He spoke for initiative, he observed, because he spoke for the minority and the amendment would allow them to be heard and to feel that they too belonged.

Delegate Kaapu then spoke in favor of the amendment as amended, noting that while it was not perfect it was acceptable to him. He voiced the feeling that the Convention should pass something in this area and this particular amendment did make some progress.

Delegate Weatherwax spoke against the amendment, pointing first to its length, which was over 3 pages. You could not digest its full impact on a ballot, he observed, and people did not want to have to study something like this, think about it, its ramifications, etc., preferring instead to read and be able to make quick decisions on a ballot. They should also, he noted, consider the source of information, explaining:

"Many times people are restricted. If we consider in our daily activity how we make decisions or come to information, I think we rely on magazines, the press, mass media. This is different from what existed at the turn of the century when initiative proposals had their heyday. I think we're in a little different social and economic time, especially with the highly advanced technology of today. But what it all boils down to is that it can be a false hope, that in fact it can be just what it is--a belief system. If you seek to believe in a representative form of government, you can make that representative form work. It may be inefficient and unresponsive at times but the person himself can make that mechanism work. So also with initiative. But there are some dangers and that's what we're concerned with, one danger being the interest of minorities.

"The argument has been raised that while you have a right to go to court and the court will in fact view that, once the majority has been moving in an inevitable process, sometimes we cannot dissuade them because the initiative process is in effect selling them a belief system. And I'm very concerned about the sell, that in fact people can be sold. If you look at what has occurred with each individual here, what you have been subjected to with reference to the issue of initiative--that may also occur to individuals. And the decision that some of us are required to make--and it was not an easy decision--so I believe that perhaps we do need the representative form of government. And again, we have said that government is inefficient, but sometimes we have to trade off inefficiency for perhaps a little knowledge and patience so that we can have good laws. I also caution as to our tendency to find an answer merely by passing a law--that sometimes is not the answer--when in fact the mental attitudes of the individuals in the body politics have come to a position and a wealth of knowledge of an opinion, perhaps I'm thinking of a utopia, but this is my philosophical basis.

"So it's not a question of whether we trust or distrust the people. I've heard an answer to one of my questions--well, this is a safeguard. A safeguard against what? Are we safeguarding the people against the people? You may have heard with reference to the comic character Pogo, whose statement was, 'We have met the enemy and they are us.' That may in fact be the case, but until we all come together and really put our act together, then we will have a society which we can consider utopian.

"Others have used the polls in support of their argument--public opinion polls. I think there might be a difference as to what information a public opinion poll is giving us at a particular time. One of the books I looked at in trying to come to a decision was David Riesman's Individualism Reconsidered, and it talks about how polls are taken and how the sell is made. I know for myself that Hawaii is unique because of its cultural differences and its educational standards, and that sometimes people may in fact say yes or no merely to get the answer or to use that particular conversation or topic just to interrelate, rather than really putting a charge on the issue and saying that I am right or I am wrong. Instead they do that for social interaction. Fine, social interaction is good, perhaps needed. There has also been reference to the fact that this will educate the people. I've heard the argument that those against initiative are elitist because we feel we are better educated. But I do not necessarily come from that position either. I think there is considerable value in emotion, and people can sometimes have a valid feeling and need not intellectualize it--and I'm not being anti-intellectual either, because I think there is value in both. But when you talk about the philosophical standoff, which it is, that people are good or bad--legislators happen to be good or bad. People depend on logic, and they also depend on emotion. Sometimes we cannot always be logical and sometimes we must be emotional. So, what I'm saying basically is that as far as the burden of proof for me and after

looking at all these things, I still felt that there was more risk in moving to the initiative rather than in staying where we are now and making the present system work. I would therefore urge you not to support this amendment."

Delegate Marumoto, speaking for the amendment, indicated that her district was heavily in favor of initiative and related the results of a questionnaire she had sent out. They had, she reported, so far received 394 replies and were expecting more. She further noted:

"I realize that these results are not scientifically accurate, and this questionnaire must not be construed as a poll. But the immediateness and the intensity and commonality of the answers was astounding. People in Waiālae-Kahala are demanding reform. The results on the IR&R issues are as follows: 90.4 percent were in favor of initiative; 93.1 percent called for referendum; 91.1 percent wanted recall.

"The initiative measure before us today requires that a petition be signed 'by registered voters equal in number to no less than ten percent of the votes cast in the last general election for governor.' Yesterday the newspaper reported that the registered voter figure will probably rise to 383,000 persons--almost 400,000 persons. If all these people then voted this fall and this initiative measure is enacted as proposed, this would necessitate over 38,000 people. I frankly believe this figure is almost impossible to attain. It is much too high and is an almost insurmountable barrier to getting a petition on the ballot. I'd like to give you two examples of why I think this is a barrier. We recently witnessed a petition drive to chastize a judge for his action in a rape case. People were up in arms and a move for his recall resulted in about 25,000 signatures, to my recollection. The public indignation was very great, yet they did not attain the over 35,000 signatures necessary in this initiative measure. In July Common Cause and state Senator Mary George had a drive to secure 100,000 signatures requesting that we put initiative on the ballot. After a month and a concerted statewide effort, they had only 22,000 signatures. You can therefore see how difficult it would be to get over 35,000 signatures. I ask you then, why are delegates so afraid of initiative? If this 10-percent amendment passes, we will not be giving the citizens very much. Rather, I feel we will be holding back something which belongs to them by right. It is inconceivable to me that I have to say please, but I'll say it. Please reconsider and vote yes on this amendment."

Delegate Blake then spoke in favor of the amendment. Responding to a question on ballot information, he explained that the only words that would appear on the ballot would be "indirect initiative," and that the detailed information would be included in the digest to be prepared for voters as well as in the newspaper spread. Noting that he had received a favorable response from his constituents, with many asking that the issue be put on the ballot for the people to decide, he observed:

"I believe that the ones we should respect are the people of the State. I really don't think we should cut the people short. I consider the people of Hawaii very intelligent. They were intelligent enough to elect every one of us here. So I ask you to seriously consider this and let the public make the decision on election day."

Delegate Ontai, speaking for the motion, commented that the amendment was a watered-down version of the initiative concept and a compromise, adding that it had something for both sides. He remarked that some of the delegates were afraid if initiative were adopted it would "pull the wool over the people's eyes." However, he pointed out, before an issue got on the ballot, it would be widely discussed, analyzed in the newspapers, on TV and radio, clubs and organizations would come out for or against it, etc., because these were generally the big issues. If the issue were bad, he continued, people would talk against it, and it would take anywhere from 4 months to a year, he added, before enough signatures could be gathered.

Delegate Teruo Ihara rose to speak against the amendment. Referring to the comment that in 1950 he voted for initiative and that today he was against, he explained that in 1950 he had been "on the outside looking in."

Delegate Uyehara, speaking in support of the amendment, noted that it concerned indirect initiative rather than direct, and cautioned the delegates not to confuse the two. With indirect initiative, he explained, the people would bring their concerns to the representative form of government, which could then address them.

Speaking against the amendment, Delegate Silva pointed out that when threats were received it revealed that only a small concern rather than a majority of the people wanted something passed. Urging the delegates to "let Hawaii be Hawaii," he stated that each county had initiative and the people who wanted something done could use this means. It was said, he continued, that this was just an indirect initiative, but "have you ever seen water flow slowly, becoming a river and then becoming an ocean?" That, he noted, was what an indirect initiative could do, in the long run becoming a direct initiative.

Delegate Ishikawa, speaking in favor of the amendment, mentioned that he had earlier voted against because of strong reservations but that he was now willing "to rest my concern on the decision of my fellow delegates" and to support the concept of indirect initiative.

Delegate Chong, speaking last for her amendment, stated:

"Fellow delegates, this fear to speak against initiative, as one delegate mentioned, is completely confusing to me. The delegate fears to speak against but does not fear to vote against it. Come on now, who is he trying to impress? That the pressure is on? You bet the pressure is on. By the public--the majority of the people in this State. The pressure is also on to pass a responsible form of initiative, or the voting public will vote against all the proposals passed by this Convention. That is a visible fear, delegates. That's real, honest fear.

"Each delegate had certain issues of interest and concern. Each did his utmost to provide for necessary reforms and the introduction of new programs. The general public had as much input as desired. Now we are saying--you voters can vote for these proposals but not their initiative. As to the delegate who said he had a meeting with 50 constituents, I congratulate him. That's more than Ariyoshi and Fasi can get at one time. As to the good delegate's concern about a 3-page amendment being placed before the people, may I remind you that it will be put to the same people as the delegate's proposal would be. I'm certain that if this whole proposal comes before the people, he will solve the problem to make it more salable for that affirmative vote.

"As to the delegate who said he changed his mind, the voting record shows him voting no the first time. As to the good delegate who stated that this would precede direct initiative, if he took the time to read the amendment instead of following the majority like a bull with a ring through his nose, he'd find that this is one of the exceptions that this indirect initiative excludes.

"Ladies and gentlemen, I urge you for the good of all these proposals for the Constitutional Convention of 1978 to vote for this initiative. Thank you."

There being no further discussion and roll call being in order, the motion to amend Com. P. No. 16, RD. 1, by Amendment No. 1 was put by the Chair and failed by a vote of 48 ayes, 53 noes and 1 excused; with Delegates Anae, Barnes, Blake, Blean, Burgess, Cabral, Campbell, Chong, Chu, Chun, Crozier, DiBianco, Dyer, Eastvold, Ellis, Fernandes Salling, Funakoshi, Goodenow, Hale, Hamilton, Hanaike, Harris, Hoe, Hornick, Ikeda, Ishikawa, Kaapu, Kimball, Kono, Lacy, Marion Lee, Rachel Lee, Liu, Marumoto, Miller, Odanaka, Ontai, O'Toole, Peterson, Pulham, Shon, Stegmaier, Sterling, Stone, Sutton, Takitani, Uyehara and Wurdeman voting aye; Delegates Alcon, Andrews, Barnard, Barr, Chang, Calvin Ching, Donald Ching, Laura Ching, Haunani Ching, Chung, de Costa,

Fujimoto, Fukunaga, Fushikoshi, Hagino, Hashimoto, Hayashida, Hino, Hirata, Hironaka, Hokama, Dennis Ihara, Les Ihara, Teruo Ihara, Iwamoto, Izu, Kaito, Kojima, Ledward, Lewis, McCall, Nakamura, Nishimoto, Nozaki, Okamura, Penebacker, Sakima, Sasaki, Shinno, Silva, Souki, Taira, Takahashi, Takehara, Takemoto, Tam, Tamayori, Villaverde, Waihee, Weatherwax, Yamashita, Yoshimura and President Paty voting no; and Delegate De Soto being excused.

Delegate Chong then rose to thank the delegation for the time spent on her amendment.

At 12: 25 p. m. , the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 12: 30 p. m.

On motion by Delegate Waihee, seconded by Delegate Silva and carried, the Convention voted to recess until 2: 00 p. m.

At 12: 32 p. m. , the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 2: 00 p. m.

At this time, Delegate Stegmaier moved for the adoption of Amendment No. 2, seconded by Delegate Kaapu, which added a new section to Com. P. No. 16, RD. 1, to read in part:

INDIRECT INITIATIVE

The people and the legislature may enact legislation through the indirect initiative procedure. An initiated proposal shall be submitted to the legislature for its consideration upon the certification by the chief election officer that each county's registered voters, equal to or greater in number than 15 percent of the total votes cast in each county for governor in the preceding gubernatorial election, have signed a petition for the initiative proposal.

The legislature shall pass or reject the proposal by a vote of the majority of the members to which each house is entitled, or pass a proposal substantially similar to the one initiated. The legislature may propose a legislative proposal on the same subject matter in lieu of the initiative proposal, and the legislative proposal shall be submitted to the electorate at the next general election along with the initiative proposal. The legislature shall take one of the actions enumerated in this paragraph during the same session as the introduction of the proposal.

An initiative proposal shall not be submitted to the electorate until the legislature has passed or rejected the proposal, passed a proposal substantially similar to the initiative proposal, or passed a legislative proposal, but regardless of the action taken by the legislature, it shall be submitted to the electorate for its approval or disapproval at the general election following its introduction in the legislature.

The ballot shall contain the full text of an initiative proposal and any legislative proposal.

A special election shall not be held to pass or reject an initiative proposal or any legislative proposal.

APPROVAL OF INDIRECT INITIATIVE

A proposal, whether an initiative proposal or a legislative proposal, shall be considered approved upon the affirmative vote of a majority of all the votes tallied upon the question provided that this majority is equal to or greater than thirty percent of the total number of registered voters.

If two or more proposals are approved in the manner provided for in the preceding paragraph, and they conflict as to phraseology or substance, the proposal receiving the greater number of votes shall become law provided that it receives votes equal to or greater than thirty percent of the total number of registered votes.

If there is a tie between two proposals, the initiative proposal shall take precedence over the legislative proposal and shall become law. If there is a tie between two or more initiative proposals, the proposal whose petition was first certified by the chief election officer shall become law.

EFFECTIVE DATE OF THE PROPOSAL

The approved proposal shall be effective upon the certification of the election results by the chief election officer, provided that the proposal may provide for another effective date.

INDIRECT INITIATIVE PROCEDURE

An initiative proposal shall be registered with the chief election officer. The attorney general shall prepare a title and summary of the proposal. The sponsors of the initiative proposal shall then circulate a petition for signatures of registered voters required for submission of the proposal to the legislature. The chief election officer shall certify the validity of the petition within fifteen days of receipt of the petition.

Saturdays, Sundays and holidays shall be excluded in computing the fifteen day period.

The chief election officer shall return an invalid petition to the sponsor and shall specify the reasons for the invalidation.

No petition shall be submitted to the chief election officer for certification of validity after 4:30 p.m. of the first day of the regular session of the legislature.

Upon certification of the petition the chief election officer shall transmit the initiative proposal to the legislature to be introduced in both houses of the legislature by the speaker and president, respectively.

TIME LIMIT

All signatures required for an initiative proposal to be submitted to the legislature and the electorate shall be obtained within the period between the general election preceding its registration and 4:30 p.m. of the first day of the regular session of the legislature in the next even-numbered year. Any initiative proposal pending at the end of a general election shall be stricken from the roll of registered initiative proposals and any signature obtained on a petition for that initiative proposal shall be void.

POWERS OF THE INDIRECT INITIATIVE

The subject of initiated legislation shall not extend to the taxing power, budget or other appropriations measure, bond authorization acts, public employee collective bargaining agreements, expanding or decreasing the scope of original and appellate jurisdiction of courts, naming or designating any person to hold a public office, enacting or repealing laws or ordinances of political subdivisions of the State. Nor shall it extend to modifying this initiative process and to subjects inconsistent with this constitution or the Constitution of the United States.

No measure enacted by a vote of the electorate shall be repealed or amended by the legislature within two years of its effective date, ex-

cept upon approval by roll call vote of two-thirds of the members of each house.

DEFEATED INITIATIVE

A defeated initiative measure shall not be resubmitted to the people by the initiative petition in either the same or essential substance, as determined by the chief election officer, either affirmatively or negatively for a period of three years.

PUBLIC DISCLOSURE

Funds contributed and expended to influence the outcome of initiative proposals must be disclosed in accordance with the laws and regulations that shall be prescribed by the legislature or the Campaign Spending Commission. Public disclosure of funds shall be made by both the proponents and opponents of an initiative proposal.

VOTER INFORMATION

The legislature shall enact legislation to inform the registered voters of the State about each initiative proposal which has qualified to be placed on the ballot.

The legislature may enact legislation to implement and facilitate the provisions of this section.

Speaking in support of his amendment, Delegate Stegmaier outlined:

"The initiative proposal will first be registered with the lieutenant governor. The attorney general will prepare a title and summary of the proposal. The sponsors will then circulate petitions supporting the proposal until what are thought to be sufficient numbers of voters from each of the counties of the State have signed the petition. Once it is submitted to the lieutenant governor, the petition shall be determined to be valid or invalid within 15 days of the lieutenant governor's receiving it.

"If found to be valid, the initiative proposal is then transmitted to the legislature not later than its opening day and introduced in both houses by the speaker and president, respectively. The legislature shall either pass or reject the proposal, pass a proposal substantially similar to the one initiated, and/or propose its own, which would then appear along with the initiative proposal on the ballot. The people, in the November election following the legislative session, would enact either proposal or vote them both down.

"This amendment addresses a number of concerns I have heard over the past 7 months, and I would like to explain what these concerns are and how they have been dealt with.

"(1) Concern has been expressed that the petition process is too unwieldy and subject to abuse. Therefore, this amendment requires that no official initiative petition be circulated without certification of and regulation by the lieutenant governor.

"(2) Concern has been expressed that the people will be fooled into supporting legislation which might be hidden in the fine print or covered over by a more popular provision. Therefore, this amendment allows for only one subject to be addressed in any one initiative proposal.

"(3) Concern has been expressed that with an unlimited period within which to collect signatures for an initiative proposal, the goal will always be reached, possibly even after a lot of signers have changed

their minds on that particular issue. Thus, this amendment limits the period within which signatures for any one initiative proposal must be collected to approximately 1 year and 2 months.

"(4) Concern has been expressed that complex, technical issues which legislators have been elected to deal with in a careful, conscientious manner will be decided by the people in an emotional, overly simplistic fashion. Thus this amendment excludes certain subjects from consideration by the initiative mechanism; among these are the taxing power, budget or other appropriations measures, bond authorization acts, public employee collective bargaining agreements, modifying the initiative process itself, and expanding or decreasing the scope of original and appellate jurisdiction of the courts.

"(5) Neighbor islanders have expressed concern that successful petition drives will be carried out on Oahu which might result in laws disadvantageous to the neighboring islands. Therefore, this amendment requires signatures from each county equal in number to 15 percent of the votes cast in each county for governor in the preceding gubernatorial election. Thus a substantial number of neighbor islanders are required to support a measure so strongly that they are willing to petition in writing for it before it may even be brought before the legislature for consideration. This provision in my estimation will protect the neighbor islands against discriminatory legislation.

"(6) Concern has been expressed that decision-making by the people on initiative proposals will take place in an intellectual and informational vacuum. This is an indirect initiative proposal and indirect initiative requires a substantial involvement by the state legislature, guaranteeing a very thorough examination of all initiative measures which qualify for review and action by the legislature. Furthermore, this particular proposal allows for the legislature, after examination and rejection of the petitioned initiative measure, to draft its own counter-proposal, which would then be placed on the ballot along with the petitioned measure.

"The amendment calls for further intellectual and informational focus on each initiative measure through a provision that the 'legislature shall enact legislation to inform the registered voters of the State about each initiative proposal which has qualified to be placed on the ballot.' Thus, thanks to the legislature, the people will be making decisions in a very fertile intellectual and informational environment, rather than in a vacuum.

"(7) Concern has been expressed that in classic indirect initiative the relatively small percentage of voters signing a petition has a distinct advantage in influencing the action of the legislature, over the greater percentage of voters not signing the petition. In the classic model, if the legislature passed a measure which was identical to that petitioned, the measure would never be voted upon by the electorate. In this amendment, however, all initiative measures, whether passed by the legislature or not, are submitted to the people for final ratification or rejection.

"(8) Concern has been expressed that having special elections for initiatives will be too expensive and may allow small numbers of people to make decisions for the rest of the populace. Therefore, this amendment restricts the appearance of initiative measures to general election ballots only, thus insuring a large turnout of voters. The amendment also provides that no initiative measure may become law without the affirmative vote of at least 30 percent of the registered voters.

"(9) Concern has been expressed that laws adopted by direct democracy might be difficult to change even if they are unworkable.

Thus, this amendment allows for the legislature to repeal or amend such laws within 2 years of their effective dates, upon the approval by roll-call vote of two thirds of each house. After 2 years, the legislature would have the power to repeal or amend through its regular procedures.

"(10) Concern has been expressed that large amounts of money expended by powerful special interest groups will influence the outcome of initiative campaigns. As mentioned previously, the legislature's significant involvement in the initiative process should contribute to a balanced view of the subject under consideration. Furthermore, this amendment includes a public disclosure requirement for all funds contributed and expended to influence the outcome of an initiative measure.

"Finally, concern has been expressed that initiative will change the manner in which we make our laws, causing our society to become a direct instead of representative democracy. If this amendment were to become part of our Constitution, ours would be the only state in the nation having a 15-percent signature requirement for indirect initiative petitions. This provision, especially coupled with its county distribution requirement, will be the toughest in the country and will require a strenuous effort for any provision to be placed on the ballot. I want to emphasize that this amendment will not allow anything frivolous or irresponsible to become law, and it is hardly a threat to our representative form of democracy. Thank you."

At this time Delegate Liu moved to amend the amendment, seconded by Delegate Wurdeman, by substituting the number "10" in place of "15," to read "...greater in number than 10 percent of the total votes cast...."

Speaking for his amendment to Amendment No. 2, Delegate Liu stated:

"I think the amendment to the amendment is necessary to make the proposed indirect initiative before us an initiative. As the original movant mentioned, the requirement of this indirect initiative would be the toughest in the country. I'd say it would also be the greatest masquerade in the country. I would also like to amend the statement made by the movant that it would not allow anything frivolous to get on the ballot. I think you could just end the sentence at "anything." I think 10 percent as the subject matter requirement would make it perhaps reasonable, perhaps accessible, perhaps usable. For that reason, I hope we all vote for the amendment to the amendment."

Delegate Marumoto rose to speak in favor of the amendment to the amendment, pointing out that 15 percent would make a requirement of 57,000 signatures, which would be almost impossible to obtain.

There being no further discussion, the question of the amendment to the amendment was put by the Chair and the motion carried. At this time Delegate Chu called for a division of the house. The question was again put and on a rising vote the motion failed to carry by a vote of 40 ayes and 45 noes.

Delegate O'Toole then rose to speak against the amendment, observing:

"I campaigned on initiative, direct initiative. However, I have to speak against this one because if we pass this amendment, we are in essence giving the public a bone with absolutely no meat on it. It is my opinion that we cannot fool the public. If we are going to pass initiative, pass it. If not and we pass something that is initiative in name only as this is, I can almost say absolutely, it will probably never be used. So what we're doing is giving a Christmas package with absolutely nothing in it.

"The reason I say this initiative proposal will never be used is

because we have a 15-percent registration requirement factor by county. Again this effectively says that, almost always, this initiative will never be used. Also the proposal calls for the legislature to pass or reject the proposal.

"There's one other basic difference. It says that the legislature 'shall pass or reject the proposal by a vote of the majority of the members to which each house is entitled, or pass a proposal substantially similar to the one initiated.' Again this is totally watered down. I would like to see both put on the ballot so that the voters will have a choice between the two. I think you can get into a discussion of what 'substantially similar' would mean. Also, this proposal is watered down by having so many more requirement factors to be met regarding what can be placed on initiative and what can't be. So for those three basic reasons I'm going to have to vote no but I did want to explain why."

Delegate DiBianco, speaking against the amendment, mentioned that he too had campaigned on the platform that if elected he would try to get an initiative proposal on the ballot. He then stated:

"I speak against this amendment because it is not initiative. Any proposal that has a 15-percent signature requirement can scarcely be called an initiative proposal, since that amounts to approximately 50,000 signatures. And I would remind you that during this entire summer, and during the period of time that we've been debating initiative, and the controversy has raged throughout the public, we've managed to have presented to us two petitions, one with 20,000 signatures for, and one with 18,500 signatures against. Under Delegate Stegmaier's amendment, that would not qualify for a November ballot, since that is not 15 percent of the vote. If we could not get 15 percent of the people to sign petitions for and against initiative, how can we ever expect the people to show enough interest to sign a petition to put an initiative proposal on the ballot.

"The subject limitations I find rather distressing. There are limitations to the effect that initiative cannot handle anything having to do with the taxing power or budget, bonds or public employee collective bargaining--which is the same as saying that through initiative we can touch no governmental money matters. We cannot have any type of reform to the Constitution, which means that many of the issues that interest the public--such as elected attorney general, open primary, blanket primary and closed primary, all of the local government issues that we discussed--most of the issues that we've discussed as delegates would be untouchable by the public through this indirect initiative proposal. We could not effect or modify or repeal any county ordinances, we could not in any way, later on, protect our own initiative proposals by lowering the signature percentage requirement, we couldn't in any way change or effect the operation of the court.

"As I see it, all that's left through this initiative proposal--if they could get 50,000 signatures together, they could handle such subjects as abortion, state holidays and the laws pertaining to fish and wildlife. I don't think there's anything else left that this particular proposal has managed not to exclude, and for these reasons I have to speak against it. We had our opportunity to vote for initiative this morning, and we voted against it. I think a review of the initiative proposals that are coming up, including this one, shows they are not true initiative; this proposal could never be utilized by the people of the State and it will detract from our ability to take our fight for initiative over to the legislature. And the legislature, as we've been told time and again, is a responsive legislature, sitting there just dying for the public to come over and express its needs and its desires. So I say let's take the fight to the legislature, let's find out whether or not they are responsive, and we'll determine whether or not we can get a true initiative package, either direct or indirect, presented to the public through the legislature."

Delegate Kaapu then spoke in favor of the amendment, mentioning that he had voted for the amendment to this amendment that would have lowered the signature requirement, but that this amendment would still be a step in the right direction. He then reflected:

"Coupled with other proposals to follow, it might be possible for the voters to have two stages of initiative--one a very difficult one that would be used rarely when a tremendous number of people are in agreement on a particular subject, and the other to be initiated rather easily to bring matters forcefully before the legislature and if that fails then to accelerate or to escalate to a more difficult source such as we have here. But not agreeing entirely with the provisions and finding it not meeting all of my personal preferences is not enough for me to vote against this. And I certainly would urge that we vote for whatever we can get and follow the custom of the Chinese, that perhaps some things take many generations to achieve but at least in this generation, at least at this opportunity I would personally hope that we would make some progress."

Delegate Blean, speaking against the amendment, mentioned that he too had campaigned on initiative. He then stated that the amendment was not an initiative proposal but simply a kind of delusion to the public, adding, "It's essentially time we stop blowing smoke in their face and realize that initiative, in any realistic form, is not going to come out of this Convention and we're going to have to take our fight to the legislature. With the restrictions on it, essentially what this proposal does--it does nothing and it makes it impossible to do it."

Delegate Harris, speaking as a strong supporter of initiative, also voiced his opposition to the amendment.

Delegate Stegmaier then rose to speak last, stating:

"I speak once again in favor of the amendment, and in so doing I'd like to share with you some of my realizations about the matter of initiative.

"First and foremost, and clearly most damaging to a rational, objective look at the issue, is my realization that everyone, including myself, has exaggerated its significance and its potential impact on our society. In this atmosphere of exaggeration, it has been stated that initiative is an alien idea imported to Hawaii to be used as a means of shifting the locus of power in our State. And what I would like to ask is, in that case, what was Stanley Miyamoto, chairman of the Joint Tax Study Committee, doing back at the constitutional convention of 1950, 'vigorously supporting' the placing of initiative, referendum and recall in the Constitution? The Joint Tax Study Committee was an organization which represented and was supported by the Hawaii Education Association, Hawaii Government Employees' Association, the United Sugar Workers Union, ILWU and the Central Labor Council, AF of L.

"It is said that initiative, and by association my amendment, would cause long, complicated ballots which would frustrate the voter instead of increasing participation and interest. The long ballots in California are caused by factors not found, nor being proposed, in Hawaii. A major difference is that in California the petition requirement is 5 percent, while this amendment of course proposes 15 percent. Also, while many money issues automatically go to California's voters via referendum, no such practice is advocated here.

"Fears have been expressed that the process of initiative will produce irresponsible laws that will hurt helpless minorities and working people. These grave thoughts, which have the effect of scaring us away from initiative, are divorced from reality as well. Perhaps in its purest theoretical form, it would be possible to imagine the spectre of hundreds of direct initiative measures being considered and voted on only by a privileged few who could afford to buy computer terminals, but all of this is pretty farfetched.

"What we have before us is an indirect initiative which excludes public employee collective bargaining agreements and other money matters. It is a very moderate proposal which ought not to be confused with any theoretical initiative, or for that matter any initiative that exists on the mainland. Hawaii is unique, and so should be its initiative.

"Why are we so certain that discriminatory legislation will emanate any more from the initiative process than from our legislature, especially since we are talking about an indirect initiative actually submitted to the legislature for examination and response.

"In closing I'd like to leave a few thoughts. If we think the polls showing overwhelming support for initiative may be inaccurate, let's find out for sure by placing this initiative proposal on the ballot. And if we think that the majority of the people who say they support initiative say so because they are uninformed about it, let's take responsibility for informing the public between now and November and then have them decide whether they want it.

"I'd like to refer to a statement our governor made during his address to this Convention on our opening day. He quoted from a letter by President Thomas Jefferson written in 1816, as follows: 'I know of no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion by education.' Thank you."

There being no further discussion, the question to amend Com. P. No. 16, RD. 1, by Amendment No. 2 was put by the Chair and the motion failed.

Delegate Hamilton then moved for the adoption of Amendment No. 3, seconded by Delegate Kaapu, which amended Com. P. No. 16, RD. 1, by adding a new section, to read in part:

INDIRECT INITIATIVE

The people may propose statutory amendments to the legislature on any subject, except for public employee salaries, through the indirect initiative procedure. An indirect initiative proposal shall be submitted to the legislature for its consideration upon the certification by the chief election officer that registered voters, equal to or greater in number than fifteen percent of the total votes cast for governor in the preceding gubernatorial election, have signed a petition for the indirect initiative proposal.

An indirect initiative proposal shall embrace but one subject. An indirect initiative petition containing a ballot title, statement of purpose and the full text of the proposed statutory amendment shall be filed with the chief election officer for certification prior to circulation for signatures. Within fifteen days after receipt of the petition, the chief election officer shall certify the indirect initiative proposal's ballot title, statement of purpose and summary, either in the original form or clarified so as to more accurately represent and more nearly conform to the text of the proposal. Denial of certification shall be subject to judicial review.

After the required number of signatures is obtained, the indirect initiative petition shall be resubmitted to the chief election officer for certification of signatures no later than thirty days prior to the legislative session preceding a general election.

Upon certification of the petition signatures, the chief election officer shall transmit the initiative proposal to the legislature for introduction in both houses of the legislature by the speaker and president, respectively.

During the same session at which an indirect initiative proposal is submitted, the legislature shall pass or reject the proposal by a majority of the members to which each house is entitled, or the legislature may pass an alternate proposal on the same subject matter in lieu of the initiative proposal. If the legislature rejects the indirect initiative proposal, that proposal shall be submitted to the electorate at the next general election following the legislative session. If the legislature passes an alternate proposal, both the legislative proposal and the indirect initiative proposal shall be submitted to the electorate at the next general election following the legislative session.

Each indirect initiative proposal or alternate legislative proposal to be submitted to the electorate shall be identified by its ballot title and the question shall appear in such form that an affirmative vote is a vote for change. A proposal, whether an indirect initiative proposal or a legislative proposal, shall be considered approved upon the affirmative vote of a majority of all the votes tallied upon the question; provided that this majority is equal to or greater than thirty percent of the total number of registered voters.

If two or more proposals are approved in the manner provided for in the preceding paragraph, and are in conflict as to phraseology or substance, the proposal receiving the greater number of votes shall become law provided that it receives votes equal to or greater than thirty percent of the total number of registered voters.

If there is a tie between an indirect initiative proposal and a legislative proposal, the initiative proposal shall take precedence over the legislative proposal and shall become law. If there is a tie between two or more indirect initiative proposals, the proposal whose petition was first certified by the chief election officer shall become law.

The approved proposal shall be effective upon the certification of the election results by the chief election officer, unless otherwise provided by the proposal.

The legislature may enact legislation to implement and facilitate the provisions of this section.

Speaking for his amendment, Delegate Hamilton observed:

"I advance this actually with some reluctance. That famous mother of mine--as I used to go off to kindergarten, the last thing she'd say as I went out the door was, "Tom, be sure you count the votes." And I have the votes counted and I know where they lie, so I don't want to make too much of it. I did move it, however, to keep face with the number of people who asked me to reintroduce this, which I withdrew last week when we discussed it, because I wanted to take some kind of action on it. Whatever the night was, or the morning, we discussed this, this Convention accorded me the privilege of making a speech about indirect initiative and I made the best speech I could. I then listened to quite a few--boy, did I listen to quite a few--and I think no further speech on my part at this point is called for. This is up to the delegates. Thank you."

Delegate Hale at this time moved to amend the amendment by substituting the word "twelve" for "fifteen" in the first paragraph, seconded by Delegate Liu.

Speaking briefly for her amendment, Delegate Hale indicated that while 12 percent was quite high, it was a compromise and something she could vote for and take back to her constituents.

Delegate DiBianco then spoke in favor of the amendment to 12 percent, pointing out that this amendment did not have as many of the unacceptable limitations of the last amendment, and that the 12 percent was a reasonable compromise.

There being no further discussion on the amendment to Amendment No. 3, the question was put by the Chair and the motion failed to carry.

Delegate Kaapu then rose to speak for the original amendment, noting that while this was not the best initiative proposal it was one that could work and therefore preferable to none at all.

Speaking last for his amendment, Delegate Hamilton reflected:

"I suppose now comes the time when we must all vote our conscience, and such moments always have a sort of existentialistic quality about them--and in the interest of plain language, I'll quickly explain that. Earlier this century, there was a fine poet by the name Delmore Schwartz--although I must say I enjoyed his essays more because that's when he developed his magnificent definition, and he defined existentialism in the following words: 'Existentialism means that no one else can take a bath for you.' Fellow delegates, let us take a bath."

There being no further discussion, the question to amend Com. P. No. 16, RD. 1, by Amendment No. 3 was put by the Chair and the motion failed.

At this time Delegate Kaapu requested that Amendment No. 4 be withdrawn, and there being no objection it was so noted.

Delegate Kaapu then moved for the adoption of Amendment No. 5, seconded by Delegate Ledward, which amended Com. P. No. 16, RD. 1, by adding a new section, to read in part:

INDIRECT INITIATIVE

The people may propose statutory amendments to the legislature on any subject through the indirect initiative procedure. An indirect initiative proposal shall be submitted to the legislature for its consideration upon the certification by the chief election officer that registered voters, equal to or greater in number than five percent of the total votes cast for governor in the preceding gubernatorial election, have signed a petition for the indirect initiative proposal.

An indirect initiative proposal shall embrace but one subject. An indirect initiative petition containing a ballot title, statement of purpose and the full text of the proposed statutory amendment shall be filed with the chief election officer for certification prior to circulation for signatures. Within fifteen days after receipt of the petition, the chief election officer shall certify the indirect initiative proposal's ballot title, statement of purpose and summary, either in the original form or clarified so as to more accurately represent and more nearly conform to the text of the proposal. Denial of certification shall be subject to judicial review.

After the required number of signatures is obtained, the indirect initiative petition shall be resubmitted to the chief election officer for certification of signatures no later than thirty days prior to the legislative session preceding a general election.

Upon certification of the petition signatures, the chief election officer shall transmit the initiative proposal to the legislature for introduction in both houses of the legislature by the speaker and president, respectively.

During the same session at which an indirect initiative proposal is submitted, the legislature shall pass or reject the proposal in its entirety by a majority of the members to which each house is entitled, or the legislature may pass an alternate proposal on the same subject matter in lieu of the initiative proposal. If an alternate proposal is passed, both the legislative proposal and the indirect initiative proposal shall be

submitted to the electorate at the next general election following the legislative session. If the legislature rejects the indirect initiative proposal and passes no alternate proposal, then the indirect initiative shall be void, but the amendments contained therein may be proposed again by following the procedures in this section.

Each indirect initiative proposal or alternate legislative proposal to be submitted to the electorate shall be identified by its ballot title and the question shall appear in such form that an affirmative vote is a vote for change. A proposal, whether an indirect initiative proposal or a legislative proposal, shall be considered approved upon the affirmative vote of a majority of all the votes tallied upon the question; provided that this majority is equal to or greater than thirty percent of the total number of registered voters.

If two or more proposals are approved in the manner provided for in the preceding paragraph, and are in conflict as to phraseology or substance, the proposal receiving the greater number of votes shall become law provided that it receives votes equal to or greater than thirty percent of the total number of registered voters.

If there is a tie between an indirect initiative proposal and a legislative proposal, the initiative proposal shall take precedence over the legislative proposal and shall become law.

The approved proposal shall be effective upon the certification of the election results by the chief election officer, unless otherwise provided by the proposal.

The legislature may enact legislation to implement and facilitate the provisions of this section.

Speaking for his amendment, Delegate Kaapu explained:

"I asked that the previous amendment be withdrawn because it has certain subject matter exclusions. Amendment No. 5 has no exclusion; it provides that any subject matter may be the subject of an indirect initiative petition. It requires only 5 percent of the total registered voters in the previous gubernatorial election. It provides that the legislature may act favorably and pass the legislation as proposed, or reject it. If they amend, they must put both the amended and original versions on the ballot; however, if they choose to reject the proposed legislation, the initiative measure is voided. It may, however, be brought up again without limitation by the same procedure.

"I realize that this particular amendment does not suit the needs of many who wish to have either direct or indirect initiative of the more classic variety. Some of the objectives of those who favor initiative include: first, that the public should have a greater role in helping to frame and to pass legislation; and secondly, that because they are often in the position of finding the representative government process unresponsive to their concerns, they would like to have some means of making laws directly by bypassing that process. I hope I have not too badly represented some of the objectives that were stated.

"It was my feeling that we could not get a direct initiative allowing the legislative process to be bypassed but perhaps something could be done through the initiative process to meet the first two objectives, and that was first of all to allow the voter a greater role in framing and proposing and making legislation, making law. Secondly, if the legislature from time to time seems unresponsive, perhaps there ought to be a way for matters to be brought before them with such force that they would have to consider and act, whether yea or nay, but nevertheless bring it to a vote, be counted, do the work as they ought to. I thought that would be helpful and healthy. It would not bypass, it would not weaken the pro-

cess of representative government, but it would allow it to function more properly. So for that reason this amendment was drafted. It was done in such a way as to make it easy to use. However, the options are certainly limited in terms of what can happen if the legislature chooses to reject this proposal, and that I recognized. But as I look at this, it would constitute progress over what we have now and provide for some mechanism whereby the community could effectuate their wishes and bring their matters of concern to the legislature in a manner which they could not ignore.

"The last time I used an analogy referring to an animal, I later regretted it. But sometimes there are things distasteful in one form that can be made more tasteful, or useful, in another form. So I think there is perhaps something out of all this that can be captured. We all know that a balloon fish, if you were to eat it, probably would kill you. But if you take the bladder out and do a few other things and cook it carefully, it will put hair on your chest. So in any matter which may be threatening to certain segments of the public, if we were to look at some of the good points, to distill these down, to offer them certainly as an improvement, then I certainly would like to be a sponsor of such a thing. And it was for that reason that I put together this amendment, and I offer it for your consideration on its merits."

Delegate Hale then moved to amend the amendment by changing the title from "Indirect Initiative" to "Legislative Petition," seconded by Delegate Wurdeman.

Speaking for her amendment, Delegate Hale pointed out that what was offered in the amendment was not indirect initiative and that this could be confusing on the ballot. It was not necessary, she remarked, to outline a procedure for legislative petition since it could be done with less than 5 percent, but at least, she added, it should be called by its right name.

Delegate Kaapu then voiced his approval of the amendment to the amendment, adding that it was not his intent to confuse or mislead.

There being no further discussion, the motion to amend the amendment by changing the title was put by the Chair and carried.

Delegate Hale then rose to speak against the amendment, explaining that it simply outlined the procedure for petitioning the legislature and should not be put in the Constitution. The subject, she added, was already in the Constitution with no percentages, etc. She further noted that it was inaccurate to say the legislature would be forced to act one way or another by passing or rejecting, because if they didn't pass they would reject, whether by burying it in committee or however.

Speaking against the amendment, Delegate Chong stated that the amendment was not an initiative proposal. Initiative, she pointed out, had been proposed earlier, debated for 2 hours and voted down. She then remarked:

"Evidently fear of the public's rejection of all Con Con proposals has finally reached this delegation. Pressure by the voting public is becoming a realization at last. So what we have before us is the proposal of an initiative that's not worth the paper it's written on. This is an unnecessary course of action, it's a waste of time and effort and could best be done by the public by picking up the telephone or writing a letter to their elected officials. Fellow delegates, what you are doing now is a shameful action, or reaction, to an excellent measure that we had this morning. Thank you."

Delegate Kaapu, speaking for the amendment as amended, explained:

"There was a statement by the mover of the amendment to the amendment as to the content of this amendment that I think was gravely in error, and that was that the legislature could, under this proposal, shunt anything aside, ignore it and reject it by not passing anything.

That is not true. On the second page in the second paragraph, it states: 'During the same session at which an indirect initiative proposal is submitted, the legislature shall pass or reject the proposal in its entirety by a majority of the members to which each house is entitled, or the legislature may pass an alternate proposal on the same subject...' etc. What I consider the usefulness of this is that, should there be a person or group that feels their ideas have been ignored, by securing signatures of 5 percent of the voters in the State, they can bring forcefully before the legislature a measure, or a package of measures, which cannot be ignored and must be considered and acted upon either in the affirmative or the negative. And that's far more than any speaker of the house or president of the senate or governor can expect. Their measures can be put aside, ignored, bottled up in committee, put in the icebox, but any measure which is brought in under this amendment would have to be considered, would have to be taken up to the final vote of both houses, with a roll call and everybody recorded for or against. And I think that is real progress--maybe not all the progress we could have, but it is certainly significant. And for that reason, I think that the erroneous statement earlier should be corrected and the merit recognized."

Delegate Hale, on a point of personal privilege, stated:

"The implication was that I didn't understand and said something that I did not say, and I would just like the record to be clear. What I said was that we don't need legislation or constitutional amendments to allow the legislative petition process. I said that right now we can send a petition to the legislature, with no requirement as to 5 percent or any other, and the legislature right now will either pass it or bottle it up in committee, which is the same as rejecting. Those were my words."

Delegate Liu then spoke against the amendment, pointing out that the language was unclear as to the meaning of "reject." Referring to the last sentence of the fifth paragraph, he indicated that the phrase "if the legislature rejects" was not clear and could in fact be interpreted in more than one way. On a point of information, he then inquired whether this form of legislative petition was used in any other state.

Delegate Stegmaier, speaking in favor of the amendment, explained that the amendment would institutionalize the concept of the petition process in government, and added that anything that forwarded the participation of people would be beneficial.

Speaking against the amendment, Delegate Campbell observed:

"If this amendment were adopted, it would be an exercise in futility. And if the community were frustrated initially, such that they wanted to make use of this measure, if they went through the painful process of securing the necessary 5-percent signature, and then the proposed measure were placed before the legislature and rejected, it seems to me that they would no longer be frustrated, they might well be hysterical. And instead of ameliorating the problem, we would have compounded it. For this reason I shall vote against it. Mahalo."

There being no further discussion, the motion to amend Com. P. No. 16, RD. 1, by Amendment No. 5 was put by the Chair and failed to carry.

Delegate Barnes moved for the adoption of Amendment No. 6, seconded by Delegate Burgess, which amended Com. P. No. 16, RD. 1, by adding a new section, to read in part:

REFERENDUM

The referendum power is reserved to the people. Under this power registered voters of not less in number than ten percent of all votes cast for all candidates for governor at the preceding general election preceding the filing of the referendum petition shall order the submission to the people for the approval, amendment or repeal

of any law, section or part thereof; except for measures deemed necessary for the immediate preservation of the public place, health or safety, and for tax levies, bonds and other forms of revenue measures for the usual and current expenses of the State.

A referendum petition shall be filed with the chief election officer not later than ninety days prior to the general election at which it is to be submitted to the people. When a referendum is filed against a law or portion thereof, the law shall remain in effect until the referendum is enacted.

The referendum shall be approved by a majority of votes cast thereon.

If after a referendum petition has been filed with the chief election officer and the law subject to the referendum petition is either repealed or amended by the legislative process in any manner so that, in the opinion of the attorney general, it differs from the referendum measure, both the repealed or amended law and the referendum measure shall be submitted to the people so that they may choose between them, except as provided by the next to last sentence of this paragraph. The measure receiving the highest number of votes shall prevail. If a law is either repealed or amended so that it is the same as or similar to and accomplishes the same purpose as the referendum measure as determined by the attorney general, the chief election officer shall declare the referendum measure void and order it stricken from the ballot by public announcement. A petitioner whose petition is voided by a determination of the attorney general may appeal such determination to the supreme court.

A defeated referendum measure shall not be resubmitted to the people in either the same form or essential substance, as determined by the attorney general, either affirmatively or negatively for a period of two years.

Prior to the circulation of any referendum petition for signatures, a copy shall be submitted to the attorney general who shall prepare a title and summary of the chief purpose and aim of the proposed measure. The title and summary shall not exceed two hundred words.

All referendum petitions shall be submitted to the chief election officer for certification. Each sheet containing petitioners' signatures shall be attached to the title, summary and text of the referendum petition. No law shall be enacted limiting the number of copies of a petition which may be circulated. Any registered voter of this State shall be competent to solicit signatures. The petition shall be signed by registered voters. All signers shall add their address as shown on their voter registration form and the date upon which they sign the petition. Every sheet of the petition containing signatures shall be verified by affidavit of the petition circulator that each name on the sheet was signed in the presence of the affiant and that in the belief of the affiant each signer is a registered voter of the State. The chief election officer shall certify that the signers are registered voters of this State.

The chief election officer shall not release any petition for inspection by the public or any governmental agency, except where the supreme court orders inspection of the petition when a question has been raised regarding the sufficiency of a petition. If any petition under this section has been determined to be insufficient, the petition shall be returned to the circulators within thirty days of its filing with the notations of specific insufficiencies.

Any measure under this section shall be presented to the people in such a form that a yes vote, on a yes or no ballot, shall indicate an affirmative vote for the measure as the measure is written.

The referendum measure shall be effective, if approved, one day after the election results are announced unless otherwise provided for in the measure.

The veto power of the governor shall not extend to referendum measures approved by the people. No measure enacted by the people shall be repealed or amended by the legislature unless otherwise provided in the measure, or that which shall be submitted to a referendum.

The petitioners shall bear all cost of the preparation and circulation of the petition, except for the services performed by the attorney general under this section. After the petition has been filed with the chief election officer, all further costs shall be part of the usual expenditures of the State.

Speaking for the amendment, Delegate Barnes outlined:

"Although we had only 10 minutes or so discussion in Committee of the Whole, I think many of the issues have been presented. This has a 10-percent signature requirement. It exempts immediate preservation measures and taxation measures, which you can see by the last four lines of the first paragraph. That was one of the questions the other evening.

"Again I refer to the Big Island experience that was set out in the minority/plurality report, and of course the referendum provisions that will be applied to our own Con Con provisions. I would hope that this would gain a little more support than even an indirect initiative, and that's the main reason I introduced it today, to see what kind of vote we do have among the delegates, since of course I presume everyone knows that a petition referendum can only be initiated on a legislative act that is completed. So this is not as threatening or as troublesome or disruptive to the existing legislative process as any form of initiative. It's merely a way of having the public approve or disapprove a statute that's already been passed. I urge the adoption of this amendment."

Delegate Hale, speaking for the amendment, pointed out:

"It's often said that if you don't like what the legislature does you can vote them out at the next election, but without referendum you will not be able to vote out the laws they passed that you don't like. And this will give you that chance."

There being no further discussion, the question to amend Com. P. No. 16, RD. 1, by Amendment No. 6 was put by the Chair. At this time Delegate O'Toole requested a roll-call vote and the Chair, on determining ten seconds, so ordered.

Roll call being in order, the motion failed to carry by a vote of 34 ayes, 57 noes and 11 excused; with Delegates Barnes, Blake, Burgess, Cabral, Campbell, Chu, Chun, DiBianco, Dyer, Ellis, Fernandes Salling, Goodenow, Hale, Hanaike, Harris, Hoe, Hornick, Kaapu, Kimball, Kono, Lacy, Rachel Lee, Liu, Marumoto, Miller, Odanaka, Ontai, O'Toole, Peterson, Pulham, Shon, Stegmaier, Sutton and Wurdeman voting aye; Delegates Anae, Andrews, Barnard, Barr, Chang, Calvin Ching, Donald Ching, Laura Ching, Haunani Ching, Chong, Chung, Crozier, de Costa, Fujimoto, Fukunaga, Fushikoshi, Hagino, Hamilton, Hashimoto, Hayashida, Hino, Hirata, Hironaka, Hokama, Les Ihara, Teruo Ihara, Ikeda, Ishikawa, Iwamoto, Izu, Kaito, Kojima, Ledward, Marion Lee, McCall, Nakamura, Nishimoto, Okamura, Penebacker, Sakima, Sasaki, Shinno, Silva, Souki, Stone, Taira, Takahashi, Takehara, Takemoto, Tam, Tamayori, Uyehara, Waihee, Weatherwax, Yamashita, Yoshimura and President Paty voting no; and Delegates Alcon, Blean, De Soto, Eastvold, Funakoshi, Dennis Ihara, Lewis, Nozaki, Sterling, Takitani and Villaverde being excused.

Delegate Barnes moved for the adoption of Amendment No. 7, seconded by Delegate Wurdeman, which amended Com. P. No. 16, RD. 1, by adding a new section to read:

REFERENDUM FOR LAND USE, ZONING
AND LOCAL ISSUES

The power of referendum shall be reserved by the people of a political subdivision for the approval or disapproval of all decisions on land use, except for decisions on Hawaiian home lands, including zoning, and other local issues.

The chief election officer shall provide for such referenda upon petition as provided by law for the affected political subdivision; provided that if neighborhood boards are established in the political subdivision such petition shall include ten percent of the registered voters in each directly affected neighborhood board district.

The referendum results shall be binding upon a majority of votes cast in the affected political subdivision; provided that if neighborhood boards are established in the political subdivision a majority of the votes cast in the affected neighborhood board districts shall also be required.

Speaking for the amendment, Delegate Barnes noted:

"I would like to bring it to the attention of the delegates that this is a constitutionally approved concept for handling our land use problems. Basically it's a referendum zoning concept, and unfortunately it fell in the puka between two committees, between BORSE--BORSE thought that the environment committee would handle it and it was a part of the Aina Malama concept which lost out along the way in the environment committee, and so it never got considered by either committee to any extent at all.

"I'd just like to point out a couple of the features. If one of our agricultural land proposals is also diluted or changed in any way, we will be left really with no constitutional tools to strengthen it--movement of land, upzoning or downzoning of land, which is a critical problem here in Hawaii.

"This proposal also recognizes neighborhood board districts as an important planning area. Right now the development plans do utilize neighborhood board districts as functional areas for community input, and I point out that this does not mean that the neighborhood board itself is involved in this process, only that that subdivision is utilized, so that if a given land use exchange--for example, let's say Thomas Square in our own district, the Thomas Square highrise project. Practically all the neighborhood board groupings and community organizations were opposed to that, and yet there was a point at which the city council could approve it. So this would be a counterbalance in actions like that, where the affected neighborhood board district would have to be involved in the petition process and also have to approve, along with such county, any land use changing, upzoning or downzoning.

"As to the concerns for the neighbor islands that do not have neighborhood boards, this is written in such a way that the Big Island, for example--the smallest unit that you would have would be the county. You would not, of course, have a smaller subdivision in the county involved in the referendum process. But if in the future they would develop boards, then of course those districts would become involved. So I urge you to vote for this amendment."

On a point of inquiry, Delegate Hale questioned what other groups, in addition to the Land Use Commission, the amendment would apply to, except county zoning planning boards. Delegate Barnes in response mentioned the Land Use Commission and county councils, as well as the body that had power to approve variances.

Delegate Hale then moved to amend the amendment to delete in the first paragraph all the language after the words "land use" and to insert instead "of the Land Use Commission," seconded by Delegate DiBianco.

Speaking for her amendment, Delegate Hale explained that the counties were allowed

to go through their county planning commissions in making land use decisions and she did not feel the Constitution should tell each county how to make these decisions. If the counties wished to do this, she continued, it should be done by charter amendment. She would approve each county being able to have a referendum on decisions of the Land Use Commission, she added, but not the concept of overriding the county's powers.

Delegate O'Toole then questioned whether the last two paragraphs should also be deleted, to which Delegate Hale responded that that was not necessary, pointing out that decisions of the Land Use Commission were state decisions whereas locally if there were neighborhood boards they could have input.

There being no further discussion, the question of the amendment to the amendment was put by the Chair and the motion failed to carry.

Delegate Hale then rose to speak against the original amendment, explaining that this was again dealing in home rule decisions and that enough had already been done to delete county powers. She further pointed out difficulties that the Big Island would have due to the great distance from one side of the island to the other.

Delegate Weatherwax, speaking against the amendment, remarked that it used a simplistic approach for solving land use problems, which, he noted, were doubtful of being solved purely by a referendum. A referendum, he added, would not foster such land use areas as balance of interest, tradeoffs, etc.

There being no further discussion, the question to amend Com. P. No. 16, RD. 1, by Amendment No. 7 was put by the Chair and the motion failed to carry.

Delegate Hanaike moved for the adoption of Amendment No. 8, seconded by Delegate Dyer, which amended Com. P. No. 16, RD. 1, by adding a new section to read:

RECALL OF ELECTED PUBLIC OFFICERS

Every elected public officer in Hawaii is subject to recall by the qualified voters of the State or of the electoral district from which the public officer is elected. There may be required twenty-five percent, but not more, of the number of electors who voted in the district at the preceding general election for governor to file a petition demanding the recall by the people. The petition shall set forth the reasons for the recall. If the officer shall offer a resignation, it shall be accepted and take effect on the day it is offered, and the vacancy shall be filled as provided by law.

If the officer shall not resign within five days after the petition is filed, a special election shall be ordered to be held within twenty days in the officer's electoral district to determine whether the people will recall the officer. On the sample ballot at the election shall be printed in not more than two hundred words the reasons for demanding the recall of the officer as set forth in the recall petition, and, in not more than two hundred words, the officer's justification of the officer's course in office. The officer shall continue to perform the duties of office until the result of the special election is officially declared.

If an officer is recalled from any public office the vacancy shall be filled immediately in the manner provided by law for filling a vacancy in that office arising from any other cause.

The recall petition shall be filed with the officer with whom a petition for nomination to such office should be filed, and that officer shall order the special election when it is required. No petition shall be circulated against any officer until the officer has actually held office six months, save and except that it may be filed against a senator or representative in the legislature at any time after five days from the beginning of the first session after election. After one such petition and special election, no further recall petition shall be filed against the same officer during the term for which the officer was elected unless

such further petitioners shall first pay into the general fund which has paid such special election expenses, the whole amount of its expenses for the preceding special election.

Such additional legislation as may aid the operation of this section shall be provided by the legislature, including provision for payment by the general fund of the reasonable special election campaign expenses, of such officer.

Speaking for the amendment, Delegate Hanaike explained:

"Recall is a legitimate process by which the electorate may remove an elected public official. If our government is to function efficiently and effectively, the people must be provided with appropriate means to hold its elected officers responsible for proper performance of their duties. Why subject the electorate to an ineffective, insensitive or incompetent public official? We must look at this from the eyes of the electorate since they are the ones who suffer from a poor representative. No one is above this. Recall is a constant reminder to any of us who chooses to run for public office--don't lose sight of your constituency.

"I have always felt that we are all accountable for what we do. And a public official is especially accountable because he represents a segment of our population, not just himself or herself. If you don't have the support of your people, how can you represent them? This is the rationale behind recall. I urge your consideration on the matter."

Delegate Wurdeman then spoke for the amendment, stating:

"The first recall provisions in the United States were incorporated in 1903 in the Los Angeles city charter. In 1908 Oregon became the first state to apply recall to elected state officials, while California made recall available to its citizens in 1912. Governor Hiram Johnson of California pleaded for its introduction with these words: 'If people are intelligent enough to elect their decision-makers, they are intelligent enough to recall from office an official who has proved himself incompetent or unworthy.'

"That was 67 years ago. Yet here in Hawaii we still don't have recall on a state level. The counties of Honolulu and Maui provide for recall in their charters. The experience of both these counties shows recall has not been used, in effect proving that people have not abused the power granted them. Please consider this amendment. Thank you."

There being no further discussion, the question to amend Com. P. No. 16, RD. 1, by Amendment No. 8 was put by the Chair. At this time Delegate Hanaike requested a roll-call vote and the Chair, on determining that there were ten seconds, so ordered.

Roll call being in order, the motion failed to carry by a vote of 35 ayes, 57 noes and 10 excused; with Delegates Alcon, Barnes, Blake, Blean, Cabral, Campbell, Chu, Chun, Chung, DiBianco, Dyer, Ellis, Goodenow, Hale, Hanaike, Harris, Hoe, Hornick, Kaapu, Kimball, Kojima, Kono, Lacy, Rachel Lee, Liu, Marumoto, Miller, Odanaka, Ontai, O'Toole, Peterson, Shon, Souki, Stegmaier and Wurdeman voting aye; Delegates Anae, Andrews, Barnard, Barr, Burgess, Chang, Calvin Ching, Donald Ching, Laura Ching, Haunani Ching, Chong, Crozier, de Costa, Fernandes Salling, Fukunaga, Fushikoshi, Hagino, Hamilton, Hashimoto, Hayashida, Hino, Hirata, Hironaka, Hokama, Dennis Ihara, Les Ihara, Teruo Ihara, Ikeda, Ishikawa, Iwamoto, Izu, Kaito, Ledward, Marion Lee, McCall, Nakamura, Nishimoto, Okamura, Penebacker, Sakima, Sasaki, Shinno, Silva, Stone, Sutton, Taira, Takahashi, Takehara, Takemoto, Tam, Tamayori, Uyehara, Waihee, Weatherwax, Yamashita, Yoshimura and President Paty voting no; and Delegates De Soto, Eastvold, Fujimoto, Funakoshi, Lewis, Nozaki, Pulham, Sterling, Takitani and Villaverde being excused.

At this time Delegate Takehara moved for the adoption of Amendment No. 9, seconded by Delegate Sasaki, which amended section 5 of Com. P. No. 16, RD. 1, as follows:

The legislature shall provide for the registration of voters and for absentee voting; and shall prescribe the method of voting at all elections. [The ballots for all elections shall offer, in addition to the names of the candidates for any office, the option to vote for "NONE OF THE ABOVE." Only votes cast for the named candidates shall be counted in determining nomination or election, but for each office the number of ballots on which "NONE OF THE ABOVE" was chosen shall be listed following the names of the candidates and the number of their votes in every official posting, abstract and proclamation of the results of the election.]

Secrecy of voting shall be preserved.

Speaking for her amendment, Delegate Takehara stated:

"I would like to speak against this provision and to summarize the reasons. We've had various discussions about this, but I do feel this amendment is a very negative one that would seem to promote apathy in our voting public. What we should be doing instead is fostering an educated electorate, providing an incentive for voters to make these decisions.

"The 'None of the Above' issue is a means for voicing dissatisfaction over situations which could be promoted positively. Rather than a statement negating any choice, an educated electorate and an elite slate of candidates should be the ultimate goals toward which we are striving. I ask my fellow delegates to please support my amendment."

Delegate Weatherwax, speaking for the amendment, questioned the appropriateness of this provision in the Constitution. Referring to it as an "attitude check," he pointed out that voters' attitudes may be very subjective and they should not foster this by putting it on the ballot. He commented that on a cost analysis basis he didn't believe the information they would receive would be worth the cost.

Delegate Sutton, on a point of information, wondered if the previous speaker had signed Com. Whole Rep. No. 16 knowing what he spoke of and if he was now speaking against what he had signed.

Delegate Campbell, speaking against the amendment, reflected:

"Mr. President, I personally feel disheartened because I see that measures which have gone through the crucible first of the depth of deliberation of a committee, and then through the deliberations of this entire body and the body has had an opportunity to digest it and make a decision and then vote upon it, comes back to defeat that same measure. I feel very unhappy about something like this, not only for the original author of the idea but for the rest of us who for a transitory moment felt happy that something good had happened, and here before us are four measures to defeat it.

"I think the merits of this issue have already been argued. I spoke in favor of it beforehand because I thought it had merit, I'm standing up again to say that it has merit, and I would like to ask the delegates who sought to bring it back to defeat it to think a little deeply about what they have done and why before they vote it down. Mahalo."

Delegate Odanaka then spoke against the amendment, stating:

"The delegates have all heard my arguments, but I would like to first reaffirm that this is a serious suggestion, an important addition to the election ballot in our State. I really think that it will produce some small but meaningful changes and in the long run may add to the clarity and attractiveness of the voting process. But again I must counter specific arguments. The argument that this will hurt political newcomers--I still can't swallow the logic behind this argument. As far as I can see,

if a newcomer does a good job of campaigning and manages to sell himself as a good candidate, he will pick up votes. Any candidate who expects to win on the basis of votes cast accidentally for him in opposition to an incumbent won't win and probably shouldn't be running in the first place.

"Another argument I have heard is that voters should be forced to choose regardless of how they feel about a candidate. If you honestly feel this way, you might as well vote for the amendment to delete, because my intent is to allow voters to express their true preference and apparently this is not what you want.

"The term 'easy way out' has been used against 'None of the Above.' I really think this phrase is best used to support it. 'Easy way out' seems to imply that voters are trapped in the system and should be let out. Besides there are thousands of eligible voters who take the easy way out right now because they don't vote.

"Also, I really don't see this as a negative idea. If it was, it would not be my intention to place it as an idea to this Convention's package. We can't deny that there are people with negative feelings, but they deserve a vote too--perhaps not a majority vote but nevertheless a vote. It's harmless and it may bring back people by a valid and significant expression, and I feel that this would be a step in the right direction. Also, it may bring about positive change in the campaign process where a candidate could no longer benefit simply by attacking his opponent. If he does, voters would most likely vote for 'None of the Above' and not for the candidate. I urge all of you to vote down this amendment to delete."

Delegate Shon, speaking in favor of the amendment, observed:

"I'm a little demoralized in the afternoon, but this provision deeply offends my sense of the purpose of an election. I think that the intention is very admirable, but the practical effect is to distort the role of the voter and the results of his or her vote. I believe that it will assist incumbents by further dividing and thus weakening the opposition vote, and I believe it is a public sanction for the abdication of responsibility to make a choice.

"I'd like you to think just for a moment of election day and the role that it plays in the democratic experience. After all the hooplas, the sign-waving, the frantic efforts to attract attention, it all ends the day before and election day is strangely quiet, and for me it always takes on a sense of solemnity, a sort of mutual respect to send on all the political candidates. There is a recognition of the exercise of a very precious freedom. Each voter is awesomely equal on that day and each voter, in the privacy of his conscience, makes a free and equal choice. And that choice, in a representative system, is a choice of people. It is a very subjective, private and human act. It involves every human strength, prejudice, insight and judgment, and the judgment we are asking people to make is of the character, the leadership, the effectiveness, the opinions and the faults of a fellow citizen to represent us. I find this strangely exciting and something that I think dignifies all of us. But the dignity and the nobility of the democratic process is laid squarely on the shoulders of every single person. We say to each and every person--here is your power, your right, your responsibility, now exercise it. I submit to you that the only effective exercise of that power, that right and that responsibility is by voting for a person to represent you, by making the hard choices. This person versus that person, one candidate over another, this is the choice that you make in an election, and this is the choice that you should have to make in an election. We are saying to every citizen--you are free and intelligent, and there shall be no escape, no denial of your duties, no easy way out. It is not a therapeutic exercise. There are

no excuses in a democracy. Equality and power are granted only with this duty.

"I want to preserve the dignity of the election process. I want to hold each and every citizen to that duty, and I want a responsible democratic community. If you want this also, please vote for this amendment."

Delegate Dyer, also speaking in favor of the amendment, stated:

"It is my belief that the sponsors of 'None of the Above' have asked the wrong questions and hence have come to the wrong answers. I would start with the very basic question, 'What is an election?' The dictionary is the starting point: 'election' is defined as 'the act or power of choosing by vote among candidates to fill an office or position.' 'None of the Above' is not a candidate and hence deserves no place on the ballot.

"The sponsors indicate that this gives the voter the opportunity to register discontent. The voter already has that option by voting only for the candidates considered worthy of the vote. Anyone who can add and subtract can determine how many voters reported to the polls but did not vote for all the possible choices. It is obvious if they didn't vote in a particular race that they thought both or all of the candidates unsuitable.

"The sponsors imply that some new data would be gained by this process, as though they confused an election with survey research. Survey research is designed to provide a comprehensive investigation. The 'None of the Above' option does not answer the question of 'why' no candidate was suitable, and hence is useless as a tool of inquiry.

"May I remind you that voting is a privilege. The history of the franchise is a long one in which people have died for the right to choose the best person to represent them. Women spent many years to gain the franchise--blacks spent generations--and with that effort went the knowledge that they could elect people of their choice--not 'None of the Above.' It is basic to the American system that you elect candidates and if those candidates after election are unresponsive, you vote them out and choose someone else. The only hope of the system lies with people, not 'None.'

"As a naturalized citizen, I worked hard to gain that citizenship and one of the rewards was the privilege of voting. I did not work for my right to go to the ballot to vote for 'None of the Above.' Citizenship involves responsibilities, one of which is to study the candidates and come to the best decision one can make with the information available. Citizens who want change are taught to get involved at the precinct level with people, not with 'None.'

"To the sponsors, I would ask--if you vote for 'None of the Above,' and you win, what do you have? And I would answer--you have none and you have nothing. Thank you."

Speaking against the amendment, Delegate Hale commented:

"I said it before and I'll say it again--I think it's a creative new approach, I think it's far-reaching and far-seeing, and I think it has far more implications than we're giving it credit for.

"There's nothing that says you have to vote for 'None of the Above.' You can vote for your candidate if you have a candidate you're for, somebody you feel that you can support, that's a positive thing, that's a good thing. It's democracy at its best. If you go to the polls and vote for somebody because you don't like the other people, that is a

negative thing. It is not good, it is not democracy at its best. If that is your choice--and that is the choice that many voters feel they have when they go to the polls--their choice now is to stay away. There's nothing dignified, there's nothing sacred, there's nothing holy about a person who stays away from the polls. I maintain that you cannot tell whether a person is staying away from the polls because he does not like any of the candidates, because he is disgusted with the process, because he's tired of being distracted as he drives down the street everyday with clowns waving behind signs--and I'd just like to say parenthetically that we don't do very much on our Island, and it's just amazing to me as I drive here everyday. I say if that's the way you choose your representatives on Oahu, it's certainly not based upon any dignified, intelligent or carefully reasoned or thought out way.

"I say that everybody is not in a position to run if they don't like the candidates. Very often they don't think it's possible to beat a candidate because maybe somebody has been in so long or because the person has a lot of money, or they seem to have many endorsements and organizations behind them. Many people are discouraged from taking an active part, either as candidates or voters, because of these factors. I don't think that 'None of the Above' is saying that this is an easy way out. The easy way out is just to stay home and that's what's been happening. I think this is giving people a choice, and if the people think this is frivolous they will vote it down.

"We voted for it the other day, we had confidence in this idea, and I can't see any real reason to turn around and vote it down today. I urge you to vote down this amendment. Let's keep this good, positive and practical way of letting the frustrated voter have some input into the electoral process."

Delegate Chun also spoke against the amendment, stating:

"As Delegate Hale said, the easy way out is not to go--why should I have to get properly dressed, etc., go down and vote if I don't feel that anybody there meets my qualifications. The easy way out is really to stay home and do nothing.

"Now I think for those who feel there is no one there qualified, this is the easy way in to the system. It is the easy way for them to have something to say. Instead of people saying--well, I guess 20 percent of the electorate was busy, or 20 percent couldn't make it to the polls on time. That 20 percent is just a matter of speculation at this time, nobody knows exactly what is bothering them. But if those 20 percent all come out and vote for 'None of the Above' in an election, I think that's a gigantic step forward toward having the entire electorate participate in the elective process. Thank you."

Delegate Dennis Ihara, speaking against the amendment, pointed out that "None of the Above" would make the candidates and political parties more responsive to the people as it would indicate how the public perceived their platform. The public, he added, would still exert its voting power and even the candidates who lost would then have an idea of how well they were accepted.

Delegate Chung, also speaking against the amendment, observed that if the concept concerned improvement of the candidates, it also concerned improvement of the political system and election, which could always stand improvement.

Speaking against the amendment, Delegate Burgess observed:

"The 'None of the Above' provision is the one breath of fresh air in this Convention. It's something that we're giving to the voters, a means to let them express some of their frustration. I think it's badly needed. It not only will act as a relief but it will also be a source of valuable information to the elected official. If an elected official receives

50 percent of the vote and his opponent receives a smaller amount, that's one thing, but if 'None of the Above' receives just as many votes as he does, that's another, and it indicates to him that there is something--it's not a mandate, but there is something that needs doing.

"So I think for those two reasons, first as a--call it therapeutic if you will, but it serves a valuable purpose, and secondly, it's a source of good information. We're not giving the voters very much out of this Convention, we're not giving them any real change in the structure of Hawaii's government. We're not giving them unicameral legislation, we're not giving them an elected attorney general, we're not giving them initiative, referendum and recall, all of those things the voters have indicated, to one degree or another, that they really want. We're not giving them any of those, let's give them at least one fresh new idea in the November election."

Delegate Campbell, speaking against the amendment, stated:

"I'd like to say that the argument of my worthy delegate from Waikiki and my worthy delegate from the windward side is premised upon the assumption that the names of the individuals on the ballot do indeed give the public a choice. Unfortunately, in some cases, this assumption is not resident in fact.

"A citizen who is diligent and regards his right of franchise as something very important may indeed study the issues, and he or she may indeed study the candidates and find out that these individuals do not meet his standards. One should not vote for individuals simply because they're on the ballot. Giving the citizen the option to vote 'None of the Above' simply gives him an option to exercise his mind and to say how he feels about one particular candidate. This would not in any way derogate from his voting in favor of other candidates in respect to other races that do reflect the kind of standard he would like the candidates to meet with respect to the office being opened.

"I therefore feel that again this is a positive approach and I urge my fellow delegates to vote down this amendment."

Speaking against the amendment, Delegate Uyehara declared:

"It was said that in doing this there'll be apathy within our voting booths. I would say, rather than apathy it would be motivation to voice an opinion. Should there be none to that voter to make a choice from, he has a choice to say 'None of the Above.'

"I'd like to tell you a war story since everybody's telling war stories and we're all tired. When I came back from Vietnam about 10 years ago, the greatest war that I fought was really back home, and it's called the C & GS course--Command and General Staff course--which is really an incentive to get a promotion in the reserves. Every time I took a test, the choices were No. 1--so and so--No. 2, No. 3, and No. 4 or No. 5 was always 'None of the Above.' And when I graduated--it was so bad that when I graduated from Leavenworth, Kansas, just about a year ago, I was one of the very bottom of the 10 percent on the list, I was on the bottom 10, so 'None of the Above' has always hounded me and given me lots of problems in my life. But since the good delegate from Kona has left to work with his people, to help his church--and I notice that he voted to support 'None of the Above' and since he cannot make this vote, I will fill the vacancy by saying, I will vote for 'None of the Above' and vote down the deletion, so that people will have a choice and they can make that choice. Thank you."

Delegate Odanaka, speaking against the amendment, observed:

"The argument that people who don't vote are saying the same thing--I've heard this argument probably hundreds of times, and it essentially says that people can accurately express themselves by not voting. I find this kind of hard to believe. As I said, not voting and voting 'None of the Above' say two different things. One expresses ignorance and apathy and the other dissatisfaction with the candidates.

"As shown in my chart, people who don't know don't vote. I don't feel we are taking the franchise away from anyone, we are giving it to some. I would also like to let this body know that I worked very hard on this proposal from the day it was introduced. I have researched it dry, written speeches and lobbied intensively. I never would have worked so hard if I had ever doubted that it could pass on its merits. I guess I may have been silly and naive because now I see that it could die here today, not because of its merits but because someone decided it should die. I could accept defeat more graciously if the proposal fell on its merits, but I received a note during the debate on this in the Committee of the Whole that made me realize something. The note reads: 'Donna, is your "None of the Above" more important than initiative? Myself and others might be able to make reform to the election of candidates "None of the Above" if we are assured that initiative will not pass.' The reason I bring this up is because I hope nobody is forced to vote against my proposal because of pressures of this sort. I respect almost all of you but I hope you vote only because of what you think is right. I won't say who wrote this because I don't feel it's important, but I hope you defeat this effort to kill 'None of the Above.'"

Delegate Goodenow then spoke against the amendment. Noting that over 300,000 voters had already registered to vote in the primary in October, she pointed out that many had not been given any choices in the selection of some of the names on the ballot and that it was indeed necessary that they have the freedom to choose "None of the Above."

Speaking for the amendment, Delegate Hironaka indicated that he would be in favor of "None of the Above" if it were a situation in which the candidates had been forced on the electorate. But, he observed, people chose to run and if they took the time and trouble campaigning and working to raise money to seek elective office, checking "None of the Above" would be an insult to them.

There being no further discussion, the question to amend Com. P. No. 16, RD. 1, by Amendment No. 9 was put by the Chair. At this time Delegate Hale requested a roll-call vote and the Chair, on determining that there were ten seconds, so ordered.

Roll call being in order, the motion carried by a vote of 52 ayes, 44 noes and 6 excused; with Delegates Anae, Andrews, Barnard, Chang, Calvin Ching, Donald Ching, de Costa, Dyer, Fujimoto, Fukunaga, Fushikoshi, Hagino, Hamilton, Harris, Hashimoto, Hayashida, Hino, Hirata, Hironaka, Hokama, Les Ihara, Teruo Ihara, Iwamoto, Izu, Kaito, Kimball, Kojima, Ledward, Marion Lee, Lewis, McCall, Nakamura, Nishimoto, Okamura, Penebacker, Sakima, Sasaki, Shinno, Shon, Silva, Stegmaier, Taira, Takahashi, Takehara, Takemoto, Tamayori, Waihee, Weatherwax, Wurdeman, Yamashita, Yoshimura and President Paty voting aye; Delegates Alcon, Barnes, Barr, Blake, Blean, Burgess, Cabral, Campbell, Laura Ching, Haunani Ching, Chong, Chu, Chun, Chung, DiBianco, Ellis, Fernandes Salling, Funakoshi, Goodenow, Hale, Hanaike, Hoe, Hornick, Dennis Ihara, Ikeda, Ishikawa, Kaapu, Kono, Lacy, Rachel Lee, Liu, Marumoto, Miller, Nozaki, Odanaka, Ontai, O'Toole, Peterson, Pulham, Souki, Stone, Sutton, Tam and Uyehara voting no; and Delegates Crozier, De Soto, Eastvold, Sterling, Takitani and Villaverde who were excused.

At 4: 20 p. m. , the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 4: 40 p. m.

The President then called for discussion on Com. P. No. 16 and there being none, Delegate Kaapu moved, seconded by Delegate Weatherwax, that Com. P. No. 16, RD. 1 as amended, pass Second Reading and Com. Whole Rep. No. 16 be received and placed on file. The question was then put by the Chair and the motion carried.

At this time the Clerk announced that Stand. Com. Rep. Nos. 93 and 94 and Com. P. Nos. 14, RD. 2, S. 1, and 18, RD. 2, S. 1, had been printed and distributed. The President so noted them for decking purposes.

Delegate Dyer then rose and made the following statement:

"The word 'secrecy' seems to be one of the most unwanted nouns at this Convention. Therefore, I would like to inform the body that, along with a 'majority group,' the 'independents' and the 'Panasonic Club,' there is another exclusive group called 'Outer Limits.' The foremost requirement to become a part of this group is that we vote on issues according to our own conscience.

"At the risk of being called politically naive, being 'left out in the cold' or being considered plain ignorant, we operate with no caucus meetings, no instruction or advance information. We simply know we exist because we look at ourselves in the mirror everyday and we feel good inside. All those who are part-time 'good soldiers' and/or part-time 'in spite of' voters may apply for associate membership in the 'Outer Limits' club."

ADJOURNMENT

At 4:50 p.m., on motion by Delegate Waihee, seconded by Delegate Taira and carried, the Convention adjourned until 11:00 a.m. Sunday, September 17, 1978.

SIXTIETH DAY

Sunday, September 17, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 11:00 a.m.

The President presided.

The Divine Blessing was invoked by the Honorable Naomi Campbell, delegate from the Seventeenth District to the Constitutional Convention of Hawaii of 1978.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegate Takitani who was excused and Delegates Andrews, Barr, Blean, Haunani Ching, Chu, Eastvold, Fernandes Salling, Ishikawa, Liu, Pulham, Silva, Souki, Sterling and Uyehara who were absent.

The President announced that the Journal of the Fifty-Ninth Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORT

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 95) informing the Convention that Stand. Com. Rep. No. 96 and Com. P. No. 15, RD. 2, S. 1, had been printed and distributed.

On motion by Delegate Crozier, seconded by Delegate Hayashida and carried, Stand. Com. Rep. No. 95 was adopted.

The Clerk announced that Stand. Com. Rep. No. 96 and Com. P. No. 15, RD. 2, S. 1, had been distributed for decking purposes.

At 11:22 a.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 11:27 a.m.

ORDER OF THE DAY SECOND READING

Com. Whole Rep. No. 18, Com. P. No. 17, RD. 1--RELATING TO CONSERVATION AND DEVELOPMENT OF RESOURCES:

Delegate Okamura, for the Committee of the Whole, and Delegate Chang, for the Committee on Environment, Agriculture, Conservation and Land, presented a report (Com. Whole Rep. No. 18) recommending that Com. Whole Rep. No. 18 be adopted and Com. P. No. 17, as amended in RD. 1, pass Second Reading.

The President, after reviewing the order of the amendments, called for discussion and recognized Delegate DiBianco. Delegate DiBianco then requested that Amendment No. 1 be withdrawn, adding that he did so with some regrets as he still had doubts about the language of the committee proposal.

Delegate Laura Ching, on a point of personal privilege, requested that consideration be given to Amendment Nos. 3 and 4 before Amendment No. 2 and, there being no objection, it was so ordered.

Delegate Laura Ching then moved for the adoption of Amendment No. 3, seconded by Delegate Goodenow, which amended section 10 of Com. P. No. 17, RD. 1, to read:

No nuclear fission power plant shall be constructed or radioactive material disposed of in the State of Hawaii without the prior approval by a two-thirds vote in each house of the legislature[.] and subsequent ratification by a majority vote of a statewide referendum at the next general election.

Speaking for her amendment, Delegate Laura Ching stated:

"There is a great deal of controversy surrounding the construction of nuclear fission power plants. Advocates cite the need for a cheap energy source and the many safeguards to prevent major accidents. Yet I believe the dangers of these nuclear facilities far outweigh the dubious economic advantages offered by nuclear fission energy and in fact these economic benefits are mainly illusory. Because it is the people of Hawaii who will ultimately risk their pocketbooks, their lives and the lives of their children on the outcome of this issue, I believe they should have the right to vote on whether construction of nuclear plants is needed or wanted in this State. I would like to comment on the physical and economic dangers posed by these plants.

"Proponents of nuclear energy say it is cheap. Yet I believe nuclear energy will be found to be one of the most costly of our energy sources. The basic cost of the power plant itself is astronomical; as Carl Williams, president of Hawaiian Electric, testified, the cost of a minimum-size power plant in the U.S. is currently \$1 billion. This does not take into account the future rise in construction costs as well as the inevitable rise in fuel costs. Uranium supplies in the U.S. are rapidly dwindling; government sources have estimated that there is currently a 20- to 30-year supply, with the price of uranium doubling every few years. Note that this estimate takes into account only the supplies needed for nuclear facilities now in existence, and not the needs of future power plants.

"Furthermore, these initial costs are only part of the picture, for there are major costs involved in the dismantlement of these plants as well. According to recent studies, a nuclear power plant has an estimated life of 40 years. This limitation is due to the eventual accumulation of radiation in and around the reactor, which makes the plant unusable for safety reasons. After this period of useful life, decommission becomes a major cost factor; according to a 1977 report by the U.S. comptroller general entitled 'Cleaning up the Remains of Nuclear Facilities; A Multi-Billion Dollar Problem,' these costs run into tens of millions of dollars. In addition, because of the radiation hazards involved, such dismantlements take up to a hundred years to complete.

"I do not need to tell you who would eventually pay these incredible costs. Companies are in business to make money, and any company building a nuclear power plant would expect a fair return for its outlay. I ask you--does it seem reasonable to pay a tremendous amount of money for a facility that will last only 40 years, and then pay more so it can be dismantled? Thus, I submit there are no economic advantages to nuclear fission power plants. However, even if nuclear energy was the cheapest fuel source known, I believe the dangers would far outweigh the economic benefits.

"There are five major areas of risk that I find unacceptable in regard to nuclear power plants. The most basic of these dangers is the production of the nuclear fission material itself. The process of nuclear fission produces materials that will leave a permanent cancer legacy for future generations. The toxic aspects of plutonium are unbelievable: one ounce is enough to kill every human being on earth

if dispersed; inhaling a speck can cause cancer and long-term genetic defects. Do we want our children to live with the spectre of radioactive contamination of Hawaii's air and water? Furthermore, the fact that these materials last up to a quarter of a million years gives us our second problem--radioactive waste storage.

"There are no acceptable solutions now to storage of radioactive waste material. Most of the fission products created in the reactor are trapped in the form of solids, liquids and gasses, then shipped in drums away from the site. There are two things wrong with this process. First of all, these drums must be stored for hundreds of thousands of years and yet, of course, no container lasts that long. The Atomic Energy Commission has recorded 16 leaks in the storage of the first 350,000-gallon batch of nuclear waste material. For example, in June 1973, 115,000 gallons of high-level radioactive waste leaked from a tank at the AEC's waste storage facility in Hanford, Washington. Investigation revealed that the tank had been leaking for several weeks and that no automatic alarm system had alerted anyone of the leak. Secondly, the storage process requires that the drums be moved away from the site. Besides the obvious transportation dangers, the main question in my mind is--where would these drums be stored? On the mainland there are deserts and wastelands that can accommodate such dangerous material, but in Hawaii every square foot of our land is precious. To think of a radioactive storage facility anywhere in the State is a concept unacceptable to me.

"Another danger area is the high risk of sabotage and nuclear reactor accidents. We have all read of terrorist activities in different countries that affect or destroy buildings, airplanes, trains, and of course people. Luckily in the United States the incidence of such activity is low. Yet governmental sources indicate a high possibility that terrorist activity will eventually reach the United States as extremist groups attempt to change our basic foreign policy. A perfect target for such terrorist action is the nuclear power plant. The takeover of one plant could hold this entire state hostage. I submit that this is no idle speculation, for if one believes that terrorist activity in the United States is inevitable, one is drawn to the unavoidable conclusion that the nuclear power plant is an ideal target. In fact, between 1969 and 1975, 99 threats of violence were directed against commercial nuclear facilities.

"Furthermore, we live in a very uncertain world; accidents happen all the time and if Murphy's law holds true, then what can go wrong will go wrong. In a Wall Street Journal article, existing plants were labeled 'atomic lemons,' and the writer pointed out that 'their unreliability is becoming one of their most dependable features.' I believe the risks of sabotage and unavoidable accidents make the nuclear power plant an unacceptable energy alternative.

"Lastly, the greatest hazard of nuclear energy is that it is now the driving force behind the proliferation of atomic bombs around the world. It spreads the equipment, knowledge, and especially the materials needed to make nuclear weapons. It only takes 10 pounds of plutonium--the size of a softball--to make an atomic bomb. As a student at a mainland university demonstrated, construction of the bomb itself is not difficult, and in a term paper written 2 years ago he gave detailed instructions on how to build one. Thus, the theft of nuclear material and the possibility of its subsequent use in an atomic weapon is another unacceptable risk.

"For all these reasons--the economic dangers, the radiation hazards, the problems of storage and the risks of sabotage and unavoidable accidents--I believe the people of Hawaii should have the right to vote on this issue. I urge my fellow delegates to support this amendment."

Delegate Campbell, speaking in support of the amendment, reminded the delegates that they had defeated the referendum measure and urged them, in view of the significance and importance of the issue, to let the people decide whether to allow any power plant in Hawaii by supporting this built-in guarantee.

Delegate Crozier then spoke in favor of the amendment. Referring to the attitude that they should leave things open and not cut off the future, he argued that they weren't talking about the future and that developments had already begun toward the time a nuclear power plant would be built on Oahu. Noting that there were already plans to construct an experimental plant at Campbell Industrial Park, he predicted that construction of a totally developed nuclear plant on Oahu would begin in 6 years.

Delegate DiBianco also spoke in favor of the amendment. Conceding that they were not going to have a total ban, according to the consensus of the group, he emphasized that the amendment only asked that the people be allowed the opportunity to decide whether to permit nuclear plants within the State. He then reflected:

"Much that we've done in this Convention has been done in the spirit of taking from the people the ultimate decision on those matters that will affect their lives. Many of the things that could have given the people more of a voice have been denied in the interest of allowing the legislature to have the final say, and we've been assured time and again that the legislature is in fact responsive to the needs and desires of the general public. That may be true to the extent that we are allowing the legislature to deal with political decisions, I suppose--and we'll have to wait to see whether that analysis turns out to be correct. But this particular question is one dealing with the life and well-being of our citizens and certainly on this issue, which is not a political one, the ultimate decision should be left to the people themselves. I would urge you to give them at least a direct voice in the decision as to whether or not something as important, as dangerous, as a power plant should be built in Hawaii."

Delegate Lacy then rose to speak against the amendment, referring to the fact that the delegates had been given very poor information and no chance to have an information period. He pointed out that the statements on plutonium and the bomb, with implications that terrorists could capture the plant and blow it up, were incorrect, explaining:

"They can't do that. The power plants cannot melt down and concentrate enough plutonium like total power plants to give you a bomb. Now if they take the power source of the nuclear power plant, you'll have to go without lights. You'll be at a disadvantage because you'll be used to electrical power because it's the only power source in the Islands, but let's not consider this a terrorist action to subject the people of Hawaii to and blow you up if you don't do what they want."

"I'm fully in favor of the movant's point that Hawaii should not be the storage place or used for the disposal of radioactive waste from any kind of a power plant or nuclear bomb manufacturing facility. Where there is, the situation could occur in which it would contaminate over a long period of years. But we're talking about a normal commercial project, of which the present head of the federal Department of Energy, who was questioned as to whether he would like to live next to a coal-burning facility as a power source or a nuclear power one--his point on air pollution was, 'I would be resting very comfortably and sleeping very comfortably and know I was healthier if I could bed down next to the nuclear power plant.'

"I think you ought not to let emotional statements turn you against the nuclear power source. I merely bring this up knowing that those of you who already feel that you don't want any nuclear power plant--fine, I'm not going to convince you today, but someday in the future if the economic picture is different I think you'll become better educated to the facts and you will then consider it on its merits."

"I believe the other day we passed a reasonable amendment as a body, and I hope that today we will turn down this amendment."

Speaking for the amendment, Delegate Harris took issue with the statements that the delegation was uneducated on the issue and believed that terrorists could "take over an atomic energy plant and produce an atomic bomb." He pointed out that the threat was in the release of radioactive material, which could endanger many lives, and that bomb construction was not at the base of the argument. Urging the delegates to support the amendment, he added that it would give the people a say in "a decision that could affect their health and welfare, not only for this generation but for generations to come in Hawaii."

Delegate Chong spoke in support of the amendment, noting that it was a good compromise to a complex problem. She pointed out that if there was more information available when the next convention met, adjustments could be made in the Constitution, but that at the present time the amendment offered the best alternative.

Delegate Barnes, speaking in favor of the amendment, noted that a referendum might not solve all the problems but the amendment was a good one and not in conflict with his amendment, which would be considered next.

Delegate Goodenow, also speaking in favor of the amendment, pointed out that the Hawaiian Islands was the most isolated land area in the world, the closest neighbor being almost 2,200 miles away. She then suggested that there were many states in the North American continent with isolated areas that could be used as locations for nuclear plants. The people of this State, she added, deserved the right to voice their opinion.

Delegate Blake spoke against the amendment, mentioning that in the amendment adopted earlier he had opposed the two-thirds vote requirement because adequate checks would be made by the counties. Pointing out that nuclear plants were not as dangerous as many thought and that nuclear power was already being used, he voiced certainty that before any construction could begin the subject would have been thoroughly researched and rejected by the counties if there were any danger. He was surprised, he added, at the reference to a referendum in view of the many other issues that the delegation could have passed and given the people a chance to vote on.

Delegate Laura Ching, speaking last for her amendment, pointed out that it was fairly easy to get the two-thirds vote required in the existing provision. Appealing to the delegates to search their consciences, she stressed the importance of letting the people decide as they ultimately would be the ones adversely affected.

There being no further discussion, the question to amend Com. P. No. 17, RD. 1, by Amendment No. 3 was put by the Chair and the motion failed to carry.

Delegate Barnes moved for the adoption of Amendment No. 4, seconded by Delegate Campbell, which amended section 10 of Com. P. No. 17, RD. 1, to read:

No nuclear fission power plant shall be constructed or radioactive material disposed of in the State of Hawaii without the prior approval by a two-thirds vote in each house of the legislature. Disposal, storage and transportation of toxic radioactive materials shall be subject to state regulation to provide the highest possible safety and health standard for this generation and future generations of Hawaii's people.

Speaking for the amendment, Delegate Barnes explained that it dealt with the problems of disposal, storage and transportation of toxic materials, not necessarily related to a nuclear power plant. Pointing out that problems already existed in the State with the transportation and storage of nuclear materials, he then explained that the state health department had the power and duty to protect the health of the people of Hawaii, yet transportation and storage of these materials often took place over state and county roads in the Ewa part of the Island with no knowledge of local state officials. The amendment, he said, was a fairly strong statement that these would be subject to state regulation, although this was not a completely clear legal issue. He then explained:

"The primary authority is vested with the Atomic Energy Commission. However, Section 274 of the Atomic Energy Act also allows

that commission to transfer licensing and regulatory authority over source materials, by-product materials and small quantities of special nuclear materials to the state. The way this is done is by agreement between the state and the commission. As of 1973, there were 24 states that had such agreements. And this agreement allows the state to promulgate regulations at least as strict, or as close to being as strict, as the AEC regulations. So I think just the intent of this amendment--that the state health department in particular look at this issue and this problem and, to the extent of its authority under this agreement proposition with the Atomic Energy Commission, pass regulations specifically for disposal, storage and transportation of any toxic materials, particularly on our state highways."

Delegate Blake, on a point of information, requested that the delegates be given some background information on the subject in order for a clearer understanding of the amendment. The President referred the question to Delegate Lacy, who advised:

"I think what the movant has asked is a very normal consideration. We're talking about, as he implied, the material that you take from a nuclear power plant--for instance, it might be the fuel rods. They would, at a specified time when they are ready to leave the vicinity of the power station, be in proper storage containers. They move thousands of these safely throughout the world. They would then be moved along a highway or to a harbor and taken out.

"He's also mentioning nuclear weapons, as he implied from the Ewa area. There you are dealing with material of great toxicity and it too is carefully handled. Many states have regulations--I'm surprised if Hawaii does not have a set of standard regulations, but the movant did not know and I will not say that I know there are. That part we're talking about--being sure that the public isn't in danger, in case there is an automobile accident or somebody drops one off. It's like in the newspaper the other day where somebody dropped some cobalt off and a case opened up--it was probably from a hospital area--and they said that the radiation had been brought under control, etc. That's the type of thing I believe that Delegate Blake is asking about and I think I've answered to the extent that I could."

Delegate Sasaki, on a point of information, asked if the movant would explain what specifically was included in "toxic radioactive materials." Delegate Barnes explained that "toxic," according to the dictionary, was something poisonous or harmful, "anything that can have a dangerous, harmful effect to a human being."

Delegate Sasaki then asked if this would exclude all radioactive types of material being used at that time for scientific research and applications by the department of health. Delegate Barnes responded that those materials with very small amounts of radiation that would not harm or injure a person could be excluded, and referred to the term "ionizing radiation."

Delegate Les Ihara, on a point of information, asked if the State was regulating toxic radioactive materials at that time. Delegate Barnes, referring to his own experience, said he believed there were no state regulations dealing with radioactive materials.

Delegate Les Ihara then spoke against the amendment, referring to the lack of information and the fact that it was a highly technical area, and advising:

"The legislature, as I understand it, has authorized the governor to enter into an agreement with the Nuclear Regulatory Control, which was formerly the Atomic Energy Commission, and that agreement would set up many of the standards that Delegate Barnes has said we do not have now. And as I understand it, the reason the governor has not gone to the NRC to make that agreement is basically because of cost effectiveness, and may be doing that in the near future, though right now he has the authority."

Delegate Hale, speaking against the amendment, suggested it might be better put in the form of a resolution directing the legislature to report to the people on the subject.

Delegate Laura Ching, speaking for the amendment, referred to the hazards connected with transporting, storing and disposing of nuclear waste and expressed her full agreement with the amendment.

Delegate Takehara, speaking for the amendment, cited a Maryland case in which a citizens' group brought suit against the Atomic Energy Commission to prevent the construction of a nuclear power plant and test the adequacy of the AEC's guidelines for implementing the policy environment act. The court, she stated, had found the AEC's regulations deficient in four major respects--notably in their leading assessment of the potential environmental impact of nuclear plants to the state and other federal agencies. The court, she further stated, had ruled that the AEC must consider environmental factors beyond just radiological health and safety. Nothing, she added, had as yet shown that this was safe for people, with the risks of contamination involved.

Delegate Chang, on a point of information, expressed his confusion over the examples used involving the disposal of radioactive waste and construction of nuclear plants as well as the storage and transportation of radioactive materials. Delegate Barnes, in response, referred to his example of the transportation of warheads over state highways in the Ewa area for the transportation issue, and also to a Makiki Park incident in which radioactive material had been buried underneath land the city was contemplating purchasing, in which case the State could not have acted as there were no regulations covering it.

Delegate Chung spoke against the amendment, citing the lack of information and research in the subject matter. The area, he pointed out, was too complex from a technological, ecological and sociological point of view for them to make a firm decision, adding that until they heard from experts they should keep the provision as adopted, leaving it to the legislature with the two-thirds vote requirement, as the legislative process would seek out available technical expertise.

Delegate Blake, speaking in favor of the amendment, mentioned that he saw nothing wrong with adding this provision, as it was in conformity with what they had passed earlier. It did not appear, he added, that there was a state regulation and this provision would not hurt and was preferable to waiting for the governor to act.

Delegate DiBianco then spoke in favor of the amendment, remarking that he couldn't understand the confusion or lack of understanding of the sentence, which simply provided that transportation of highly poisonous substances in the State would be subject to state regulation.

Delegate Les Ihara inquired as to the regulation that governed the transportation of toxic radioactive materials on the highways, to which Delegate Barnes replied that this was primarily aimed at the environmental health regulations of the state health department. If they adopted the amendment, he added, they could indicate any other agencies they wished, such as local police agencies.

Delegate Lacy, speaking against the amendment, explained that he was not against the safety aspects but felt it was unnecessary in the Constitution, which should not detail every safety item the government should be covering. The public health article, he added, already gave the State power to regulate these activities.

Delegate Chang also spoke against the amendment, agreeing that the State already had constitutional power to regulate these activities and that he understood it presently was regulating them.

Delegate De Soto rose on a point of inquiry to ask if there was any delegate knowledgeable about the kind of regulations being implemented with respect to the storage and disposal of nuclear waste materials. Delegate Les Ihara, in response, advised that no radioactive waste could be disposed of in the State without the approval of the state health department. He then yielded to Delegate Sasaki, who offered the following clarification:

"First, no radioactive material of the source type we're talking

about can be disposed in the State at the present time. Disposal of radioactive material of the fission power plant source has to be disposed of in a Class 1 dump, which is not available anywhere in Hawaii, and at the present time we will not have any in the State. Therefore I'm sure that we are working right now with California for its proper disposal. There would be a great cost involved to those people using radioactive material. The latest studies show that it will cost almost \$3,000 to ship about a gallon of radioactive material back to California. Present regulations being developed state that no radioactive material--that's why I was questioning the word 'toxic' here. We have defined it as a certain level of radiation above which it will have to be shipped back to California."

Delegate Kojima then spoke for the amendment. Reminding the delegates that he had advocated construction of a nuclear plant only as a last alternative and only if the safety of the people were taken into account, he pointed out that the amendment was only an extension of that idea. As to whether it should be in the Constitution, he added, because the provision on nuclear power plants was there, safeguards for the people should also be there.

Delegate DiBianco, also commenting on the statement that there was no need to include this in the Constitution, pointed out that the amendment did two things the health department regulations didn't--by requiring that the highest possible safety standards be incorporated into any nuclear material usage, and by setting aside nuclear energy for special treatment in the Constitution, thereby cautioning the State on its poisonous and dangerous aspects.

Delegate Hale at this time rose to speak for the amendment, explaining that after listening to the debate she had changed her mind and would vote in favor. It was said that nothing had been done because of cost problems, she observed, and since this might continue for the next 4 years they would probably need it in the Constitution.

Delegate Barnes then rose to speak last for his amendment, stating:

"The problem again that we're directing is that we are an island nation, 2,500 miles away from the nearest large land mass and very, very far away from the Atomic Energy Commission. I will not tell you there is no legal problem here because there is; the legal problem is that the federal government has pre-empted the area and has said that atomic energy and radiation problems are primarily the problem of the federal agencies they gave this trust to. However, in the case of Huron Portland Cement Company v. the City of Detroit, there was a problem of an anti-smog ordinance in Detroit which was stricter than the federal regulation, where ships were coming into the Detroit harbor. And the U.S. supreme court held that Detroit could have a stricter ordinance than those provided by the federal agency involved, where it said the court's discussion was devoted to the claim that federal laws had pre-empted the field. The court found no bar either in the extensive and comprehensive boiler inspection provision or in the federal licensing of vessels. The main purpose of the federal inspection was to insure safety, while the Detroit ordinance was directed solely at air pollution.

"So what I say to you is that it would be possible--not probable, but possible--that the State, because of our special concern here in having many federal installations, we could conceivably promote slightly stricter regulations than the federal regulations. And if we could show we had a compelling state interest, perhaps we could support those regulations. It's my feeling that these words, as they are stated here, could hold up for 10 years. I'm encouraged to hear that the governor is considering that we become an agreement state; however, it has been 5 years since the other half of the states joined into the agreement and this language certainly would encourage and spur on that process, as well as asking the health department to look into this much further, to define words like 'toxic' and 'level of radiation.' Again, I urge you to support this amendment. Thank you."

There being no further discussion, the question to amend Com. P. No. 17, RD. 1, by Amendment No. 4 was put by the Chair and the motion failed to carry. At this time Delegate Takehara called for a division of the house and the motion, on a rising vote, again failed by a vote of 33 ayes and 45 noes.

Delegate Laura Ching then moved for the adoption of Amendment No. 2, seconded by Delegate Crozier, which amended section 10 of Com. P. No. 17, RD. 1, to read:

No nuclear fission power plant shall be constructed or radioactive material stored or disposed of in the State of Hawaii without the prior approval by a two-thirds vote in each house of the legislature.

Speaking in support of her amendment, Delegate Laura Ching explained:

"I believe this to be a simple housekeeping measure. I believe with the failure of the last two amendments, there now exists a loophole in the current amendment dealing with prior legislative approval for radioactive waste disposal. There should be some provision for long-term storage of radioactive waste in this provision, for as it stands now radioactive material from a nuclear power plant could be disposed of by storing it in an underground facility for a number of years.

"Furthermore, storage itself is as dangerous as disposal of nuclear waste material. I believe that storage of such material within the State is such a serious matter that it should be included in this provision. My amendment would thus close the loophole by providing that before any storage or disposal of radioactive material takes place within the State, a two-thirds vote in each house of the legislature would be required. I therefore urge my fellow delegates to support this amendment. Thank you."

Delegate De Soto rose to speak in favor of the amendment. The basis of the amendment, she said, had been adopted the previous day and this was in effect a housekeeping measure.

Delegate Crozier, also speaking for the amendment, observed that storage of radioactive material would not include hospitals and the like, and agreed that this was a housekeeping measure.

On a point of information, Delegate Sasaki asked if the term "radioactive material" could be clearly defined, perhaps in the committee report, and pointed out that there could be problems using just the general terminology. Toxic material, he explained, would apparently include all isotopes presently used in medical facilities, which was why the health department monitored it. It was, he added, also used in applications material in research work and analysis for pesticides, etc.

Delegate Chang, in response, pointed out that Com. Whole Rep. No. 18 included a definition of the term "radioactive material" on page 3 and added that the intention not to involve materials used in medical research or treatment was stated there. However, he pointed out, it was the committee's understanding that materials used in medical research and treatment were not disposed of but were stored and therefore the inclusion of storage might cause some complications.

Delegate Lacy at this time rose to propose an amendment to the amendment, to insert after "radioactive" the words "nuclear fission power plant waste," to read: "No nuclear fission power plant shall be constructed or radioactive nuclear fission power plant waste material stored or disposed of...."

Delegate Harris, on a point of order, questioned whether this was in order, explaining that this would be amending the original amendment rather than amending the amendment.

At 11:42 a.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 11:52 a.m.

At this time the President advised that Delegate Lacy's amendment to the amendment was not in order as it did not address the amendment itself, which was the words "stored or." He then called for further discussion on Amendment No. 2.

Delegate De Soto rose to speak again in favor of the amendment. She pointed out that they could take care of those concerns about materials used in medical research by clarification in the committee report, and she urged the delegates to vote for the amendment.

Delegate Hale, on a point of information, asked if it were possible at that time to amend the committee report. On being answered in the negative, she asked if any written report would follow Second Reading in which a point could be clarified. The Chair indicated no knowledge of any report but added that the Journal would reflect a sense of the group's concern.

How then, Delegate Hale inquired, could the concern expressed by Delegate De Soto be handled and the clarification conveyed. The Chair in response repeated that it could only be conveyed through the discussion as reflected in the Journal.

Delegate Burgess, speaking against the amendment, stressed the importance of the language in the provision and advised that its significance could not be corrected or qualified in a committee report. The language used in this provision, he stated, was not ambiguous, which was the only time the court would consider a committee report. If this language was adopted, he then pointed out, those two words would mean that the State Constitution prohibited nuclear submarines from Pearl Harbor or storage of atomic warheads on Oahu, and for those reasons it should not be put in the Constitution.

Delegate Barnes spoke in favor of the amendment, referring to the definition of radioactive material in Com. Whole Rep. No. 18 and the statement qualifying the materials used in medical research.

Delegate Ontai spoke for the amendment, as a resident of the area "most likely to see the results of this nuclear activity and material, namely the Ewa-Makakilo-Waianae area." The two words inserted were just for clarification, he said, and it made more sense to keep them in than leave them out. And, he added, this was not a prohibition, only a requirement of the two-thirds vote. Regarding submarines and nuclear warheads, he continued, the federal laws would probably supersede any state law but the two-thirds vote was still necessary. The amendment, he added, did not prohibit storage, it only provided more controls at that stage.

Delegate McCall, speaking against the amendment, mentioned that radioactive materials were also used in shipyards to check for leakages or blockages in sewer lines, pipelines, etc. The amendment, he pointed out, by requiring legislative approval for such storage rather than approval by the health department, would make it very difficult.

Delegate DiBianco, also speaking against the amendment, expressed doubt that they could ban the storage of all radioactive material in the State as that would include medical materials. The committee report, he stated, made no difference in the laws of statutory interpretation by the court, which looked only to the constitutional phrase itself. If the court found nothing in the language of the provision indicating that medical materials were excluded, he added, it could rule that they be included.

Delegate Chang then spoke against the amendment, mentioning first the committee's feeling on the matter, that no constitutional provision be included, and then the feeling by the Committee of the Whole that the matters of nuclear plant construction and radioactive waste disposal were of such importance to the people, and the questions not so complex as that of storage, that constitutional language was drafted. He then pointed out that the legislature still had full power to draft appropriate regulatory measures regarding the storage of radioactive materials in the State.

There being no further discussion, the question to amend Com. P. No. 17, RD. 1, by Amendment No. 2 was put by the Chair and the motion failed to carry.

At this time Delegate Takehara, on a point of inquiry, asked if the next amendment could be divided so that the first paragraph could be considered separately from the second. Delegate Harris thereupon moved to divide Amendment No. 5 to consider paragraph 1 first and then paragraph 2, seconded by Delegate Takehara. The motion to divide Amendment No. 5 was put by the Chair and carried.

Delegate Harris then moved for the adoption of paragraph 1 of Amendment No. 5, seconded by Delegate Takehara, which amended section 10 of Com. P. No. 17, RD. 1, by adding the following:

[NUCLEAR] ENERGY RESOURCES

The State shall conserve nonrenewable energy resources and shall promote the use of renewable resources for the production of energy.

Speaking for the first part of the amendment, Delegate Harris explained that this provision was addressed to what had been an undercurrent in the discussion on nuclear energy--that the State promote the use of renewable energy resources. The State, he pointed out, should be promoting development of such renewable energy resources as ocean thermal, geothermal, solar, wind and biomass energy for self-sufficiency in energy production.

Delegate Chang rose to speak against the amendment, explaining that he believed the proposed new Section 1 of Article X, as provided in section 2 of Com. P. No. 17, RD. 1, fully covered these concerns.

Delegate Takehara, speaking for the amendment, argued that Section 1 listed a series of the State's natural resources and then provided separate sections for some, such as land and water. There should, she suggested, also be a separate section for energy resources.

Delegate Sasaki, on a point of information, requested clarification of nonrenewable and renewable resources. Nonrenewable resources, Delegate Harris explained, would be those that were not regenerating, whereas renewable resources were the replaceable ones, such as timber, biomass, bagasse, solar and wind, which were not depletable.

There being no further discussion, the question to amend Com. P. No. 17, RD. 1, by paragraph 1 of Amendment No. 5 was put by the Chair and the motion failed to carry.

Delegate Harris moved for adoption of paragraph 2 of Amendment No. 5, seconded by Delegate Takehara, which amended section 10 of Com. P. No. 17, RD. 1, to read:

[No] The construction of nuclear fission power [plant] plants [shall be constructed or radioactive material disposed of in the State of Hawaii without the prior approval by a two-thirds vote in each house of the legislature] and the disposal of nuclear waste shall not be permitted within the boundaries of the State of Hawaii.

Delegate Harris then spoke in favor of the second part of the amendment. It was evident, he noted, that scientists throughout the nation and the rest of the world--even those who had originally developed the technology for nuclear power plants--were now speaking out strongly against them. Appealing to the delegates to consider the future of Hawaii, he acknowledged that a constitutional ban on nuclear power could limit the State's energy options for 10 years, but pointed out, "Radioactive material leaked into our environment will limit all of our options for a hundred thousand years."

Delegate DiBianco, speaking in favor of the amendment, explained that although generally he was not persuaded by the argument that Hawaii was a unique state, in this case he had to agree that Hawaii was in fact unique. It was, he pointed out, just too small to have nuclear waste disposed of within its boundaries. Comparing Hawaii with western states that had vast expanses of unused federally owned land on which almost no humans would be expected to stray, he urged the delegates not to allow the construction of nuclear plants and the disposal of radioactive waste in Hawaii.

Delegate Chun, also speaking in favor of the amendment, reminded the delegates

that in Hawaii "the water we drink is stored underground." What would happen, he warned, if nuclear waste happened to get into that water supply.

Delegate Takehara then spoke for the amendment, urging the delegates to vote for it on the premise that they were still not sure of the safety or risks involved.

Delegate Crozier, speaking for the amendment, expressed his concern about residents of the communities of leeward and central Oahu, the Ewa plains and the Wahiawa saddle. These were the people, he pointed out, who would be affected first by this nuclear power plant and as one living in that area he supported the amendment.

Delegate Chang rose to speak against the amendment. From all the discussion and debate, he observed, it was apparent that there were many complex questions to be answered concerning the provision of energy in the State. And these debates, he continued, emphasized a central role that the legislature played in social policy formulation, particularly in the consideration of complex federal-state intergovernmental questions, which the existing language of the committee proposal addressed.

Delegate Goodenow then spoke in favor of the amendment, suggesting the possibility of the federal government using Kahoolawe for this purpose as it was uninhabited.

Delegate Hale, speaking for the amendment, stressed the importance of letting the people decide whether there should be a total ban on nuclear power plants. The provision that they adopted, she pointed out, was both ineffective because of the bond indebtedness limitation they had amended and unwise because the two-thirds vote left it entirely up to the legislature to make the determination. Observing that the amendment would probably not affect her constituents because of the many renewable energy sources already being developed on the Big Island, she then emphasized the issue's importance on Oahu, commenting that "it's the kind of problem I think people could decide upon very easily. I don't think it's a matter of conflicting economic forces; I think it's basically just a matter of life and death."

Delegate Laura Ching, speaking in favor of the amendment, stressed the importance of letting the people vote on it, and urged the delegates to support the amendment.

Delegate Hironaka spoke for the amendment, emphasizing that it did not completely ban nuclear plants forever but it would put all the anxieties to rest while there was a question of safety--especially, he added, for those people living in the areas that would first be affected.

Also speaking in favor of the amendment, Delegate Hornick pointed out that regardless of the dangers and costs of nuclear plants, both of which were enormous, the amendment would give a clear indication of the direction the people wanted, which was no nuclear plants. She further stated that if they allowed nuclear plants to desalinate the water it would be very difficult to limit population growth.

Delegate Harris then spoke in favor. Reminding the delegates that the existing language required only a two-thirds vote by the legislature with no input by the people, and that a nuclear plant was estimated to cost "upwards of one and a half billion dollars," he then asked how difficult they thought it would be for the financial backers to get that two-thirds approval. He further pointed out:

"By only requiring a two-thirds vote of the legislature, we at no time give the people the option to decide on the fate of Hawaii for the generations to come. These few people would have the power to determine that a certain portion of our society is always going to be required to take care of radioactive waste material. That means your kids, and their kids and their kids--for perhaps 10,000 generations, someone is going to have to be there to take care of that disposed material, to safeguard it, to watch it. That's an incredible amount of authority we're vesting in two thirds of the legislature without any opportunity for the people of Hawaii to have a say. And I urge you this one last time to please put this critical issue before the entire society that's going to be affected."

There being no further discussion, the question to amend Com. P. No. 17, RD. 1, by paragraph 2 of Amendment No. 5 was put by the Chair. At this time Delegate Crozier requested a roll-call vote and the Chair, on determining ten seconds, so ordered.

Roll call being in order, the motion failed to carry by a vote of 31 ayes, 54 noes and 17 excused; with Delegates Alcon, Barnes, Cabral, Campbell, Laura Ching, Chong, Chun, Crozier, De Soto, DiBianco, Ellis, Fujimoto, Funakoshi, Goodenow, Hale, Hanaike, Harris, Hironaka, Hoe, Hornick, Kimball, Kono, Rachel Lee, Marumoto, Ontai, Shon, Stegmaier, Stone, Takehara, Wurdeman and Yoshimura voting aye; Delegates Anae, Barnard, Blake, Burgess, Chang, Calvin Ching, Donald Ching, Chung, de Costa, Dyer, Fukunaga, Fushikoshi, Hagino, Hamilton, Hashimoto, Hayashida, Hirata, Hokama, Dennis Ihara, Les Ihara, Teruo Ihara, Ikeda, Iwamoto, Izu, Kaapu, Kaito, Kojima, Lacy, Ledward, Marion Lee, Lewis, McCall, Miller, Nakamura, Nishimoto, Nozaki, Odanaka, Okamura, O'Toole, Penebacker, Peterson, Sakima, Sasaki, Shinno, Sutton, Taira, Takahashi, Takemoto, Tam, Tamayori, Waihee, Weatherwax, Yamashita and President Paty voting no; and Delegates Andrews, Barr, Blean, Haunani Ching, Chu, Eastvold, Fernandes Salling, Hino, Ishikawa, Liu, Pulham, Silva, Souki, Sterling, Takitani, Uyehara and Villaverde being excused.

Delegate Chang moved for the adoption of Amendment No. 6, seconded by Delegate Waihee, which amended section 3 of Com. P. No. 17, RD. 1, paragraph 2, to read:

All fisheries in the sea waters of the State not included in any fish pond, artificial enclosure, or state-licensed [marine] mari-culture operation shall be free to the public, subject to vested rights and the right of the State to regulate the same[.], provided that mari-culture operations shall be established under guidelines enacted by the legislature, which shall protect the public's use and enjoyment of the reefs.
The State may condemn such vested rights for public use.

Speaking for his amendment, Delegate Chang explained that testimony to the committee posed the possibility that sea-farming could become a primary source of food for Hawaii and that the language impeding legislative consideration had therefore been amended. But there was concern, he further explained, that the language in the committee proposal was too broad and did not provide sufficient safeguards, so the amendment had been drafted changing "marine" to "mari-culture" operations and providing that the legislature establish guidelines for it to protect the public's use and enjoyment of the reefs.

Delegate Hamilton, on a point of information, questioned the acceptability and legal definition of the term "mari-culture." In response, Delegate Harris assured that the term was well defined and acceptable, echoed by Delegate Shon.

Delegate Blake inquired if konohiki fishing rights would be banned by the amendment. On being assured that they were not, he asked if the amendment would include those konohiki rights already established. Delegate Chang in response explained that the amendment would not affect the konohiki rights, which restricted public usage, but rather that the amendment affected the public's use of the fisheries.

Delegate Blake, requesting further clarification, asked if the amendment would affect the rights of not taking certain species of fish from a given area, under konohiki arrangements. Delegate Chang responded that in the language stating that all fisheries were free to the public "subject to vested rights," the term "vested rights" referred to konohiki rights. The konohiki, or caretaker of an ahupua'a, he further explained, might restrict the taking of a particular species of fish or the taking of several species of fish for several months of the year and these vested rights, called konohiki rights, would not be affected by the amendment.

Delegate McCall then requested a definition of "reefs," if these were the reefs within 15 feet of the surface or if the reference were to coral head or any coral body. Delegate Harris, in response, indicated that as written this would refer to the coral area inside the breaker line, that it would be the reef flat, the down slope, that would be considered the reef area, adding that he didn't believe under this language that the coral formation on the outside of the breaker would be considered the reef as such.

Delegate McCall then asked if in most cases this would extend a couple of hundred yards at the most, and if therefore all of Kaneohe Bay, for example, should be exempt.

Delegate Harris, in response, agreed, depending on the area, adding that some areas had a very short reef in feet and others as much as half a mile, but that it would be within the breaker line.

Delegate De Soto, on a point of information, referred to the language in Section 3 of Article X and in the proposed amendment and asked whether it would allow the State to condemn enclosed areas such as fishponds, etc.

Delegate Chang responded that the language referred to vested rights, which referred to the konohiki rights, which the State presently had the power to condemn, as indicated in Section 13 of Article XVI. The language, he continued, had originally been put in the transitional article but since the State had not condemned all the konohiki rights, the committee proposed transferring it to Article X.

Delegate Hale then inquired if the committee was suggesting deleting Section 13 of Article XVI, to which Delegate Chang responded affirmatively.

Delegate Blake, on a point of information, asked if the movant knew of any konohiki fishery condemned by the State which had been leased to anyone else in the State, as he had been given this impression. Delegate Chang responded that he did not.

At this time Delegate Crozier moved to amend the amendment by deleting the word "mari-culture" and replacing it with "marine," seconded by Delegate Laura Ching.

Speaking for his amendment, Delegate Crozier explained that "mari-culture" limited the areas the State could be involved in and control, and that areas such as those dealing with natural energy should not be eliminated.

Delegate Chang pointed out that the State already had the power to regulate marine operations by the language in the first sentence of section 3 of Com. P. No. 17 on marine resources. The sentence being amended, he explained, concerned the extent to which operations would be permitted to encroach on the public's use of fisheries. Many, he continued, felt that the broad term "marine operations" would open the door to too many activities taking place in public waters and that any encroachment should be restricted to "mari-culture operations," or sea-farming, as this could provide jobs and another industry base for the State, and be a primary source of food in the future. To broaden the definition, he added, would expose the public fisheries to too many hazards.

Delegate McCall spoke in favor of the amendment to the amendment, observing that he saw no reason to limit the areas or change the language from what it was originally.

Delegate Hale, on a point of information, asked if "mari-culture" meant sea-farming, and suggested changing the language to "sea-farming." She then inquired if the amendment reflected the committee's action, as the original proposal had used "marine operations," and further questioned the reason the committee report was being changed.

Delegate Chang responded that the report was not being changed, that he was only proposing an amendment to Com. P. No. 17 in response to concerns by several delegates about the language of the provision.

Delegate Hale then questioned whether a few delegates could change language that a majority of the committee had agreed upon, arguing that the committee proposal had used the agreed upon language "marine operations" which the committee chairman was now proposing to change.

Delegate Chang responded that the committee had included these words in the proposal and that the concerns he spoke of had emerged between this time and the time of the Committee of the Whole. As there was insufficient time to draft the language before the Committee of the Whole, he explained, the amendment had been deferred until Second Reading, but the concerns, he emphasized, were genuine.

Delegate Harris, speaking against the amendment, first explained that rather than sea-farming the term "mari-culture" had been used because it was the inclusive term to cover the raising of plant and animal material in salt water. He then stated:

"I wish to speak strongly against the amendment to replace 'mari-culture' with the term 'marine operations' because it strikes at the very heart of the intention of the original proposal--the original proposal that went to the committee regarded mariculture operations. And the reason it went there was because there was some concern regarding the State's ability to promote mariculture operations under the existing language of the Constitution. That was the reason this section was looked at at all. Attempts to broaden it to marine operations, I think, are very damaging, and the possibility of the promotion and development of any number of things under the broad and all-inclusive term of 'marine operations' could have devastating effects on our reef areas. I don't think we want marinas and such to be leased out, so I would speak against the amendment and urge the delegation to vote against it."

Delegate Shon also spoke against the amendment, in reference to the ocean thermal energy conversion plan. Under the existing constitutional language, he explained, the State already had the authority to construct these off the shoreline, and the addition was a further restriction on the public's access to fisheries and did not impact on the OTEC prospects.

Delegate Burgess rose on a point of information. Noting that the language "state-licensed mari-culture operation" had been added to prevent the public from fishing in a sea-farm area, he inquired if it was also the intent that the public could fish in an area that had an ocean thermal energy conversion plant, or a wave action generating plant. Delegate Chang responded that this had not been considered as they weren't dealing with that situation. He repeated that the first sentence covered the State's power to regulate marine resources and the amendments concerned access to public fisheries.

Delegate Burgess then stated that by using the word "mari-culture" and not "marine" operations they seemed to be making a distinction between ocean thermal energy conversion, for example, and mariculture, and he wondered if that was intended. Delegate Waihee responded that under the first provision the State had the power to exclude anyone from any area it wished, while the second provision dealt with exempting certain types of activities, such as the proposed mariculture operations, from the public, in essence allowing them to be used privately.

Delegate Chong, on a point of inquiry, asked if aquaculture was defined in the Constitution. On being answered that it was not, she rose to speak in favor of the amendment to the amendment, stating that mariculture like aquaculture could be one of the areas covered by the amended term "marine operations."

Delegate Crozier, speaking for the amendment to the amendment, pointed out that the term "state-licensed" that preceded "marine operations" would provide the necessary check or restriction on encroaching activities, that the State would be checking out all marine operations. As it was now, he said, the State could only check out mariculture operations. There were, he suggested, other things in the ocean besides reefs, and although he agreed with the language to protect the reefs there were other things that the State would be involved in and need to protect, and the term "state-licensed" provided that protection. He therefore urged the delegates to put the term "marine operations" back in.

There being no further discussion, the motion to amend the amendment was put by the Chair and failed to carry.

At this time Delegate Barnes rose to state that although there had been no amendment to the first sentence in section 3 of Com. P. No. 17, he had a statement providing background information that he wished to have entered in the Journal.

[The following is written testimony as submitted by Delegate Barnes.]

"ARCHIPELAGIC WATERS:

"The first issue to be considered in the boundary definition is what waters were included in the state boundaries at the time Hawaii

joined the union. The Sea Grant booklet, 'The Hawaiian Archipelago,' Working Paper No. 15, 1975, Sea Grant College Program, University of Hawaii, states on this point:

'The joint resolution of the United States Congress which accepted the cessation of territory made no mention of the particulars of the Republic's holdings, but merely placed them under the sovereignty of the United States.

'The court said that the issue of boundaries again arose during the 1953-1954 hearings before the Committee on Interior and Insular Affairs of the United States Senate on the Statehood Bills. The committee questioned the claims of the Constitutional Convention of the State of Hawaii in 1951 which stated that the channels were included in the Territory of Hawaii. But the delegates of the Hawaiian Statehood Committee denied these claims: "all three jointly and severally stated positively and unequivocally that Hawaii made no claim for control of ocean waters beyond the traditional three mile limit." The committee then reported to Congress that the territorial waters of Hawaii were in agreement with United States policy.

'The court found these claims to be in conflict and looked to the decision of the Anglo-Norwegian Fisheries case to see if Hawaii's claim could be met by a definition of "historic waters." The court determined that a theory of such historic waters rested on the principle of "acquisitive prescription." The proscriptive claim then had three factors:

- (1) The exercise of authority over the area by the state claiming the historic right;
- (2) A continuity of this exercise of authority;
- (3) The attitude of foreign states.

The court further stated that such a claim represented an exception to the traditional rules of international law delimiting territorial claims and therefore the state of Hawaii would have the burden of proof to substantiate these claims. Since the claims of Hawaii did not meet this formulation of the court, it was held that the boundaries of the state were to be the traditional 3 miles around each island.*

"The Sea Grant report states at page 67 '...the decision in the Island Airways case now appears to be standing on a less than firm foundation.'

"DEFINITION OF ARCHIPELAGO:

"The archipelago concept is presented in the context of international law (see Sea Grant No. 15, supra, pp. 30-38) where various Pacific Island groups define their 'state's' boundaries. The most widespread concept of archipelago is probably that asserted by Indonesia where straight lines (baselines) are drawn connecting outermost islands of the group. This concept could be applicable to the Hawaii situation.

*Text from Sea Grant Working Paper No. 15, supra, citing Island Airways v. CAB, 235 F. Supp. 990 [d. Hawaii 1964]. 352 F.2d 735 (1965).

"It may be noted that the 200-mile economic zones applied to Hawaii islands creates an archipelagic effect, a zone encompassing all islands, and if 'archipelagic waters' were alternatively thus created by scribing 200-mile radius circles around each island, the effect would appear acceptable, given Hawaii's marine objectives.

"SEABED RESOURCES:

"SUBMERGED LANDS ACT:

"Congress ended the conflict in the courts by passing the Submerged Lands Act in 1953. The act granted to the states 'title to and ownership of the lands beneath the navigable waters' within their respective boundaries. The term 'boundaries' was to include the boundaries existing when a state entered the union or as subsequently approved by Congress, but no farther than 3 miles from the coast in the Atlantic and Pacific, or beyond 3 leagues in the Gulf of Mexico. The ownership of the submerged land and the resources of the land and waters were transferred to the states. A companion statute, the Outer Continental Shelf Lands Act, preserved federal jurisdiction and control over the areas outside the state boundaries, to the limit of the continental shelf.

"The flexible definition of boundaries in the Submerged Lands Act led to litigation in the U.S. Supreme Court by states claiming in excess of 3 miles. Five gulf states made such claims: Louisiana (9 miles) through its Admission Act of 1812, Texas (9 miles) based on the boundaries of the republic, Mississippi and Alabama (18 miles) based on their admission acts, and Florida (9 miles) through a post-Civil War constitution which specified gulf claims of 3 leagues. The court upheld the claims of Texas and Florida and decided in favor of the United States in the other claims.

"As to Hawaii, it is not clear and has never been decided by a court that the federal government does have jurisdiction over the seabed outside the 3-mile boundary in Hawaii. The obvious reason a court would have difficulty in reaching this conclusion is that the Hawaiian archipelago, by definition, has no continental shelf. Therefore, because of extreme submarine variation between Hawaiian and mainland seabeds, and the volcanic origin of the Hawaiian Islands forming the common geographic link between islands the state should assert its management and control authority for the seabed resources outside its boundaries to the maximum extent allowed by international and federal law, out to the limits of the 200-mile economic management zone currently evolving in international law. Manganese nodule resources, spiny lobsters and various valuable coral species are several examples of important reasons the state should have the power to manage and license these seabed resources. In the future, the state might choose to concurrently manage some resources with federal agencies in the same way Pacific fisheries are now managed. The state has stated a preference for single marine management authorities, and the seabed may well be an area where the state should assert this management authority, unless and until specifically limited by federal law.

"FISHERIES AND OTHER MARINE RESOURCES:

"The Federal Fisheries Acts and the F.C.M.A. (1976) provide for concurrent federal/state jurisdiction over fishery resources, since state fish and game agencies have federal counterparts. As international law evolves toward defining 200-mile economic resource zones for marine resources within 200 miles of the existing state boundaries, eventually the 200-mile regime will be more specific as to which resources will be covered and the role of the federal agencies within this zone. Still later (possibly decades), the actual implications of setting out the boundaries of the zone around Hawaii and the possible

federal-state relationships will be determined. The state of Hawaii should move in the interim period to manage and control as well as protect the marine resources within the 200-mile ecosystem because Hawaii is a unique island state."

Delegate Blake rose to speak against the amendment. Referring to the committee report concerning the optional condemnation of konohiki rights and the State's obligation to fully compensate, he told the delegates of information he had received that some konohiki rights had been taken away from those who had the rights and leased out to private individuals.

Delegate Alcon, on a point of inquiry, requested a definition of mariculture, to which Delegate Harris responded that it referred to the "culturing, the growing of plant or animal material in sea water."

Delegate Burgess, also on a point of information, questioned why the reference was to the use and enjoyment only of the reefs and not to all the water, fish and seabed resources. Delegate Chang, in response, explained that the concern had related to sport and subsistence fishermen and the use and enjoyment of the fisheries, and to the idea that most of this activity took place on the reefs.

There being no further discussion, the question to amend Com. P. No. 17, RD. 1, by Amendment No. 6 was put by the Chair and the motion carried.

Delegate Peterson moved for the adoption of Amendment No. 7, seconded by Delegate Burgess, which amended section 7 of Com. P. No. 17, RD. 1, on public land banking, by deleting it in its entirety. Speaking for his amendment, Delegate Peterson made the following statement:

"I should begin by restating that I am employed by Alexander & Baldwin, a major private landowner. However, I am speaking only on my own behalf and expressing my personal opinions.

"I speak in support of this amendment whose purpose is to delete from Com. P. No. 17 the section entitled 'Public Land Banking.' This addition to the Constitution specifies that the State shall have power to purchase land to control future growth, development and land use within the State. If the State were not to use this power, there would be no reason to include this in the Constitution. If it were used, however, I object to the State operating as a landowner in competition with private landholders. Land purchases by the State may be used to manipulate the local real estate market by design or by practice.

"Rather than withdrawing land from private ownership to the control of the state government, I much prefer the transfer of lands from public to private ownership. I consider one of Hawaii's major problems to be the limited lands available for private home ownership. The limited land supply is the primary cause of our high residential land prices.

"As you may know, rural and urban lands constitute only 1.4 percent of the State's 4 million acres. Much land could easily be opened up for residential use without jeopardizing or noticeably reducing our state or agricultural lands.

"With reference to the phrase 'control future growth,' I believe this subject is covered with more specificity in the proposal by the committee on public health and welfare, in which a new section reads: 'The State and its political subdivisions, as provided by general law, shall plan and manage the growth of the population to protect and preserve the public health and welfare...' and so forth.

"To summarize: (1) I oppose state ownership of property which would be better used if made available for private or residential use. In my opinion the State already owns and controls too much land. (2) For those who disagree with reason No. 1, I submit that the powers

discussed in the section on public land banking duplicate without adding any significant powers to the public health proposal.

"Because I find public land banking objectionable and believe the proposed section to be redundant, I urge you to vote for this amendment."

Delegate Hale, speaking against the amendment, commended the committee for coming out with the concept of public land banking. Recalling that over 20 years before in the Keauhou-Kahaluu beach park area Bishop Estate had given 30 acres of land to Hawaii county for a public park and the county board of supervisors, having no money for development, had given over 25 acres back to the estate, she suggested that if there had been public land banking then, perhaps there could have been a public park there instead of the Keauhou Beach Hotel.

The problem with public lands, she pointed out, was that although there were approximately 1,584,000 acres of it in the State, 80 percent of the population was on Oahu which had only 64,810 acres of public land, and although the Big Island had over 1,100,000 acres, it didn't have the population and the public lands were not necessarily in desirable or even accessible places. She further suggested that the State's public lands could be used to encourage home ownership and prevent speculation by putting them on the market in areas and at times when the market was tight.

Delegate Goodenow also spoke against the amendment, stating:

"I would just like to give some factual information. I agree with Delegate Hale that if we don't do something soon, we will have none left. I am speaking of the foreign investments in Hawaii; this is why I think it's so necessary that the State acquire interests in real property to control future growth. Now land investments by the following countries--Australia, Canada, France, Hong Kong, Japan, Republic of Korea, Norway, Republic of China, United Kingdom--it all adds up to an investment. I won't give the individual ones, but an investment of approximately \$631,600,000.

"I would like to add that a report was done by the U.S. Chamber of Commerce, that in the early 1970s--this information is pertinent but it is outdated--this was done in about 1973, specifically as the foreign investments had had time in Hawaii, which at this time are multiplied into the millions.

"The other day I read that the Kona Village was purchased by the country of Canada, and along with it went 18,000 acres in that area. The recommendation made by the U.S. Chamber of Commerce in regard to what's going on over here is as follows: the impression from limited but repeated evidence is that prices paid for real estate by foreign investors were often high compared to what was judged to be market value prior to purchase. Young people in Hawaii can't afford apartments or other land because foreign people coming in have big money and are usually in huis of one type or other, and that is forcing our economy up, which is very dangerous--something we should consider. Prices paid are linked to the important questions of motive and expectation. Three possibilities are suggested--going back now, I remind you it was in 1973.

1. Foreign investors pay high prices because of optimistic expectations of future property values in their own country.
2. Foreign investors are apt to pay higher prices because they are willing to accept lower rate returns than American investors.
3. Foreign investors pay high prices because they are planning uses for land improvement not considered by American investors.

"I could read much more, but I don't feel that it is pertinent. I hope to introduce a resolution that I have prepared. Representative

Heftel's office is preparing one for Congress limiting the purchase of agricultural land, and the resolution asks for a committee to be set up to monitor who is buying what. And I'm trying to do this here in our State, with the legislature and the governor, just to have someone keep the public aware and also monitor what is being purchased--is it agricultural land, homes or what.

"In closing, I would like to say that foreign real estate investments in Hawaii, while not large by world standards, are significant in terms of the economy of this State and the preservation of values and way of life in Hawaii. I do ask the delegates please to vote against this amendment."

Delegate Waihee, speaking against the amendment, pointed out that one purpose of the provision that hadn't been mentioned was that it gave the State the power to purchase development rights which would then be banked and would probably be the vehicle used more often than purchasing land.

Delegate Crozier, speaking for the amendment, voiced the belief that the State already had the power to buy land under the new Section 1 of Article X. He further stated:

"I also speak for this amendment because of the section dealing with agricultural lands. I'm really concerned about this land banking concept. Had we done something like New Zealand does, they make the people obligated to use their land, and if they don't use the lands they're taxed very heavily, and then when they're ready the State will come in and buy the land from the owner and turn around and sell it to someone who's willing to use that land. That's what we're concerned about, the use of the land. Here what we're going to do is just put the State possibly into deeper debt just to hold on to land. I don't think that would solve the problem, it would just give us another financial burden. I'm hoping that the agricultural land provision--Section 5 of Article X--will go through and that would solve all the problems that this land banking concept tries to address."

Delegate Chang, speaking against the amendment, reminded the delegates that the provision did not create a land banking measure but merely permitted the legislature to address the policy question.

Delegate Ontai then questioned if the State already had the power to land bank and if it could not be used to help land developers.

Delegate Peterson, speaking last for his amendment, stated:

"I wish to answer some of the arguments made. The first argument considered the need for beach parks; property for beach parks is now being purchased with state funds without this recommended section. This section does not speak specifically about beach areas but includes all the property of the State.

"The second issue was that speculation should be reduced. Public ownership of land now in private hands will reduce, rather than increase, the supply of available lands, thereby further driving up prices, which will encourage speculation rather than eliminate that problem.

"The question of foreign investments--which suggested that many countries are buying \$631 million total in land--is a very interesting question. In the first place, we as a state don't have \$631 million to use to purchase our own land. The second issue is, you may know of the recent drop in value of the U.S. dollar, compared to yen, of about 30 percent. This would have been even more without the beneficial effects of foreign investments in the United States. Because of the reason I stated initially, that only 1.4 percent of the State's 4 million acres of land is now in rural and urban land classification, and because I believe that much land could be opened up for residential and other uses without

jeopardizing the amount presently owned by the State, and because I think this issue is already addressed in another section of the proposed Constitution, I urge that you vote in favor of this amendment."

There being no further discussion, the question to amend Com. P. No. 17, RD. 1, by Amendment No. 7 was put by the Chair and the motion failed to carry.

Delegate Takehara moved for the adoption of Amendment No. 8, seconded by Delegate Harris, which added a new section to Com. P. No. 17, RD. 1, to read:

SHORELINE ACCESS AND PARKS

Section All shorelines, as provided by law, shall be free to the public. Insofar as practicable, the State shall provide public rights of way to the shorelines and beaches within the State and provide public parks in shoreline areas.

Speaking in favor of her amendment, Delegate Takehara explained:

"The shorelines in the State are an asset to us all. The state supreme court has recognized this by stating that public policy favors extending to public use and ownership as much of Hawaii's shoreline as is reasonably possible. The legislature has also recognized the fundamental right to shoreline use by enacting HRS 115 in the Hawaii Revised Statutes, relating to public access to beaches. Under HRS 115-1, the findings and purposes of the statute are enumerated. Some of the miles of shoreline are inaccessible due to the absence of public rights-of-way. Population of the Islands is increasing while the presently accessible beach remains fixed. Absence of public access to Hawaii's shoreline constitutes an infringement upon the fundamental right of free movement in public space.

"This proposal incorporates these policies into our Constitution. Further, it requires the State to provide public parks in these shorelines areas wherever practicable. This proposal reaffirms our concern and commitment toward making the beaches available to the public for recreational use. This proposal does not bind the legislature in any way. In using the word 'practicable' this proposal does not force the legislature into a situation where shorelines and parks become the No. 1 priority; rather, it urges the reassessment of their priorities concerning shorelines.

"I don't think that the cost factor is a substantial issue. We are not mandating that immediate access to the beaches and parks be created to every piece of shoreline. The word 'practicable' insures that only as moneys become available will the legislature be duty bound to provide shoreline access and parks. The legislature in 4 years, since the passage of statute 115, has only appropriated a little over \$1 million to acquire land to provide rights-of-way. Yet this money has only been spent to acquire access to one forest area, which is up in Wailupe Valley.

"In closing, I would like to reiterate--we are the only state surrounded by water. As such, we have a multitude of beautiful shores. I ask you, fellow delegates, wouldn't it be a shame if our children and families could not freely experience one of the joys of our island paradise--the shoreline."

Delegate Chong, on a point of inquiry, asked if the definition of shoreline access covered inland waters also. Delegate Takehara replied that she wasn't sure but that the term "as provided by law" would make it specific.

Delegate Chong then spoke against the amendment. At that time, she explained, the federal, state and county governments were undertaking a project right in her backyard which on completion would be about 30 acres of lagoon. Because she was not sure whether the definition of shoreline access covered this project, she added, she would have to vote against the amendment.

Delegate Ontai then voiced his support of the amendment.

At this time Delegate Hale moved to amend the amendment by deleting the first sentence and also the words "and provide public parks in shoreline areas," seconded by Delegate Peterson.

Speaking for her amendment, Delegate Hale explained that it was her understanding the state supreme court had already ruled that the shoreline, or the water up to the highest line of vegetation, was public domain and open to the public, and therefore the first sentence of the amendment could be deleted. The problem, she pointed out, was not the shorelines but public rights-of-way, that private property prevented the public from getting to the free shorelines. The State, she further noted, already had the power to provide public parks in shoreline areas, and now had more power under their land banking provision, to provide for future areas. Therefore, she concluded, all that was necessary was a policy statement that the people had a right to get to the shorelines and beaches through the provision for public rights-of-way.

Delegate Sutton, on a point of information, inquired if there was any possible conflict with the privacy laws, to which Delegate Hale responded that that would have to be adjudicated in the courts.

Delegate Shon, speaking against the amendment to the amendment, voiced his feeling that a policy statement concerning public parks and shoreline accessibility would be appropriate. A lack of adequate beach parks and facilities in the State had been reported in recent years, he noted, and the intensity in competition for shoreline use was growing. Because parks were not a big revenue-generating enterprise, he added, they tended to have a low priority in the allocation of state funds and anything they could do to emphasize the need and desirability of increasing recreational areas would be noteworthy.

Delegate Hoe spoke in favor of the amendment to the amendment. Quoting from the environmental impact statement prepared for the State that substantiated the concerns, she stated:

"Although state and county management of upland areas guarantees access to the publicly owned beaches, 74 percent of the sandy beach coastline is privately owned and managed land. In fact, providing access to the shoreline has become a major problem in the State because landowners exercise control over perpendicular access. Specific private users include residences, hotel and tourist facilities, industrial developments and agricultural activities. Several agencies also have restrictive use of shoreline areas; accessibility is a major factor in determining their magnitude in public areas. This determination involves examination of access, particularly transportation, to areas valued by the public because of their environmental, recreational, cultural or historic qualities.

"State law, Act 69, provides for the conceptual planning, coordination, development and land acquisition, construction and implementation of a statewide access system to meet recreational needs. It provides a showcase for cultural and environmental education, to insure that economic development is compatible with natural and cultural resources and to provide transportation in natural areas.'

"There is such a plan statewide, and there have been funds made available for this plan, and therefore I feel it is appropriate at this time to recognize the concerns and the desire to maintain these accesses in our Constitution."

Delegate Takemoto, on a point of inquiry, asked if "shoreline" referred to the vegetation line or the 8/10 line. Delegate Takehara, in response, commented that regardless of which line, the statement was broad enough to allow the legislators "in accordance with the law to decide what's best for the people in Hawaii."

Delegate Hale then voiced the feeling that the supreme court had been more liberal than the legislature in this area and indicated that she would therefore prefer to leave the

definition of shorelines to the courts. That, she added, was the reason she had deleted the first sentence in the amendment.

Delegate Takemoto, speaking against the amendment to the amendment, explained that part of the problem was determining what the shoreline was, and this was being decided in the courts. Until the matter was settled, she added, they should not be considering this sort of amendment for the Constitution.

There being no further discussion, the question of the amendment to Amendment No. 8 was put by the Chair and the motion failed to carry.

Delegate Goodenow, speaking for the original amendment, stressed the importance of including a constitutional provision on the right of public accessibility to the beaches and urged the delegates to support the amendment.

Delegate Chang rose to speak against the amendment, explaining:

"First, all shorelines are already free to the public. With regard to access, I believe that the legislature has provided for access rights of the public to the shorelines. In Section 171-35(5) on public lands, it says that each 'lease issued by the board of land and natural resources shall contain,' where applicable, '...reservation of rights-of-way and access to other public lands...or public beaches....'

"In Section 46-6.5, it provides that each county 'shall adopt ordinances which shall require a subdivider or developer, as a condition precedent to final approval of a subdivision... to dedicate land for public access by right-of-way or easement for pedestrian travel from... public streets to the land below the high-water mark on any coastal shoreline, and to dedicate land for public access....'

"And finally, in Chapter 115 of the Hawaii Revised Statutes, it guarantees 'the right of public access to the sea and shorelines and transit along the shorelines....' Along this line, the legislature in 1975 appropriated \$1 million to the department of land and natural resources for the acquisition of land for public rights-of-way and public transit corridors. And the only reason for the delay in acquisition, as I understand it, has been that the department has been awaiting completion of a trail system study which would pinpoint land to be effected by this acquisition program. Therefore, I believe the public's right to shoreline access is already being met by the legislature and I believe that constitutional language to this effect is unnecessary."

Delegate Harris, speaking in favor of the amendment, pointed out that the shorelines and ocean areas were a prize resource in Hawaii and that access to them should be provided to all citizens. Arguing that there was no blanket policy statement that the State provide access to shoreline areas, he voiced disagreement with previous statements interpreting the statutes in this area. The amendment, he added, would do much to solve the problem of shorelines that were totally inaccessible because they had been fenced off.

Delegate Lacy rose to speak in support of the amendment provided the previous speaker was accurate that the State did not then have the power to condemn land such as trails. It was his understanding, he explained, that the State already had this power and any accessibility problems would not mean the Constitution was insufficient but rather that administration of the laws and provision of funds were the problem. He then inquired if the State did in fact already have this power.

Delegate Harris, in response, acknowledged that the State did have the power to condemn lands, provide rights-of-way, etc., but pointed out that the amendment did not give the State power--it mandated the State to do it.

Delegate Takehara, speaking last for her amendment, stated:

"I'd like to give you some of the reasons that I thought this amendment was very important to all of us. I think many of you recall when we

were children growing up in Hawaii, how we drove around the Island and often wondered how to get to some of the lovely beaches that we saw but couldn't get to. Fortunately, in those days we could go to Ala Moana, we could go to Waikiki, Waimanalo, Hanauma Bay and so forth, and it was very easy to go to those beaches without much problem with parking and so forth. But today with our increased population I'm sure you're aware of the crowded situation at our public beaches. Also, this shoreline belongs to us. This is one manner in which our families can have free togetherness and recreational entertainment.

"We talk about social ills today--families being broken up and not together--and here we have a most valuable commodity that could help. I feel that on our Island particularly, we've noticed great urban encroachment and urban sprawl. Relative to my own community of Aiea, Halawa, if you look at our shoreline it's sprinkled with what we call light industrial--the most beautiful asset of our State being hidden by light industrial development. We need open space, we need preservation of our shoreline--and I do feel that we are very unique.

"The reduction of direct access to recreational areas, particularly waterfront property, has paralleled the rapid urbanization of Hawaii. Approximately 25 percent of Oahu's shoreline is currently unavailable to the public, and another 7 percent is already scheduled for development, which would further reduce beach access to the people.' I think this is as important as fish are to the ocean, we to the public--to have that in our Constitution. We only have so much beach frontage and shoreline frontage for our people. For those who feel that this is a legislative matter--and I think it was cited that this is now in some of our ordinances--here's another comment: 'The inability of county government, or even the State of Hawaii, to purchase every choice recreational property for public use has led to ordinances requiring private developers to deed a portion of their land as is stated, or equivalent funds, for park purposes.' The comment made here is that the results of this policy have not been impressive.

"We have just so much of a perimeter in our State and that's been gradually diminishing from our youth. I think this is important enough and urgent enough that it needs to be shown by the impact of a constitutional mandate. I urge all of you to please consider voting for this."

There being no further discussion, the question to amend Com. P. No. 17, RD. 1, by Amendment No. 8 was put by the Chair and the motion failed to carry. Delegate Takehara thereupon called for a division of the house, and on a rising vote the motion again failed by a vote of 33 ayes and 34 noes. At this time Delegate Takehara requested a roll-call vote, to which the Chair responded that roll call was not then possible. Delegate Sutton thereupon moved to reconsider, seconded by Delegate Hale. The question to reconsider the vote on Amendment No. 8 was put by the Chair and, by a vote of 34 ayes and 34 noes and with the Chair voting no, the motion again failed to carry.

Delegate Hale then requested a division of the house on that vote, to which the Chair ruled that the vote had been properly taken and the motion to reconsider was lost. Delegate Hale thereupon appealed the ruling of the Chair. The parliamentarian at that time advised, the Chair stated, that there was no basis for appeal, an actual count having been taken, and the request for a division of the house was not in order.

At this time Delegate De Soto rose on a point of personal privilege and, as a native Hawaiian, stated that 2 weeks ago they had been given rights to access and that she felt sorry that "everybody else cannot have these same rights."

Delegate de Costa rose and moved for the adoption of Amendment No. 9, seconded by Delegate Shinno, which amended section 6 of Com. P. No. 17, RD. 1, to read:

The State shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and assure the availability of agriculturally suitable lands. The legislature

shall enact laws that will set forth standards and criteria applicable to accomplish the foregoing.

[Reclassification of lands identified by the State as "prime", "unique", or "other important" agricultural lands in agricultural districts shall be subject to approval by two thirds of each house of the legislature. These lands shall be protected and maintained for bona fide agricultural use. Necessary support facilities are permissible.]

Lands identified by the State as important agricultural lands needed to fulfill the purposes above shall not be reclassified by the State or rezoned by its political subdivisions without meeting the standards and criteria established by the legislature and approved by a two-thirds vote of the body responsible for the reclassification or rezoning action.

Speaking for the amendment, Delegate Harris stated:

"The trio from the Garden Island offers this amendment for your consideration. Governor George Ariyoshi, in his 1978 State of the State address, began: 'We will continue our efforts to see greater self-sufficiency for Hawaii by increasing our agricultural diversity and preserving our agricultural land, which is vital if Hawaii is to remain economically viable and environmentally attractive.' This policy put forward by the governor is reflected in almost every state study and plan in recent years, and I'd like the bulk of my testimony this afternoon to just be a reiteration of some of the information provided for your consideration.

"The Hawaii State Plan, a document we've talked about frequently in this Convention, goes on to say: 'Urbanization of prime agricultural land would represent loss of an important natural resource and would prevent its use for future generations. Development of such land would not only involve the loss of natural resources but would also have implications for the economic stability of the Islands and the availability of scenic and open space.' The central Oahu planning study, done by the Department of Planning and Economic Development, continues: 'There is an increasing demand for . . . agricultural products which can be produced here in Hawaii. To meet this demand, Hawaii's agricultural industries will require increases in the supply of agricultural lands. However, this demand for agricultural land cannot stand against the pressure to urbanize agricultural land without some fundamental changes in the system for regulating land uses to assure the availability of agricultural lands at a reasonable cost.'

"Fellow delegates, I believe that this constitutional amendment is that fundamental change that is being called for in the state government. Our present land use laws, I believe, are not adequately addressing this critical problem. In the LRB land use law revised publication, they state that the preservation of agricultural land is the prime objective of the land use law. That would indicate that this purpose is not being achieved since a substantial part of lands reclassified to a higher use comes from agricultural districts. In point of fact, in the last 15 years with this existing land use law this State has seen the urbanization of over 37,000 acres of its agricultural land. I believe this wholesale urbanization of this prime resource has to stop. I believe that this amendment before you, and this committee proposal on agriculture, go a long way toward solving that problem. As one whose strong platform is the preservation of agricultural land, I can honestly tell you that I would perhaps prefer something much stronger, but I believe this is a reasonable compromise. This I think addresses the problem, while at the same time not being overly restrictive. I urge this delegation to unanimously support this very important proposal."

Delegate de Costa, speaking for the amendment explained how plantation companies helped the workers buy their own land and houses by subdividing cane land and selling

it below the market price. The committee proposal, he said, would only make the houses cost more, and he urged the delegates to support the amendment.

Delegate Waihee rose to speak in favor of the motion. The amendment, he explained, was both an attempt to preserve agriculture as an economic base for the Islands and keep agricultural lands to the extent possible as open space and also an attempt to recognize the fact that where there was agricultural worker housing the provision would be flexible enough to allow for that kind of housing.

Delegate Lacy then questioned the movant as to "the body responsible for the reclassification or rezoning action," asking if it might be two different bodies. Delegate Waihee, in response, acknowledged that it would be two different bodies; the body responsible for reclassification, he explained, would be the Land Use Commission and the body responsible for rezoning, the various county councils. And the provision, he added, would require two-thirds votes in both cases.

Delegate Hale rose to question the procedure on the two-thirds vote requirements by the legislature and Land Use Commission. Delegate Waihee responded that the amendment required two-thirds votes of the Land Use Commission and of the city or county councils. What it did, he explained, was reinforce the existing system rather than create a new layer of government control. He further explained:

"In addition, it mandates that the legislature set out specific criteria and standards for enforcing the policy set forth in the first sentence. So what would happen in terms of the actual mechanism would be that--first, a two-thirds vote of the Land Use Commission would be required for any change to urbanization. The second protection would be a two-thirds vote of the county council before any zoning changes from agriculture or any change to urban."

Delegate Lacy then voiced his support of the amendment and his agreement with the movants.

Delegate McCall, speaking in favor of the amendment, observed that it was workable and should help to conserve the best agricultural lands. He then commended its sponsors as well as those who had agreed to it for bringing together their different viewpoints in a reasonable compromise.

Delegate Hornick, expressing her support of the amendment, requested that to save time her speech just be entered in the Journal.

[The following is written testimony as submitted by Delegate Hornick.]

"In 1961 Hawaii enacted the state land use law for the purpose, as stated in its preamble, of protecting the State's dwindling supply of prime agricultural land and preventing scattered urban subdivisions. The reasons for protecting our best agricultural lands are and have been:

- protection of an important source of (export) income and employment
- preservation of open space
- protection of an essential, increasingly rare and virtually irreplaceable resource, namely fertile topsoil
- replenishment of the groundwater supply
- decreasing the State's vulnerability to disruption due to external forces, or in other words to contribute to and increase state self-sufficiency
- maintenance of agricultural options
- preservation of the rural character of much of the State, and

--preservation of attitudes and values that develop out of close contact with the land and have been inherent in Hawaiian culture.

"My subsequent remarks may sound like an indictment of the Land Use Commission; however, they are not intended as such but merely seek to illustrate why our present system is not working well, and why the committee's proposal as amended would constitute an improvement. My information is in large part from a 1976 paper by Professor Kem Lowrey of the University's PUSPP and Michael McElroy of the LRB.

"In general, these two researchers have found that the 'statistical analysis of Land Use Commission decision-making indicated ... that agricultural productivity has not been a significant factor in Commission decision-making; land units involving prime agricultural land were almost as likely to be approved as non-prime land units.'

"Speculation has continued on high quality agricultural lands regardless of their proximity to existing urban developments, with farmers being offered prices nearly 2-1/2 times the fair market value on the premise of Land Use Commission willingness to redistrict land. This has occurred both in areas farmed by small landowners and in the conversion of large land units that were part of plantation operations. For example:

'In 1966, the agricultural district near Wailua [Kauai] included about 427 acres divided into thirty-four individual parcels.... By 1971, 293 acres of this...land had been sold at prices averaging about \$8,000 per acre.... These prices reflected a perception of Commission willingness to redistrict the land. The Commission did redistrict a portion of the land to allow for urban uses. The land redistricted included the most agriculturally productive land. Mounting tax assessments resulting from the Commission action further increased the urban pressures on the remaining agricultural land, [and in addition] raised the possibility that remnant agricultural uses might be regarded as "nuisances" in newly developed areas.'

"The conversion of plantation lands has followed a different path with similar results. Plantation owners file a petition with the LUC on the claim that the former agricultural use is 'no longer economically feasible' and the proposed urban uses will provide both housing and employment. 'Repeatedly, landowners, developers, and their lawyers have justified their requests on the basis that favorable Commission action will result in "moderate-cost," "moderate-income," "gap group," or "low-income" housing. The approval of particular petitions was based on developers' promises to provide needed low- and moderate-income housing.' Despite developer promises, very little housing has been built at prices affordable by more than 25 percent of Hawaii's people.

"A 1963 petition by Oceanic Properties for central Oahu is a case in point. Despite the fact that the proposed project violated LUC criteria and was on prime agricultural land, the LUC approved the petition because the developers claimed they would provide housing at between \$15,000 and \$20,000 and conceded that there was no necessity for urban lands for housing in excess of \$25,000. However, in actuality less than 6 percent of the more than 1,200 units sold could have been defined as low-cost.

"In central Oahu, where 40 percent of the State's prime agricultural land is located, the LUC has turned down only 2 of more than 30 requests to reclassify from agriculture to urban. All others have been approved either wholly or in part.

"In short, the Land Use Commission's role in preserving agricultural lands has been dubious, despite its intended purpose. Furthermore, the LUC has been criticized for being unresponsive to the community and lacking accountability, being an appointed body.

"Com. P. No. 17 attempted to deal with these problems by identifying the best agricultural lands and imposing a heavy requirement for their reclassification--two-thirds vote of the legislature. However, several concerns have since been raised--to the effect that this requirement is too burdensome and a compromise is needed, that will re-emphasize the need for preserving our agricultural lands and increase LUC accountability while still allowing for the weighing of other social needs.

"This amendment fits those criteria. It combines the original strong policy statement with a mechanism by which the community can require more LUC compliance with the intent of the land use law, by requiring two-thirds votes of the LUC for reclassification and the city or county council for rezoning.

"I personally prefer stronger protection for the best agricultural lands, but I do feel that this amendment is a workable compromise and a positive step in the right direction. I urge its adoption."

Delegate Odanaka, speaking in favor of the amendment, submitted her speech for entry in the Journal.

[The following is written testimony as submitted by Delegate Odanaka.]

"Totally unrestrained growth has destroyed the character of many neighborhoods in my district. The open space in Pearl City tends to be filled quickly by free enterprise building allowed by a state plan and county zoning that has thrust Oahu's overdevelopment our way.

"In Pearl City, the concepts of 'controlled growth' and 'urban planning' have played a cruel joke on the people. Huge condominiums shadow tiny farms and frame houses. With or without tax breaks, these last remnants of our island lifestyle are doomed.

"I am afraid Pearl City may be a lost cause. The problems of urbanization--crime, crowding and a 'mainland' atmosphere of apathy and hostility--have already destroyed my community. I favor any constitutional way that other communities may avert this kind of planned destruction under the guise of a 'state plan.'"

There being no further discussion, the question to amend Com. P. No. 17, RD. 1, by Amendment No. 9 was put by the Chair and the motion carried.

Delegate McCall at this time requested that Amendment Nos. 10 and 11 be withdrawn and, there being no objection, the Chair so noted.

At 3:17 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 3:23 p.m.

Delegate Peterson rose and requested that the remarks he had prepared to address Amendment No. 12 be entered in the Journal with the discussion of Amendment No. 9 and that Amendment No. 12 be withdrawn. There being no objection, it was so noted.

[The following is written testimony as submitted by Delegate Peterson.]

"The proposed section 6 which this amendment seeks to delete may be considered in two parts for each paragraph. I believe a distinction should be made between commercial agricultural lands and those used for the production of food for people who live in the State.

I am not opposed to the encouragement of production for home use. Our geographic isolation makes that not only prudent but imperative.

"But to pass this proposal is to use an elephant gun to shoot a mouse. The overall economic development program prepared by the state department of planning makes this revealing analysis: less than 3,500 additional acres will be necessary to replace all imported vegetables and fruits that can be grown in Hawaii. There are presently about 220,000 acres under sugarcane cultivation. A change of 1.6 percent of sugar lands would provide agricultural lands necessary for self-sufficiency.

"To provide for control of 1.6 percent of necessary agricultural lands by regulating the remaining 98.4 percent of sugar lands is not appropriate. When pineapple and other lands under cultivation for other export crops are added to the available agricultural lands, the wisdom of the original proposal becomes even more questionable.

"By failing to vote for this amendment, this body will drag another obstacle in front of private landowners to restrict their options. This is not the time to go into detail about the subject of property rights. What does ownership mean? One aspect of ownership is use. Whenever use is limited, the benefits or rights of ownership are limited.

"If I own it, I may take a piece of paper and cut or tear it, fold it, wad it up, write on it, color it, glue something on it, sell it or loan it, or give it away. If it were against the law for me to not put anything on my paper except with pencil, my ownership rights would be considerably reduced. If like a computer card I was not allowed to fold, spindle or mutilate, my rights would be further reduced. If I then were limited from selling, loaning or giving my paper away, what good is it to me?

"Ownership is control and use of property. If you were to offer me control and use of a new Mercedes, it would not matter to me who was legally the owner. In the same way, regulation by regulation, our society is taking from owners the free use of their property without compensation. Even in Hawaii this is not right.

"I believe the section to be deleted is unnecessary. There appears to be no recognition of the difference between agricultural lands for 'self-sufficiency,' or production of food for local use, and agricultural lands for production of crops for export. A section which controls 99 percent of all lands to regulate only 1 percent seems to be loosely drawn.

"Com. P. No. 17, section 1, reads in part: 'For the benefit of present and future generations, the State...shall conserve and protect Hawaii's natural...resources, including land...and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.'

"The phrase 'increase agricultural self-sufficiency' is used in the section just quoted almost word for word. The phrase 'assure the availability of agriculturally suitable lands' is vague; is land presently used for sugarcane or pineapple considered available? Is it to be available for growing other crops? Is it available for open space, for building single-family residences? Shall we keep suitable lands as a sort of outdoor museum for people to look at?

"To summarize: paragraph 1 seems to me vague and redundant; paragraph 2 seems to be an unwarranted governmental intrusion which will reduce private property rights. The loss of these rights may be excused by some who believe this applies only to the superlarge agricultural landholders. However, these companies in turn are owned by

stockholders like you and me. If we fail to vote for this amendment we will be placing another limitation upon all private property rights, including yours and mine."

Delegate Harris at this time requested that Amendment No. 13 be withdrawn and, there being no objection, the Chair so noted.

Delegate Hale then moved for the adoption of Amendment No. 14, seconded by Delegate Crozier, which amended Com. P. No. 17, RD. 1, by deleting section 5 on farm and home ownership in its entirety from the committee proposal and renumbering sections 6 through 10 as sections 5 through 9.

Speaking for her amendment, Delegate Hale explained:

"The words being deleted by the committee proposal are in the present Constitution and were put in in 1950. I don't see that they in any way detract from anything the committee has done or the policies they have set forth. All they're saying is that public land shall be used 'for the development of farm and home ownership on as widespread a basis as possible.'

"I'd like to point out how many millions of acres there are. This really doesn't affect Oahu too much, because there is not much public land on Oahu--roughly less than 65,000 acres--but on the Big Island there's over 1,100,000 acres of public land, and much of our low and moderate and gap income housing has been built on public land within Hilo. And if this is taken out of the Constitution, I think we're sort of phasing out a mandate that the public lands be used for home ownership. This is what they are being used for to a large extent now--we have a lot of land in the city of Hilo that's not good agricultural land. But it is located in an area that's suitable for urban development and it is suitable for housing and is properly zoned, and it's just a question of pushing the State to meet some of the housing needs in the area by using public lands. This enables us to give people land and houses cheaper than if the State had to purchase development rights for public land banking or private lands to develop gap income housing on. I realize the State has the power to develop housing, but this is a policy direction that public land shall be used for home ownership and farms 'on as widespread a basis as possible.'

"This does not have anything to do with Hawaiian home lands. The definition of public lands specifically excludes Hawaiian home lands, and I do ask your consideration of this amendment because it just seems it was put in to enable widespread home ownership. This came out in the committee report in 1950, and I feel it is still a desirable goal and I would hope that you would go along with it."

Delegate Crozier, on a point of inquiry, asked if the movant was putting the provision back in or deleting it, to which Delegate Hale responded that her amendment would put the words back in the Constitution, the committee proposal having deleted them.

Delegate Crozier then spoke in favor of that part of the amendment dealing with home ownership. He had been concerned in committee, he explained, about this provision giving some credence to the Hawaii Housing Authority, but he had been advised that it was not applicable to that agency. But, he added, the Constitution should still include somewhere that the State had an obligation to fund, and should use its land for, home ownership.

Delegate Chang, speaking against the amendment, explained:

"The reason that the committee proposal was drafted to delete this portion of the Constitution was because the evolving concept on the use of public lands has brought the State to the point where a public land policy now reflects the uses to which public lands were supposed to be put in conformance with the Organic Act, and that is the multiple use concept.

"The present language speaks to the idea of using public lands for farm and home ownership, but it is felt that public lands should be used for many other purposes in addition to farm and home ownership. This would not preclude the State from developing house or farm lots on public lands, but merely broaden the purposes to which public lands should be put. And as I stated, this would be in conformance with the conditions set forth in the Organic Act with regard to the public lands. The purposes to which public lands ought to be put under the terms of the Organic Act are five in number, and farm and home ownership is only one. So your Committee felt, in order to conform with this document and to reflect a modern theory with regard to the use of public lands, this provision ought to be deleted. I speak against the amendment."

Delegate Les Ihara, speaking against the amendment, pointed out that Section 4 of Article VIII (as amended in 1976) gave the State power to "provide for, or assist in, housing, slum clearance," etc., and this, he added, should satisfy the concerns about housing.

Delegate Hale then explained that this provision only gave the State power to provide for housing, while the Article X provision authorized the State to use public lands for home ownership. Housing on state-acquired private land, she pointed out, would cost more than housing on unused land that the State already had. Describing a subdivision in Hilo that had been built on state land as an example, she cautioned against taking the provision out of the Constitution as there would then be no direction given to the State in terms of public lands for housing.

The consensus of the 1950 convention, she continued, had been that the more families placed as independent landowners on the public domain, the more stable the State's economy would be. And the Organic Act mentioned earlier, she argued, had no effect after statehood. There had been no good reason yet, she concluded, for taking this provision out as a policy statement.

Delegate Chang then spoke against the amendment, first correcting a point he had made previously. It was not, he clarified, the Organic Act but rather the Admission Act that set forth the conditions with regard to public lands, of which farm and home ownership was only one among five. And this, he explained, was one of the reasons the committee had deleted the provision, because there were other purposes to be served in holding public lands. The other reason for deleting, he added, was due to the multiple use approach in public land management, which argued against the use of public lands for so narrow a purpose as farm and home ownership.

There being no further discussion, the question to amend Com. P. No. 17, RD. 1, by Amendment No. 14 was put by the Chair and the motion failed to carry.

The President then called for discussion on the passage of Com. P. No. 17, RD. 1 as amended. There being no discussion, Delegate Okamura moved, seconded by Delegate Chang, that Com. P. No. 17, RD. 1 as amended, pass Second Reading and Com. Whole Rep. No. 18 be received and placed on file. The question was put by the Chair and the motion carried.

At this time Delegate Hamilton rose to note for the record that exactly 191 years ago, September 17, 1787 had been the final day of the federal Constitutional Convention. Benjamin Franklin had made a brilliant statement on that day, he mentioned, and referred interested delegates to pages 753 and 754 in Carl Van Doren's biography of Franklin.

At 3:43 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 3:48 p.m.

Delegate Hirata at this time moved to reconsider the vote on Com. P. No. 16, RD. 2, seconded by Delegate Izu. The Chair, upon ascertaining that Delegate Hirata had voted on the prevailing side, called for discussion on the motion.

Delegate Chong, on a point of order, questioned whether the motion was in order, to which the Chair responded that the motion had been determined in order at that time.

Delegate De Soto rose to speak against the motion to reconsider, noting that it would set a dangerous precedent. Delegate Waihee also spoke against the motion, acknowledging that reconsideration was allowable under their rules but that he would speak against it at that time.

Delegate Kaapu, on a point of information, requested verification that under their rules reconsideration was always in order as long as the subject being proposed was of a substantive nature. The Chair, in response, explained that reconsideration or failure of reconsideration at that point would preclude further motions for reconsideration at a subsequent time.

Delegate Kaapu then spoke against the motion to reconsider, expressing his feeling that the motion was a poor and ill-considered one which went contrary to the spirit of fair play of the reconsideration provision in the rules. It was, he further stated, a "very bad policy for those who supported the action taken in the committee to be a party to a reconsideration for the purpose of trying to stop proper reconsideration by those who sincerely wanted matters reconsidered." He then suggested that the motion to reconsider "probably could not be sustained," or even further pursued "if members of this body who didn't feel that it were right were to get up now and leave, to the extent that we would no longer have a quorum."

Delegate Les Ihara, on a point of personal privilege, took exception to the statements made by Delegate Kaapu, adding that he would be introducing an amendment on the open primary.

On a point of information, Delegate Donald Ching inquired if there was anything pending on the Clerk's desk at that time, to which the Chair responded that there was not.

Delegate Hirata then rose on a point of personal privilege to inform the delegates that "it was a serious move on my part in offering this motion to reconsider because I did want to reconsider the open primary." He further stated, "I did submit an amendment and it's been submitted to the Clerk and the President, as stated in Robert's Rules of Order Newly Revised."

Delegate Takehara, on a point of personal privilege, pointed out that they had had this opportunity "just yesterday," and that the vote had not been that close. This was, she remarked, "nothing but dirty politics," and she encouraged those who "believe in the principles of what we're here for to walk out of this convention hall."

Delegate Hornick at this time moved to adjourn until 1:30 p.m. the next day, seconded by Delegate Harris. The motion to adjourn, the Chair ruled, was not the main motion at that time and therefore not in order.

On a point of information, Delegate Kaapu asked if a motion to recess would be in order, to which the chair responded that the parliamentarian advised it would not be in order. Delegate Kaapu then asked if the motion would be in order if he relinquished the floor. The motion to recess, the Chair responded, would then be in order but there would have to be a vote on it.

Delegate Waihee at this time moved for the previous question, whereupon the Chair ruled the motion not in order as Delegate Kaapu had the floor.

Delegate Kaapu then proceeded to speak against the motion for the 10 minutes he was entitled to speak and he requested that he also speak later for his second time.

Delegate De Soto rose to speak against the motion, expressing her dismay and incredulity at the actions of some of the delegates in response to the motion. What particularly distressed her, she remarked, were the delegates who had self-righteously claimed to represent the people and had demanded one thing after another, who were now not willing to take another delegate at face value, or give him the benefit of the doubt. It was, she further commented, a sad state of affairs that they would question a delegate's motives on the basis of his motion to reconsider, when it was his prerogative to make the motion, and would then ask all the delegates to leave rather than discuss the motion on its merits.

The motion to reconsider, she continued, was also setting a bad precedent and it

was a shame that all delegates couldn't just accept it if they lost on an issue. The committees, she pointed out, worked hard, often because of delegates trying to get their way, which was all right because the rules allowed it. But, she added, "just to stand up and leave the floor because you suspect something--why don't you ask?" She then appealed to all the delegates who had "the guts to tackle the problem head on" to return to their seats and vote.

Delegate Donald Ching then rose to speak against the motion to reconsider, pointing out that the Convention had acted and that every move following the reconsideration would be a parliamentary move on the part of the proponents of a certain idea. Although he felt the movant of the motion was sincere in his attempt, he added, at this time he didn't happen to agree and would vote against reconsideration.

Delegate Marumoto rose and moved to adjourn until 1:30 tomorrow, seconded by Delegate Hale. The motion, the Chair ruled, was not in order as the main motion had precedence.

Delegate Waihee then moved for the previous question, seconded by Delegate Taira. The motion of the previous question was put by the Chair and carried.

At this time Delegate Lacy rose on a point of parliamentary inquiry to ask if they were to reconsider the committee proposal in its totality. The Chair in reply confirmed that if the motion passed the whole package would be up for discussion. Then how, Delegate Lacy questioned, could a part of the package be drawn into discussion if it hadn't come up as a true amendment within the last 48 hours. According to the parliamentarian, the Chair explained, the proposal would go before the Convention in the same form as when it was passed on Second Reading.

Delegate Marumoto rose on a point of personal privilege to register her no vote on the last vote taken, pointing out that the Chair had not called for the no votes.

Also on a point of personal privilege, Delegate Harris voiced a strong protest against "some of the shoddiest tactics" he had ever seen by the delegation.

Delegate Kaapu, on a point of parliamentary inquiry, asked whether, if there were a roll-call vote on the motion and it was found that there was not a quorum, that vote would in fact be valid. The Chair, in response, confirmed that the vote would not then be valid.

The question to reconsider the vote on Com. P. No. 16, RD. 2, was then put by the Chair. Delegate Kaapu thereupon requested a roll-call vote and the Chair, on determining that there were ten seconds, so ordered.

Delegate Penebacker at this time rose on a point of order and questioned the propriety of those delegates who had called for a roll-call vote, who were then leaving the floor. The Chair responded that he did not have the authority to require that the delegates remain.

Roll call then being in order, the motion to reconsider Com. P. No. 16, RD. 2, failed to carry by a vote of 15 ayes, 57 noes and 30 excused; with Delegates Hirata, Hironaka, Hokama, Dennis Ihara, Les Ihara, Iwamoto, Izu, Kimball, Odanaka, Okamura, Penebacker, Takahashi, Tamayori, Weatherwax and Yamashita voting aye; Delegates Alcon, Anae, Barnard, Blake, Campbell, Chang, Calvin Ching, Donald Ching, Laura Ching, Chong, Chung, de Costa, De Soto, Dyer, Fujimoto, Fukunaga, Funakoshi, Fushikoshi, Hagino, Hale, Hanaike, Harris, Hashimoto, Hayashida, Hino, Hoe, Hornick, Teruo Ihara, Ikeda, Kojima, Kono, Lacy, Ledward, Rachel Lee, Lewis, Marumoto, McCall, Miller, Nakamura, Nishimoto, Nozaki, Ontai, O'Toole, Sakima, Sasaki, Shinno, Shon, Stegmaier, Sutton, Taira, Takehara, Takemoto, Tam, Waihee, Wurdeman, Yoshimura and President Paty voting no; and Delegates Andrews, Barnes, Barr, Blean, Burgess, Cabral, Haunani Ching, Chu, Chun, Crozier, DiBianco, Eastvold, Ellis, Fernandes Salling, Goodenow, Hamilton, Ishikawa, Kaapu, Kaito, Marion Lee, Liu, Peterson, Pulham, Silva, Souki, Sterling, Stone, Takitani, Uyehara and Villaverde being excused.

ADJOURNMENT

At 4:33 p.m., on motion by Delegate Waihee, seconded by Delegate Taira and carried, the Convention adjourned until 1:30 p.m. Monday, September 18, 1978.

SIXTY-FIRST DAY

Monday, September 18, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 1:30 p.m.

The President presided.

The Divine Blessing was invoked by the Reverend James Kuhn of St. John the Baptist Church.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present.

The President announced that the Journal of the Sixtieth Day had been signed by the Secretary and approved by the President.

At this time Delegate Shon rose on a point of personal privilege and stated:

"I feel personally aggrieved by the actions of a television station last evening, specifically KITV, regarding our Convention. During the airing of 'Roots,' the news team offered some headlines and encouraged viewers to seek the details during the later newscast. One of those items dealt with the Convention.

"Mr. President, yesterday this Convention passed on Second Reading an important environmental package. It was the culmination of months of intense committee work and countless debates and discussions. Its effects could have a very powerful influence on day-to-day life in Hawaii. And yet the news team chose not to even mention the environmental package passed; after 6 hours of debate, what do you think was the teaser--'Con Con Kills Initiative.'

"While I was not pleased by yesterday's ending, I believe that to characterize that one incident as the most significant action taken yesterday is a gross distortion. I believe this effort to sell its sponsors' products was at the expense of the reputation and work of this Convention. I believe that permission to use the public airwaves is contingent upon public responsibility to educate and inform. I feel personally aggrieved because that one-line come-on chose not the most important action but the most sensational. And one-liners like that are what remain fixed in the public's mind. I believe it smacks of yellow journalism. While I do not deny the right of a TV station to distort the news to their sponsors' benefit, I do reserve the right to resent it. I bring this matter to your attention because I feel a personal grievance and because it is not an isolated case. Thank you."

Delegate Donald Ching then rose and stated:

"Mr. President, I too rise on a point of personal privilege, which I have never done before. I share the sentiments of the speaker, and I must add a postscript. It all boils down to what we, the 102 delegates, do on the floor of the Convention."

STANDING COMMITTEE REPORTS

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 97) informing the Convention that Stand. Com. Rep. Nos. 98 through 100; Com. P. Nos. 16, RD. 2, S. 1, and 17, RD. 2, S. 1; and Res. Nos. 29 through 32 had been printed and distributed.

On motion by Delegate Crozier, seconded by Delegate Hayashida and carried, Stand. Com. Rep. No. 97 was adopted.

The Clerk announced that Stand. Com. Rep. No. 98 and Com. P. No. 16, RD. 2, S. 1, from the Committee on Style were up for decking. The President so noted and placed them on the calendar for Third Reading on Wednesday, September 20, 1978.

The Clerk then announced that Stand. Com. Rep. Nos. 99 and 100 were still in the printshop and action would be deferred to the end of the calendar.

INTRODUCTION OF RESOLUTIONS

A resolution (Res. No. 29) requesting the revisor of statutes to effect necessary rearrangement, renumbering and technical changes within the Constitution as necessary after the November elections was offered by Delegate Hamilton.

The President thereupon referred Res. No. 29 to the Committee on Style.

The Clerk announced that Res. Nos. 30 and 32 were still in the printshop and action would be deferred to the end of the calendar.

A resolution (Res. No. 31) amending Convention Rule 37 was offered by Delegate Kaapu.

At this time Delegate Kaapu moved, seconded by Delegate Odanaka, for the adoption of Res. No. 31, stating:

"Mr. President, I move that Convention Rule 37 be amended by adding the following: 'provided that a motion to reconsider any committee proposal may be made at any time in order to add new material to a previously considered committee proposal.'"

The Chair declared the motion was not in order, advising that resolutions had consistently been referred to the appropriate committee and would be referred in this case.

Delegate Kaapu, on a point of information, stated that he was moving to amend by verbal motion, explaining:

"I realize that the next item you were to take up was Res. No. 31 which would probably be referred, as you say. However, prior to taking that up I did wish to make a verbal motion, which I did make and was seconded. The reason, Mr. President, was so that I may, in the debate, explain why I am introducing this resolution, or this motion. And I propose, after making that explanation, to make a motion myself to table the motion."

Delegate Waihee, on a point of order, advised that the oral motion was out of order. The Convention had ruled, he explained, that amendments to rules should be done pursuant to resolution, which would then be submitted to the rules committee. The Chair voiced concurrence, adding that a debate on the rules was not in order.

Delegate Kaapu then rose on a point of information to ask whether there was actually a rule specifying that amendments to the rules must be by resolution. Delegate Waihee in response explained that it had been done as an expression of the body and upheld the ruling of the Chair. He reminded the delegates of a similar incident that they had voted on and noted that until it was overturned the Convention had expressed its desire to handle this through resolution.

Acknowledging the incident referred to, Delegate Kaapu again requested confirmation

that there was no rule to prevent or automatically rule out of order a verbal motion.

Delegate Takemoto, on a point of order, referred to Rule 34, stating that the motion was out of order because it conflicted with this rule. Delegate Kaapu, the Chair responded, was quite aware of the rule requirements and had another purpose in mind.

Delegate Kaapu, again on a point of information, offered clarification concerning the purpose of his motion and resolution. The Chair responded that he would be allowed a brief summation of his reason and then it would be referred to committee. Delegate Kaapu thereupon gave the following explanation:

"Mr. President, the reason for proposing this amendment to our rules was to make possible the expression of whatever true majority there was of this body on a particular amendment. There are from time to time members who are absent or who have to, for good reason, leave the body. So while we may have a quorum at the time, we do not have all members present. And the rules permit matters to be taken up and acted upon by a simple majority of those present. Now that fact can be used to advantage by those present who find themselves in the majority.

"But the matter of reconsideration, I think, is in the parliamentary rules for a very salutary and noble reason, and that is to afford those who are sincerely desirous of giving matters previously acted upon a chance to be discussed and acted upon by the total body and by all those who may be in the majority who favor a particular measure that may have died due to their absence. I refer briefly to the action that might have been taken on either the matter of initiative or of 'none of the above.' This pertains more specifically to the matter of 'none of the above' since it is my belief that a true majority of this body did favor it, but that majority was not present at the time of reconsideration yesterday.

"For that reason I have put together an amendment to the rules which would allow matters to be reconsidered despite their having been unsuccessfully reconsidered previously, should that change only be to add new material. The reason for that was so as not to jeopardize any matter already acted upon which was in the committee proposal--such as the open primary--so that those who fear re-opening Com. P. No. 16 need not fear under this change reconsideration of that section since it was already in the committee proposal. But it would allow for the addition of initiative or 'none of the above' which this body in full assembly might do and thereby reflect a true sentiment of this Convention. And it's only for this reason that I offer this. Allowing the matter to lie on the table over 24 hours just gives us more time. I have never been one to give up on a subject where I thought there was merit for reconsideration. I very much appreciate your gesture in allowing me to explain this. So I intend to abide by that and allow this to rest on the table, to be referred to committee. If tomorrow there is a sentiment to bring this back, I will at that time move that we ask that the matter be taken out of committee and brought back for action. If there is no sentiment at that time, I certainly will allow that to be a full expression of the body. But I did want to remove the fear that if we were to take up Com. P. No. 16 we might jeopardize something of value which had already passed--namely, the open primary. Thank you."

Delegate Liu, on a point of personal privilege, expressed his agreement with some of the comments made by the previous speaker, then remarked that the speaker "could have helped in finding out what the true majority was by in fact voting for initiative" in Committee of the Whole.

At this time the President referred Res. No. 31 to the Committee on Rules.

Stand. Com. Rep. No. 76 (Com. P. No. 7, RD. 2) (Committee on Style--Deferred from September 14, 1978):

Delegate Hamilton moved, seconded by Delegate Sakima, that Stand. Com. Rep. No. 76 be adopted and Com. P. No. 7, RD. 2, pass Third Reading. At this time the President asked if there was any discussion on the subject matter.

Delegate Hamilton, speaking for the motion, stated that there had been no style changes made in the proposal and he recommended its passage on Third Reading.

There being no further discussion, the motion to adopt Stand. Com. Rep. No. 76 and to pass on Third Reading Com. P. No. 7, RD. 2, was put by the Chair and carried by a vote of 85 ayes, 15 noes and 2 excused; with Delegates Alcon, Anae, Andrews, Barnard, Barnes, Barr, Blake, Burgess, Campbell, Chang, Calvin Ching, Donald Ching, Laura Ching, Chong, Chu, Chun, Chung, de Costa, De Soto, Fernandes Salling, Fujimoto, Fukunaga, Funakoshi, Fushikoshi, Hagino, Hamilton, Hanaike, Harris, Hashimoto, Hayashida, Hino, Hironaka, Hoe, Hokama, Hornick, Dennis Ihara, Les Ihara, Teruo Ihara, Ikeda, Ishikawa, Iwamoto, Kaapu, Kaito, Kimball, Kojima, Kono, Lacy, Marion Lee, Rachel Lee, Lewis, Liu, Marumoto, McCall, Nakamura, Nishimoto, Nozaki, Odanaka, Okamura, O'Toole, Penebacker, Peterson, Pulham, Sakima, Sasaki, Shinno, Shon, Silva, Souki, Stegmaier, Stone, Sutton, Taira, Takahashi, Takehara, Takemoto, Takitani, Tam, Tamayori, Uyehara, Villaverde, Waihee, Weatherwax, Wurdeman, Yamashita and President Paty voting aye; Delegates Blean, Cabral, Haunani Ching, Crozier, DiBianco, Dyer, Eastvold, Ellis, Goodenow, Hale, Hirata, Izu, Miller, Sterling and Yoshimura voting no; and Delegates Ledward and Ontai being excused.

Stand. Com. Rep. No. 81 (Com. P. No. 8, RD. 1, S. 1) (Committee on Style--Deferred from September 12, 1978):

Delegate Hamilton moved, seconded by Delegate Stone, that Stand. Com. Rep. No. 81 be adopted and Com. P. No. 8, RD. 1, S. 1, pass Third Reading. At this time the President asked if there was any discussion on the subject matter.

Speaking for the motion, Delegate Hamilton referred to page 5 of Stand. Com. Rep. No. 81 for a summary of the changes, noting that they were solely for the purposes of style and clarity.

There being no further discussion, the motion to adopt Stand. Com. Rep. No. 81 and to pass on Third Reading Com. P. No. 8, RD. 1, S. 1, was put by the Chair and carried by a vote of 84 ayes, 17 noes and 1 excused; with Delegates Anae, Andrews, Barnard, Barnes, Blake, Chang, Calvin Ching, Donald Ching, Laura Ching, Haunani Ching, Chong, Chu, Chun, Chung, Crozier, de Costa, De Soto, Dyer, Fernandes Salling, Fujimoto, Fukunaga, Funakoshi, Fushikoshi, Hagino, Hamilton, Hanaike, Harris, Hashimoto, Hayashida, Hino, Hirata, Hironaka, Hoe, Hokama, Hornick, Dennis Ihara, Les Ihara, Teruo Ihara, Ikeda, Ishikawa, Iwamoto, Izu, Kaapu, Kaito, Kojima, Kono, Ledward, Marion Lee, Lewis, Liu, Marumoto, McCall, Nakamura, Nishimoto, Nozaki, Odanaka, Okamura, O'Toole, Penebacker, Peterson, Pulham, Sakima, Sasaki, Shinno, Shon, Silva, Souki, Stegmaier, Stone, Sutton, Taira, Takahashi, Takehara, Takemoto, Tam, Tamayori, Uyehara, Villaverde, Waihee, Weatherwax, Wurdeman, Yamashita, Yoshimura and President Paty voting aye; Delegates Alcon, Barr, Blean, Burgess, Cabral, Campbell, DiBianco, Eastvold, Ellis, Goodenow, Hale, Kimball, Lacy, Rachel Lee, Miller, Sterling and Takitani voting no; and Delegate Ontai excused.

Stand. Com. Rep. No. 84 (Com. P. No. 10, RD. 2, S. 1) (Committee on Style--Deferred from September 12, 1978):

Delegate Hamilton moved, seconded by Delegate Stone, that Stand. Com. Rep. No. 84 be adopted and Com. P. No. 10, RD. 2, S. 1, pass Third Reading. At this time the President asked if there was any discussion on the subject matter.

Delegate Hamilton, speaking for the motion, indicated that the changes made concerned capitalization, consistency, proper use of terms and clarity, and he recommended passage of the committee proposal.

Delegate DiBianco, speaking for the committee proposal, stated that he would vote for the proposal because of his belief that the State was long overdue for an intermediate appellate court but that he wanted to go on record that he was very disappointed with the lack of a true judicial selection system proposed by the committee.

Delegate Takitani then made the following statement:

"It is with great sorrow and regret that I rise to speak against this committee proposal. I say sorrow and regret because of the respect that I have come to have for the committee chairman and because of the respect that I have for all the people of Hawaii. As I said during Second Reading, merit selection would be a positive move for Hawaii or any place in a representative democracy. Apparently though, this body doesn't have the foresight to implement a system of merit selection that is befitting of this State and its people.

"I don't think it is necessary at this time to go through all my reasons for this statement. But because we have come up with such a watered-down version of merit selection (if indeed we can still call it merit selection), I believe it would be wisest to wait until the people of Hawaii learn how to elect more responsible representatives to their government and hope that when that day comes, and it will come, then we can work out a merit selection system that will prove worthy of consideration by all the people of this State."

At this time Delegate Hirata offered the following statement:

"I rise to speak reluctantly against the committee report and proposal. I feel that a small step has been taken toward restoring the public's confidence in the judicial system by creating a judicial selection system for the appointment of judges. I believe that it is a concerted effort, made in good faith, to address a complex and difficult concern articulated by the public. However, I have some grave concerns.

"Historically, the judicial system has been recognized as a protector of vested interests, often striking down attempts at reform. In Hawaii, our territorial experience bears the same pattern. In fact, it has only been since the 1960s that the Hawaii courts have become protective of the rights of individuals and the people. Many in our community now feel that this is also changing and the courts are moving away from this orientation. The cry now is for judges without any biases or political background. Should not the courts be sensitive to the contemporary needs of the people of Hawaii, with their varied cultures and lifestyles, and especially with the people's close and unique relationship to their environment?

"For example, In re Ashford, 50 Haw. 314 (1968), the Hawaii supreme court ruled that the location of the high-water boundary is along the upper reaches of the wash of waves, or ma ke kai, which is usually evidenced by the edge of vegetation or by the line of debris left by the wash of waves. In 1973, and again in 1977, the court re-affirmed, in County of Hawaii v. Sotomura, 55 Haw. 176 (1973) and In re Sanborn, 58 Haw. 586 (1977), that public policy favors the extension for public use of as much of Hawaii's shoreline as reasonably possible and that land below the high-water mark is a natural resource owned by the State and held in trust for the people.

"In much the same manner, the Hawaii supreme court has ruled in Palama v. Sheehan, 50 Haw. 298 (1968), that where there is evidence that kuleana owners and their predecessors used a certain route as a means of ingress and egress through adjoining or surrounding lands and that an alternate route was rendered impassable, the kuleana owners are entitled to a right-of-way over the land, based on an ancient Hawaiian right of reasonable necessity.

"By mandating the seating of attorneys on this commission, we may be decreasing the potential for these kinds of decisions. We may, at the same time, be increasing the potential for a 'blue ribbon' panel, who might not be as sensitive to the social and cultural traditions and values which have been taken into consideration, nurtured and protected. By adopting this proposal, we are also allowing a profession that I do not feel is representative of our society or our community to have an undue influence on the selection of our judges. We will be granting them constitutional standing. They are not a governmental body; they are not elected by the public, and they cannot be held accountable to the public. Yet we will be vesting this special interest group with a guaranteed avenue to lobby for their own special interests. I believe this is a dangerous precedent to set.

"We should bear in mind that the selection of judges is of deep interest to a very substantial number of attorneys. Most legal counsel depend upon their clients for their livelihood and are understandably inclined to protect these interests, particularly in the larger firms. Would this not create a patent conflict of interest situation if these same attorneys, who as members of the commission that selected a judge, had to appear before him? Because the issues addressed by the courts have direct impact on the welfare of the people, the selection of judges plays a pivotal role in our society. No small group of individuals should be given special access to our judicial system because the rights of the people, or the community at large, must be given more importance. However, the community is a large number of unorganized individuals. While the motivation of a single profession to fight an appointment is likely to be very high, the general public's support is unlikely to generate enough public interest for the community as a whole to take a stand.

"I feel we may have been too hasty in our assessment of the issues and focused our deliberations too quickly on the question of selection rather than on the more crucial one of 'judicial merit.' If our concern was the quality of judges, we should have examined more closely the concept of judicial merit. For this reason, Mr. President, I feel that I must vote against this committee proposal."

Delegate Hale, also speaking against the proposal, pointed out that it contained two very different subjects and suggested that the committee should have come out with two different proposals so that each concept could have been voted on separately. The judicial merit system, she commented, was not a merit system at all, with the governor appointing three of the members and the chief justice, whom he appointed, appointing two. There was, she stated, a very dishonest effort to fool the people by using a term that did not mean what it said, and the system, she further stated, should not have been put in the Constitution, where it would be very difficult to change.

Delegate Stone, speaking for Com. P. No. 10, urged the delegates not to be hasty in deciding the outcome of the commission and to give them a chance. Their quality of work, he added, would determine the quality of judges.

Delegate Ikeda, speaking in favor of the proposal, pointed out that it contained several integrated propositions: (1) creation of an intermediate appellate court to meet the problem of appeals; (2) establishment of a merit selection commission to correct the situation where one person decided on judicial appointments; (3) additional authority to the supreme court in the area of judicial discipline. He then urged the delegates to support the proposal.

Delegate Sterling, on a point of parliamentary inquiry, suggested that because of the debate taking place perhaps the entire proposal should be read although the Chair had permission to waive the readings. The Chair responded that those with concerns about passage were able to express them and they would proceed on that basis if there were no objections.

Delegate Yamashita then spoke in favor of the proposal, stating:

"I too am not totally happy with the package. I think it could be weaker in some areas and stronger in others. But I think it was truly a product of compromise and that is what we are here to do. It bothers me that misleading statements have been aired recently in the media, particularly regarding this judiciary package. I want the record to reflect that our disagreements have been healthy and that certain compromises which have been met were made in a spirit of aloha. Our style of politics is unique in Hawaii, and even after a good fight both sides have enough class to be gracious and not openly hold grudges.

"Our judiciary package was difficult, in that everyone wanted the 'ideal' of removing politics completely from the merit selection process. What we have here is not, in my opinion, a 'package of crumbs,' but a foundation upon which future leaders may build. We have removed certain obstacles, and I feel that we still have a substantial proposal we can all be proud of. Major constitutional changes do not come overnight, but we have established a foothold. Perhaps in a later convention, some of our other fears will diminish about executive and legislative participation in merit selection; or on the other hand, maybe some of these fears may be confirmed. But since government and governing officers are only as good as the people who elect them, we should put our faith back in the people to elect accountable leaders, to make what we have started here continue and hopefully finish. Therefore, I ask you to consider, in keeping with our style of island politics, that we show we have compassion and understanding, that we 'idealists' accept gracious defeat and take up our battles at another time, and support, beginning with the judiciary package, by unanimous acclamation this proposal on Third Reading.

"I offer this suggestion, not to be interpreted as simply shibai but as a sincere demonstration to the public that our votes on Third Reading, after our major battles and compromises, are used objectively and not as obstacles. As a proponent of several Committee of the Whole amendments which failed, I can sincerely say that I hold no grudges, because the battles were fair. At times, our compromises were not 'capitulations' but agreements of consensus. Even during my moments of bitter defeat, I was reminded of the words of a great contemporary philosopher, Rap Replinger, who said, 'Whatevah....' So let us strive on Third Reading to show support and not cynicism. We should reflect pride in what we have accomplished as a convention and not warring caucuses. I think it's very crucial that we hang up our gloves and try to work together. Let us show support for all leaders, even those with differing opinions, that we appreciate their work, and let us vote unanimously on each Third Reading package before us. Thank you."

Delegate Crozier, speaking for the proposal, expressed agreement with the previous speaker and urged the delegates to support the committee proposal.

Delegate Wurdeman rose to speak against the proposal, "in the spirit of aloha." She was not, she stated, in favor of an expensive appellate court and she did not believe the judicial selection system was the best possible that they could offer the people.

Delegate Burgess then spoke for the proposal "after much soul-searching." The judicial selection system they had adopted, he pointed out, was not a true merit system, which was one with a nominating commission independent of the appointing authority. That, he continued, was usually accomplished by a majority of its members being practicing attorneys, because attorneys were uniformly interested in obtaining the best judges so that their clients, the general public, would get the best possible decisions. But, he added, this was a step forward and might be an improvement over the present system, and he urged the delegates to support the proposal.

Delegate McCall also spoke for the proposal, remarking that although he had some hesitation years of experience had taught him he was not always right.

Delegate Hale, on a point of personal privilege, alluded to implications that if they didn't go along and vote for the proposal they were somehow lacking in aloha spirit. She then stated:

"I don't feel I am lacking in aloha spirit, and I shall not go along. But I would like to say for the record, speaking for myself only, I have no pride in what we've accomplished in this Convention. And this is no reflection on any of my fellow delegates. I realize that all of you have worked as hard as I have and you have a perfect right to your opinions and to the way you wanted to operate in this Convention, as I had a perfect right to do so. I have agreed to no unit rule. I have not agreed that the majority of this Convention will decide how I think. I shall take my ideas to the electorate to tell them how I voted, and they can make their own conclusions as to how they will vote on the ballot.

"I would just like to say that we are discussing ideas here and proposals; we are not discussing people. I may love you all as individuals, but I do not necessarily like your ideas. My good friend over there often refers to his mother. I'd like to refer to my son. I used to tell him, when I didn't approve of what he did, 'I love you but I do not like what you do, and I do not like what you think.' And this is the way I shall vote my conscience in this election. And there is to be no reflection upon me as not having the aloha spirit. Thank you."

Delegate Sutton, speaking for the proposal, reflected that his viewpoint had changed from idealistic to realistic, and as a realist he saw good changes and input from all as well as hard work, and he urged the delegates' support.

Delegate Kimball then spoke against the committee proposal, explaining that he did not believe constitutional recognition of the district courts and establishment of an appellate court would solve some of the major judicial problems in Hawaii. Referring to Stand. Com. Rep. No. 52, he indicated some of the factors contributing to the rapidly expanding case-load, including increases in population and numbers of attorneys, easier access to the courts, expanded criminal rights, increased tendency of litigants to exercise their right of appeal, etc.

Delegate Shon, speaking in favor of the proposal, commented:

"In 1968 a good number of my friends refused to vote for Hubert Humphrey because he was not Robert Kennedy or Eugene McCarthy. But what they had forgotten was that he was not Richard Nixon."

There being no further discussion, the motion to adopt Stand. Com. Rep. No. 84 and to pass on Third Reading Com. P. No. 10, RD. 2, S. 1, was put by the Chair and carried by a vote of 86 ayes, 15 noes and 1 excused; with Delegates Alcon, Anae, Andrews, Barnard, Barnes, Blake, Burgess, Cabral, Campbell, Chang, Calvin Ching, Donald Ching, Laura Ching, Chong, Chu, Chun, Chung, Crozier, de Costa, De Soto, DiBianco, Dyer, Fernandes Salling, Fujimoto, Fukunaga, Funakoshi, Fushikoshi, Hagino, Hamilton, Hanaike, Harris, Hashimoto, Hayashida, Hino, Hironaka, Hoe, Hokama, Hornick, Dennis Ihara, Les Ihara, Teruo Ihara, Ikeda, Ishikawa, Izu, Kaapu, Kaito, Kojima, Kono, Lacy, Marion Lee, Lewis, Liu, Marumoto, McCall, Miller, Nakamura, Nishimoto, Nozaki, Odanaka, Okamura, Ontai, O'Toole, Penebacker, Pulham, Sakima, Sasaki, Shinno, Shon, Silva, Souki, Stegmaier, Sterling, Stone, Sutton, Taira, Takahashi, Takehara, Takemoto, Tam, Tamayori, Uyehara, Villaverde, Waihee, Yamashita, Yoshimura and President Paty voting aye; Delegates Barr, Blean, Haunani Ching, Eastvold, Ellis, Goodenow, Hale, Hirata, Iwamoto, Kimball, Rachel Lee, Peterson, Takitani, Weatherwax and Wurdeman voting no; and Delegate Ledward being excused.

Stand. Com. Rep. No. 85 (Com. P. No. 11, S. 1) (Committee on Style--Deferred from September 12, 1978):

Delegate Hamilton moved, seconded by Delegate De Soto, that Stand. Com. Rep. No. 85 be adopted and Com. P. No. 11, S. 1, pass Third Reading. At this time the President asked if there was any discussion on the subject matter.

Delegate Hamilton, speaking for the motion, explained that the style changes made concerned the use of semicolons, capitalizations and changes for clarity, and he recommended passage of the committee proposal.

Delegate DiBianco then rose to speak against the proposal, explaining that after many discussions he had been unable to find out how much the package was going to cost. And, he added, he could not therefore tell his constituents how much it would cost them and so, although he supported the philosophy set forth, he could not support the proposal.

At this time Delegate Burgess stated that he had a technical amendment to Com. P. No. 11 but did not know if copies had been distributed. The Chair then called for a short administrative recess.

At 2: 48 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 2: 58 p.m.

The Chair at this time suggested that since Delegate Burgess' amendment had not been distributed, that he read it and the Chair could then rule on it.

The amendment, Delegate Burgess stated, was a technical one, amending Article XI by adding a new section to read: "Section 9. The Hawaiian Homes Commission Act, 1920, as amended, is hereby further amended by amending Sections 204, 212, 213 and 221 as follows"

The Chair then stated:

"Delegate Burgess, the Chair would have to rule that inasmuch as, under Rule 46(g), amendments on Third Reading must be limited to phraseology, your motion would not be in order. In any case, it would take a unanimous vote subsequently if it was to pass. I would have to rule on that basis that your motion would not be in order."

Delegate Burgess in response stated for the record that he felt the amendment was necessary "to give legal effect" to the changes to the Hawaiian Homes Commission Act. He further explained that it had been suggested in style committee that he make the amendment in this way, adding that he would of course accept the ruling of the Chair.

Delegate Sutton, on a point of order, suggested that they vote unanimously to suspend the rules to include this, to which the Chair responded that it wouldn't be in order at that point as it was felt a unanimous vote would not be possible.

Delegate Barr, on a point of parliamentary inquiry, asked if there was a method by which they could respond to that point. The Chair then inquired if he wanted to comment, to which Delegate Barr responded:

"Yes, I'd like to read from Section 3 of Article XI of our Constitution which says, 'As a compact with the United States relating to the management and disposition of the Hawaiian home lands, the Hawaiian Homes Commission Act, 1920, as amended, shall be adopted as a provision of the Constitution of said State' The fact we do not print it with this document does not mean it is not a part of the Constitution. So I think his point has no merit."

Delegate Hale at this time rose and stated for the record that she did not feel it was in the best interest of the Hawaiian people to put these changes in the Hawaiian Homes Commission Act as a constitutional amendment to be voted upon. They could have been more properly made, she added, by sending them to the legislature.

There being no further discussion, the motion to adopt Stand. Com. Rep. No. 85 and to pass on Third Reading Com. P. No. 11, S. 1, was put by the Chair and carried by a vote of 88 ayes, 7 noes and 7 excused; with Delegates Alcon, Anae, Andrews, Barnard, Barnes, Barr, Blake, Cabral, Campbell, Calvin Ching, Donald Ching, Laura Ching, Haunani Ching, Chong, Chu, Chun, Chung, Crozier, de Costa, De Soto, Dyer, Eastvold, Ellis, Fernandes Salling, Fukunaga, Funakoshi, Fushikoshi, Goodenow, Hagino, Hamilton,

Hanaike, Harris, Hashimoto, Hayashida, Hino, Hirata, Hironaka, Hoe, Hokama, Hornick, Dennis Ihara, Les Ihara, Teruo Ihara, Ikeda, Iwamoto, Izu, Kaapu, Kaito, Kimball, Kono, Lacy, Ledward, Marion Lee, Rachel Lee, Lewis, Liu, McCall, Miller, Nakamura, Nishimoto, Nozaki, Odanaka, Okamura, Ontai, Penebacker, Pulham, Sasaki, Shinno, Shon, Silva, Souki, Stegmaier, Sterling, Stone, Sutton, Taira, Takahashi, Takemoto, Takitani, Tamayori, Uyehara, Villaverde, Waihee, Weatherwax, Wurdeman, Yamashita, Yoshimura and President Paty voting aye; Delegates Burgess, DiBianco, Hale, Marumoto, O'Toole, Peterson and Tam voting no; and Delegates Blean, Chang, Fujimoto, Ishikawa, Kojima, Sakima and Takehara being excused.

Stand. Com. Rep. No. 86 (Com. P. No. 12, RD. 1, S. 1) (Committee on Style--Deferred from September 12, 1978):

Delegate Hamilton moved, seconded by Delegate De Soto, that Stand. Com. Rep. No. 86 be adopted and Com. P. No. 12, RD. 1, S. 1, pass Third Reading. At this time the President asked if there was any discussion on the subject matter.

Delegate Hamilton, speaking for the motion, mentioned that there were few changes recommended on this proposal and that those few were in the interest of clarity and consistency.

There being no further discussion, the motion to adopt Stand. Com. Rep. No. 86 and to pass on Third Reading Com. P. No. 12, RD. 1, S. 1, was put by the Chair and carried by a vote of 90 ayes, 6 noes and 6 excused; with Delegates Alcon, Anae, Andrews, Barnard, Barnes, Barr, Blake, Blean, Cabral, Campbell, Chang, Calvin Ching, Donald Ching, Laura Ching, Haunani Ching, Chong, Chu, Chun, Chung, Crozier, de Costa, De Soto, DiBianco, Dyer, Ellis, Fernandes Salling, Fukunaga, Funakoshi, Fushikoshi, Goodenow, Hagino, Hamilton, Hanaike, Harris, Hashimoto, Hayashida, Hino, Hirata, Hironaka, Hoe, Hokama, Hornick, Dennis Ihara, Les Ihara, Teruo Ihara, Ikeda, Iwamoto, Izu, Kaapu, Kaito, Kimball, Kono, Lacy, Ledward, Marion Lee, Rachel Lee, Lewis, Liu, Marumoto, Miller, Nakamura, Nishimoto, Odanaka, Okamura, Ontai, O'Toole, Penebacker, Pulham, Sasaki, Shinno, Shon, Silva, Souki, Stegmaier, Sterling, Stone, Sutton, Taira, Takahashi, Takehara, Takitani, Tamayori, Uyehara, Villaverde, Waihee, Weatherwax, Wurdeman, Yamashita, Yoshimura and President Paty voting aye; Delegates Burgess, Hale, McCall, Peterson, Takemoto and Tam voting no; and Delegates Eastvold, Fujimoto, Ishikawa, Kojima, Nozaki and Sakima being excused.

At this time Delegate Blean rose on a point of personal privilege to state for the record that he strongly supported Com. P. No. 11, S. 1, and regretted missing the vote.

Stand. Com. Rep. No. 87 (Com. P. No. 13, RD. 2, S. 1) (Committee on Style--Deferred from September 12, 1978):

Delegate Hamilton moved, seconded by Delegate De Soto, that Stand. Com. Rep. No. 87 be adopted and Com. P. No. 13, RD. 2, S. 1, pass Third Reading. At this time the President asked if there was any discussion on the subject matter.

Delegate Hamilton, speaking for the motion, referred to page 3 of Stand. Com. Rep. No. 87 for a discussion of the style changes, which concerned consistency, capitalization and nondiscriminatory terms, and he recommended passage of the proposal.

There being no further discussion, the motion to adopt Stand. Com. Rep. No. 87 and to pass on Third Reading Com. P. No. 13, RD. 2, S. 1, was put by the Chair and carried by a vote of 96 ayes and 6 excused; with Delegates Alcon, Anae, Andrews, Barnard, Barnes, Barr, Blake, Blean, Burgess, Cabral, Campbell, Chang, Calvin Ching, Donald Ching, Laura Ching, Haunani Ching, Chong, Chu, Chun, Chung, Crozier, de Costa, De Soto, DiBianco, Dyer, Eastvold, Ellis, Fernandes Salling, Fukunaga, Funakoshi, Fushikoshi, Goodenow, Hagino, Hale, Hamilton, Hanaike, Harris, Hashimoto, Hayashida, Hino, Hirata, Hironaka, Hoe, Hokama, Hornick, Dennis Ihara, Les Ihara, Teruo Ihara, Ikeda, Iwamoto, Izu, Kaapu, Kaito, Kimball, Kono, Lacy, Ledward, Marion Lee, Rachel Lee, Lewis, Marumoto, McCall, Miller, Nakamura, Nishimoto, Nozaki, Odanaka, Okamura, Ontai, O'Toole, Penebacker, Peterson, Pulham, Sasaki, Shinno, Shon, Silva, Souki, Stegmaier, Sterling, Stone, Sutton, Taira, Takahashi, Takehara, Takemoto, Takitani, Tam, Tamayori, Uyehara,

Villaverde, Waihee, Wurdeman, Yamashita, Yoshimura and President Paty voting aye; and Delegates Fujimoto, Ishikawa, Kojima, Liu, Sakima and Weatherwax being excused.

At 3:20 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 3:45 p.m.

THIRD READING

Stand. Com. Rep. No. 93, Com. P. No. 14, RD. 2, S. 1--RELATING TO TAXATION AND FINANCE:

Delegate Hamilton moved, seconded by Delegate Lewis, that Stand. Com. Rep. No. 93 be adopted and Com. P. No. 14, RD. 2, S. 1, pass Third Reading. At this time the President asked if there was any discussion on the subject matter.

Delegate Hamilton, speaking for the motion, commented, "If you want to know how the Committee on Style handled this proposal, the answer is--very gingerly." Any changes in the portion dealing with bonds, he explained, were not only cleared with the committee chairman but he in turn cleared them with bond counsel. Other style changes, he added, were simply for clarity, consistency, etc., and he recommended passage on Third Reading.

Delegate DiBianco rose to speak against the committee proposal. He could not support the proposal, he explained, because it failed to provide a firm general fund expenditure ceiling with meaning and some teeth to it; it would be destructive to the two-party system by lowering the requirement for general obligation bond issuances from a two-thirds vote to a simple majority in the legislature; and it allowed manufacturing concerns to participate in the special purpose revenue bond program. These provisions, he concluded, were dangerous, expensive and unnecessary.

Delegate Wurdeman, on a point of inquiry, asked if special purpose revenue bonds would be separated from the rest of the financial package on the ballot. In response, Delegate Iwamoto confirmed that special purpose bonds would be a separate item and referred to Stand. Com. Rep. No. 99 documenting this.

Delegate Harris, speaking in favor of the proposal, urged the delegates to support it. The proposal, he acknowledged, could be improved although he did believe it was a good one. He then cautioned:

"I believe to vote no on this proposal and to defeat this package will ultimately mean the defeat of the open primary proposal. Since this Convention has been categorized by pragmatic politics, I think we ought to be clear that that is in fact a very real possibility. To defeat it today in no way means that it will be defeated for all time. But it will mean that it will possibly be a package used for ransom, that could be used to defeat the open primary which is coming up very shortly. So I think it would behoove us all to support this proposal, allow it to pass and keep the open primary safe. I hope all delegates can support it. Thank you."

Delegate Blake, speaking for the proposal, mentioned that he had signed the original report with reservations. But after discussing it, he stated, he fully supported it, pointing out that it was better than what they had at that time.

Delegate DiBianco, speaking against the proposal and in response to some of the concerns, expressed his feeling that this package was more harmful to the two-party system than the open primary was helpful to it. That was the reason, he added, that he was willing to take his chances on the open primary.

There being no further discussion, the motion to adopt Stand. Com. Rep. No. 93 and to pass on Third Reading Com. P. No. 14, RD. 2, S. 1, was put by the Chair and carried by a vote of 86 ayes, 14 noes and 2 excused; with Delegates Anae, Andrews, Barnard, Barnes, Barr, Blake, Burgess, Campbell, Chang, Calvin Ching, Donald Ching, Laura Ching, Chu, Chun, Chung, Crozier, de Costa, De Soto, Dyer, Eastvold, Fernandes

Salling, Fujimoto, Fukunaga, Fushikoshi, Goodenow, Hagino, Hamilton, Hanaïke, Harris, Hashimoto, Hino, Hironaka, Hoe, Hornick, Dennis Ihara, Les Ihara, Teruo Ihara, Ikeda, Ishikawa, Iwamoto, Kaapu, Kaito, Kimball, Kojima, Kono, Lacy, Ledward, Marion Lee, Rachel Lee, Lewis, Liu, Marumoto, McCall, Miller, Nakamura, Nishimoto, Nozaki, Odanaka, Okamura, Ontai, O'Toole, Peterson, Pulham, Sakima, Sasaki, Shinno, Shon, Silva, Souki, Stegmaier, Sterling, Stone, Sutton, Taira, Takahashi, Takehara, Takemoto, Takitani, Tam, Tamayori, Uyehara, Villaverde, Waihee, Yamashita, Yoshimura and President Paty voting aye; Delegates Alcon, Blean, Haunani Ching, Chong, DiBianco, Ellis, Hale, Hayashida, Hirata, Hokama, Izu, Penebacker, Weatherwax and Wurdeman voting no; and Delegates Cabral and Funakoshi being excused.

Stand. Com. Rep. No. 94, Com. P. No. 18, RD. 2, S. 1--RELATING TO THE USE OF NON-DISCRIMINATORY TERMS IN THE CONSTITUTION:

Delegate Hamilton moved, seconded by Delegate Stone, that Stand. Com. Rep. No. 94 be adopted and Com. P. No. 18, RD. 2, S. 1, pass Third Reading. At this time the President asked if there was any discussion on the subject matter.

Delegate Hamilton, speaking for the motion, noted that the proposal simply took out the discriminatory terms in the Constitution and made a few other changes for clarity, and he recommended its passage.

There being no further discussion, the motion to adopt Stand. Com. Rep. No. 94 and to pass on Third Reading Com. P. No. 18, RD. 2, S. 1, was put by the Chair and carried by a vote of 94 ayes, 5 noes and 3 excused; with Delegates Alcon, Anae, Andrews, Barnard, Barnes, Barr, Blake, Blean, Burgess, Campbell, Chang, Calvin Ching, Donald Ching, Laura Ching, Haunani Ching, Chong, Chu, Chun, Chung, Crozier, de Costa, De Soto, DiBianco, Dyer, Eastvold, Ellis, Fernandes Salling, Fujimoto, Fukunaga, Fushikoshi, Goodenow, Hagino, Hale, Hamilton, Hanaïke, Harris, Hashimoto, Hayashida, Hino, Hirata, Hironaka, Hoe, Hokama, Hornick, Dennis Ihara, Les Ihara, Teruo Ihara, Ikeda, Ishikawa, Iwamoto, Izu, Kaapu, Kaito, Kimball, Kojima, Kono, Lacy, Marion Lee, Rachel Lee, Lewis, Liu, Marumoto, McCall, Miller, Nakamura, Nishimoto, Nozaki, Odanaka, Okamura, Ontai, O'Toole, Peterson, Sakima, Shinno, Shon, Stegmaier, Sterling, Stone, Sutton, Taira, Takahashi, Takehara, Takemoto, Takitani, Tam, Tamayori, Uyehara, Villaverde, Waihee, Weatherwax, Wurdeman, Yamashita, Yoshimura and President Paty voting aye; Delegates Penebacker, Pulham, Sasaki, Silva and Souki voting no; and Delegates Cabral, Funakoshi and Ledward being excused.

At this time Delegate Odanaka rose on a point of information to inquire as to the status of Res. No. 12, relating to the scheduling of convention meetings on Sundays. Delegate Takemoto in response explained that they had been unable to get the signatures required to get it out of committee and on the floor. Nine members, she added, had voted in favor but there were 13 against.

At this time the Clerk announced that Stand. Com. Rep. No. 99 and Res. No. 30 from the Committee on Submission and Information had been distributed for decking purposes. The Clerk further announced that Stand. Com. Rep. No. 100 and Com. P. No. 17, RD. 2, S. 1, had also been distributed for decking purposes.

Delegate Taira then rose and requested, in order to expedite convention proceedings concerning Third Reading of pending proposals, that Rule 34 be suspended, seconded by Delegate Waihee. Clarifying the motion, Delegate Waihee explained that the purpose was to allow consideration of Com. P. Nos. 15, 16 and 17 then in order to dispose of all Third Reading actions at that time.

Delegate Hale, on a point of order, questioned whether the motion was in order, to which the Chair responded that it was in terms of moving the convention business. If it was not the wish of the delegation to accept it, the Chair explained, they could vote it down, but if they supported the suspension it would be in order.

The motion to suspend Rule 34, not being debatable, was put by the Chair and, by a vote of 48 ayes and 34 noes, failed for lack of a two-thirds vote. Delegate Waihee then requested a division of the house. Delegate Peterson questioned the motion, explaining that, as he understood, after a vote had been counted it would have the effect of being a division of the house.

Delegate Taira then pointed out that the vote had been by a show of hands and that he believed a division of the house would mean a standing vote. The Chair in response reminded the delegates that the question had come up before and at that time the Chair had ruled that a vote count in effect was a division of the house.

Delegate Sutton then moved to reconsider the vote, seconded by Delegate Waihee.

At this time Delegate Chong moved for a short recess, seconded by Delegate Waihee. The motion to recess was put by the Chair and carried.

At 4: 15 p. m. , the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 4: 23 p. m.

Delegate Odanaka, on a point of order, questioned whether the maker of the motion to reconsider had voted on the prevailing side, to which the Chair responded in the affirmative.

The question to reconsider the vote was then put by the Chair. At this time Delegate Kaapu requested a roll-call vote but the Chair, on determining less than ten seconds, ruled roll call not in order. The motion to reconsider carried by the necessary two-thirds vote.

Delegate Waihee, restating his motion, moved to suspend Rule 45, which required a 48-hour layover on Third Reading, as well as Rule 34, in order to consider Com. P. Nos. 15, 16 and 17 at that time, seconded by Delegate Silva.

Delegate Hale then rose on a point of personal privilege to state that she felt hurt and aggrieved that the Convention would even consider suspending the 48-hour rule to pass proposals on Third Reading, two of which, she added, had just been put on the table that day.

The motion to suspend the rules was then put by the Chair and carried by a vote of 69 ayes and 25 noes, meeting the two-thirds requirement.

At 4: 28 p. m. , the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 4: 38 p. m.

Stand. Com. Rep. No. 96, Com. P. No. 15, RD. 2, S. 1--RELATING TO THE BILL OF RIGHTS:

Delegate Hamilton moved, seconded by Delegate De Soto, that Stand. Com. Rep. No. 96 be adopted and Com. P. No. 15, RD. 2, S. 1, pass Third Reading. At this time the President asked if there was any discussion on the subject matter.

Delegate Hamilton, speaking for the motion, stated that only three minor style changes had been made, for clarity and consistency and for nondiscriminatory terms, and he recommended passage.

Delegate Hale, on a point of personal privilege, stated that she would vote against the proposal because of the right to privacy provision. She had found the tenor of the Convention very much anti-free speech and free press, she explained, and she also felt the provision could be used to hamper efforts against organized crime.

There being no further discussion, the motion to adopt Stand. Com. Rep. No. 96 and to pass on Third Reading Com. P. No. 15, RD. 2, S. 1, was put by the Chair and carried by a vote of 34 ayes, 9 noes and 9 excused; with Delegates Anae, Andrews, Barnard, Barnes, Blake, Campbell, Chang, Donald Ching, Haunani Ching, Chong, Chu, Chun, Chung, Crozier, de Costa, De Soto, DiBianco, Dyer, Eastvold, Ellis, Fernandes Salling, Fujimoto, Fukunaga, Fushikoshi, Goodenow, Hagino, Hamilton, Hanaike, Harris, Hino, Hirata, Hironaka, Hoe, Hokama, Hornick, Dennis Ihara, Les Ihara, Teruo Ihara, Ikeda, Ishikawa, Iwamoto, Izu, Kaapu, Kaito, Kimball, Kono, Lacy, Ledward, Marion Lee, Rachel Lee, Lewis, Liu, Marumoto, McCall, Miller, Nakamura, Nishimoto, Nozaki, Odanaka, Okamura, O'Toole, Penebacker, Pulham, Sakima, Sasaki, Shinno, Shon, Souki, Stegmaier,

Sterling, Stone, Sutton, Taira, Takahashi, Takehara, Takemoto, Takitani, Tamayori, Uyehara, Villaverde, Waihee, Weatherwax, Yamashita and President Paty voting aye; Delegates Alcon, Barr, Burgess, Hale, Peterson, Silva, Tam, Wurdeman and Yoshimura voting no; and Delegates Blean, Cabral, Calvin Ching, Laura Ching, Funakoshi, Hashimoto, Hayashida, Kojima and Ontai being excused.

Stand. Com. Rep. No. 98, Com. P. No. 16, RD. 2, S. 1--RELATING TO SUFFRAGE AND ELECTIONS:

Delegate Hamilton moved, seconded by Delegate De Soto, that Stand. Com. Rep. No. 98 be adopted and Com. P. No. 16, RD. 2, S. 1, pass Third Reading. At this time the President asked if there was any discussion on the subject matter.

Delegate Hamilton, speaking for the motion, stated that the few style changes made were grammatical or for consistency, and he recommended its passage.

Delegate Kaapu, speaking in favor of the proposal, mentioned that it contained many fine provisions and that it reflected the will of the majority and should therefore be approved. If it were to pass and the body through a majority were to feel some aspect of it should be reconsidered, he pointed out, it was always within the powers of the Convention to make changes. He then urged the support of the delegation.

Delegate Liu then rose to state that he would vote in the affirmative by twice voting kanalua, to show his disappointment that an initiative measure was not passed and his approval of some of the worthwhile provisions in the package.

Delegate Odanaka then moved that action be deferred to the end of the calendar on Tuesday, September 19, 1978, seconded by Delegate Kaapu.

Speaking for the motion, Delegate Odanaka explained that that day they had tabled a resolution that could result in the reconsideration of provisions such as "none of the above." By passing the proposal on Third Reading at this time, she added, they would be deciding these issues without a final hearing.

Delegate Takemoto, on a point of order, questioned if the motion to defer was in order after the body had voted to reconsider and taken up the issue. The Chair responded that the motion was in order.

Delegate Hale, speaking in favor of the motion to defer, pointed out that the issue should be given a fair chance by the body.

There being no further discussion, the motion to defer action on Com. P. No. 16, RD. 2, S. 1, was put by the Chair and failed to carry.

There being no further discussion on the proposal, the motion to adopt Stand. Com. Rep. No. 98 and to pass on Third Reading Com. P. No. 16, RD. 2, S. 1, was put by the Chair and carried by a vote of 80 ayes, 19 noes and 3 excused; with Delegates Alcon, Anae, Andrews, Barnard, Barr, Blake, Blean, Burgess, Campbell, Chang, Donald Ching, Laura Ching, Chong, Chu, Chun, Chung, Crozier, de Costa, De Soto, DiBianco, Dyer, Eastvold, Ellis, Fujimoto, Fushikoshi, Hale, Hamilton, Hanaike, Harris, Hino, Hironaka, Hoe, Hornick, Dennis Ihara, Teruo Ihara, Ikeda, Ishikawa, Iwamoto, Kaapu, Kaito, Kimball, Kono, Lacy, Ledward, Marion Lee, Rachel Lee, Lewis, Liu, Marumoto, McCall, Miller, Nakamura, Nishimoto, Nozaki, Odanaka, Ontai, O'Toole, Penebacker, Pulham, Sakima, Sasaki, Shinno, Shon, Silva, Souki, Stegmaier, Stone, Sutton, Taira, Takehara, Takemoto, Takitani, Tam, Uyehara, Villaverde, Weatherwax, Wurdeman, Yamashita, Yoshimura and President Paty voting aye; Delegates Barnes, Calvin Ching, Haunani Ching, Fernandes Salling, Fukunaga, Goodenow, Hagino, Hashimoto, Hayashida, Hirata, Hokama, Les Ihara, Izu, Okamura, Peterson, Sterling, Takahashi, Tamayori and Waihee voting no; and Delegates Cabral, Funakoshi and Kojima being excused.

Stand. Com. Rep. No. 100, Com. P. No. 17, RD. 2, S. 1--RELATING TO CONSERVATION AND DEVELOPMENT OF RESOURCES:

Delegate Hamilton moved, seconded by Delegate Chang, that Stand. Com. Rep. No. 100 be adopted and Com. P. No. 17, RD. 2, S. 1, pass Third Reading. At this time the President asked if there was any discussion on the subject matter.

Delegate Hamilton, speaking for the motion, stated that the changes recommended concerned clarity and consistency, and he recommended its passage.

Delegate Souki, speaking for the proposal, indicated that he would twice vote kanalua for this proposal, first because he believed that the water resources agency created was a legislative matter, and second because there were potential problems with respect to county water boards that could possibly result in long-term litigation. Also, with regard to the provision on agricultural land use, he added, it was the function of the legislature to enact laws rather than provide standards, as the proposal directed, and for the executive to provide standards.

Delegate Wurdeman, speaking against the proposal, requested that her written testimony be entered in the Journal.

[The following is written testimony as submitted by Delegate Wurdeman.]

"I rise to speak against the inclusion of Com. P. No. 17, RD. 2, S. 1. I feel it is incorrect to put this section in the Constitution. The words, 'No nuclear fission power plant shall be constructed or radioactive material disposed of in the State without the prior approval of a two-thirds vote in each house of the legislature,' if analyzed, imply we are sanctioning the establishment of a nuclear fission power plant provided we impose a certain constraint--that is, approval by the legislature.

"The constraint imposed is not difficult to overcome; powerful lobbyists could well mobilize the necessary two-thirds votes in both houses. After that a nuclear fission power plant becomes a fait accompli. It appears foolhardy to take such a position when we have failed to consider that 10 years from now technological changes may rule out nuclear fission power plants in favor of nuclear fusion. It is already acknowledged at this stage that nuclear fusion is superior to nuclear fission: (1) there is an inexhaustible fuel supply for a fusion reactor; (2) it will produce only minute quantities of radioactive waste and minimal environmental degradation. The likelihood of an uncontrolled explosion is also remote.

"There are speculations nuclear fusion power plants or prototype systems will be in operation by 1985. Nuclear fusion has not been mentioned on this floor. That to me is a significant omission. It causes me to wonder if the scope of our discussions and understanding of the subject matter is extremely narrow.

"For those who would label this section a necessary safeguard against private corporations who might move in and want to establish a nuclear fission power plant, I would like to point out that there are federal restrictions that corporations will have to deal with. An environmental impact statement required by both federal and state authorities and zoning restrictions are sufficient checks. It is for these reasons that I feel I have to vote against part of the proposal."

There being no further discussion, the motion to adopt Stand. Com. Rep. No. 100 and to pass on Third Reading Com. P. No. 17, RD. 2, S. 1, was put by the Chair and carried by a vote of 89 ayes, 8 noes and 5 excused; with Delegates Alcon, Anae, Andrews, Barnard, Barnes, Barr, Blake, Blean, Campbell, Chang, Calvin Ching, Donald Ching, Haunani Ching, Chong, Chu, Chun, Chung, Crozier, de Costa, De Soto, DiBianco, Dyer, Ellis, Fernandes Salling, Fujimoto, Fukunaga, Fushikoshi, Goodenow, Hagino, Hamilton, Hanaike, Harris, Hashimoto, Hayashida, Hino, Hirata, Hironaka, Hoe, Hokama, Hornick, Dennis Ihara, Les Ihara, Teruo Ihara, Ikeda, Ishikawa, Iwamoto, Izu, Kaapu, Kaito, Kimball, Kono, Lacy, Ledward, Marion Lee, Rachel Lee, Liu, Marumoto, McCall, Miller, Nakamura, Nishimoto, Nozaki, Odanaka, Okamura, Ontai, O'Toole, Penebacker, Sakima, Sasaki, Shinno, Shon, Silva, Souki, Stegmaier, Sterling, Stone, Sutton, Taira, Takahashi, Takitani,

Tam, Tamayori, Uyehara, Villaverde, Waihee, Weatherwax, Yamashita, Yoshimura and President Paty voting aye; Delegates Burgess, Laura Ching, Hale, Peterson, Pulham, Takehara, Takemoto and Wurdeman voting no; and Delegates Cabral, Eastvold, Funakoshi, Kojima and Lewis being excused.

The Clerk then announced that Res. No. 32, relating to submission and information, had been printed and distributed. The President thereupon referred Res. No. 32 to the Committee on Submission and Information.

At this time Delegate Marumoto requested to briefly address the resolution, stating:

"The submission and information committee will be doing a lot of work from now until election day, disseminating proposed amendments to the public, explaining them through various forms, and they will be utilizing newsletters mailed into homes, a radio and television campaign, newspaper advertising, a newspaper supplement, an information center and hotline, meetings on the neighbor islands. They'll utilize any type of publicity opportunities, they'll ask the department of education to get into the act, and they will be having a speakers bureau. This is all well and good and I'm all for spreading the word and getting the public to understand what we have passed in this Convention.

"But on the other hand, I think we should be aware that there are 31 candidates running for elective office this fall, and I feel that the submission and information committee must not feature any of the candidates in transmitting their message. I am included in that. If they inadvertently feature the picture or voice of a committee chairman who is a candidate, it would be to the advantage of that candidate and I'm sure his opponents would be deeply disturbed. I talked to the chairman of the submission and information committee, and apparently it was her intent all along not to feature candidates because of this problem. But we see on our desks this morning two pieces of paper on the subject of the speakers bureau, encouraging delegates to become speakers to help spread the word.

"I don't think that the candidates should participate in this program and I'd like to see the Convention mandate it. I think that one candidate would be chagrined to find that he had been sent to a kindergarten class of nonvoters and his opponent to a Lions Club meeting of 50 voters. So on that note I will refer this to the submission committee, knowing that they will in their best judgment require that candidates not participate in this program. Thank you."

ADJOURNMENT

At 5:28 p.m., on motion by Delegate Waihee, seconded by Delegate Crozier and carried, the Convention adjourned until 1:30 p.m. Tuesday, September 19, 1978.

SIXTY-SECOND DAY

Tuesday, September 19, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 1:30 p.m.

The President presided.

The Divine Blessing was invoked by the Honorable Laura M. Ching, delegate from the Sixteenth District to the Constitutional Convention of Hawaii of 1978.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegate Taira who was excused and Delegates Alcon, DiBianco, Hanaike, Harris, Marion Lee, Ontai and Yoshimura who were absent.

The President announced that the Journal of the Sixty-First Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORTS

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 101) informing the Convention that Stand. Com. Rep. Nos. 102 through 106; Res. Nos. 26, RD. 1, 28, RD. 1, and 33 through 35; and Exhibits A and B had been printed and distributed.

On motion by Delegate Crozier, seconded by Delegate Sutton and carried, Stand. Com. Rep. No. 101 was adopted.

Delegate Andrews, for the Committee on Taxation and Finance, presented a report (Stand. Com. Rep. No. 102) recommending the adoption of Res. No. 26, RD. 1, relating to the care and maintenance of state moneys.

On motion by Delegate Andrews, seconded by Delegate Sakima and carried, Stand. Com. Rep. No. 102 and Res. No. 26, RD. 1, were adopted.

Delegate Hamilton, for the Committee on Style, presented a report (Stand. Com. Rep. No. 103) recommending the adoption of Res. No. 29, requesting the revisor of statutes to effect necessary rearrangement, renumbering and technical changes of sections and articles within the Constitution as may be necessary after the November elections.

On motion by Delegate Hamilton, seconded by Delegate Stone and carried, Stand. Com. Rep. No. 103 and Res. No. 29 were adopted.

Delegate Hamilton, for the Committee on Style, presented a report (Stand. Com. Rep. No. 104) recommending its adoption and that of Exhibits A and B, the Constitution of the State of Hawaii with the amendments proposed by the Constitutional Convention of Hawaii of 1978, with substantive, style and technical changes.

At this time the President called for discussion on the subject matter and recognized Delegate Hamilton, who spoke as follows:

"I should like to extend to the members of the committee my heartfelt thanks for all their time and energy spent throughout this session. It was a rather thankless task in some ways, I know, but I do thank you and apologize for being such a slavedriver. But it must be said that at

least I operated an equal opportunity plantation and made you all equally miserable. I should like also to thank the staff, Ed Joesting, Clair Wood and Rick Kahle from LRB. They were accurate, they were fast, they were diligent, they were imaginative, they were my kind of people.

"Finally, we really were engaged--the Committee on Style--with two functions. The first was the fairly traditional one which had been true in previous conventions, and this involved style, phraseology, consistency, capitalization, punctuation and so on. We also, of course, were responsible for and had arranged the various articles in what seemed proper and logical order. The Committee on Style this time had two new functions given to it by the Convention. One was to rid the Constitution of discriminatory pronouns, adjectives and any other terms, and that has been done.

"The second was to restyle the entire Constitution, which had not been done since 1950. That too has been done. Thus the entire document is consistent in terms of punctuation, capitalization and so forth, and I would therefore recommend its adoption."

On motion by Delegate Hamilton, seconded by Delegate Stone and carried, the Convention adopted Stand. Com. Rep. No. 104 and passed on Final Reading the proposed amendments to the Constitution as set forth in Exhibits A and B.

At this time Delegate Laura Ching asked that action on Stand. Com. Rep. No. 105 and Res. No. 28, RD. 1, from the Committee on Public Health and Welfare; Labor and Industry be deferred.

There being no objection, action on Stand. Com. Rep. No. 105 and Res. No. 28, RD. 1, requesting the state legislature to address the problem of rising health care costs and to establish legislation to reduce medical care costs in the State, was deferred until Wednesday, September 20, 1978.

Delegate Weatherwax, for the Committee on Bill of Rights, Suffrage and Elections, presented a report (Stand. Com. Rep. No. 106) recommending the adoption of Res. No. 16, relating to death with dignity.

At this time the President called for discussion. Delegate Goodenow, speaking in support of the motion, related that the previous year the State had passed House Bill No. 258 relating to the definition of death, and that it had seemed an appropriate time for this resolution, from which she quoted, "...all persons of sound mind shall have the right to refuse medical treatment for terminal illness."

Delegate De Soto then rose and requested that the Journal reflect her no vote on the resolution, explaining that it was not within what she felt was right.

Delegate Rachel Lee, speaking in favor, recalled her own experience when her father had died, relating:

"Perhaps he was the first man I knew who was so proud and so strong of convictions. I'd like to relate this story as an indication of my father's character. My father died at the age of 92. He suffered for several years from loss of memory, precipitated by a fall, and he was disoriented at times and 95 percent deaf. He was ready for death. Prior to his death, he suffered a fractured hip in a fall from his bed, which caused further disorientation. Surgery was performed to mend his broken bone, and other life-sustaining measures were taken. In his distress and anger, in order to hasten death, he refused to eat, and as a result tubes were stuck in him and his hands tied to his bed. He even tried to remove the tubes. My father was a very angry and humiliated man, no longer proud and independent, and he was subjected to treatment which was well meant but which he didn't want. I cried because I remembered him as a proud man, his head up and chest out, and here at the end he went bitterly, denied his right.

"I thank Delegate Goodenow for this humanitarian resolution and pray that when my time comes, I may have the choice to leave this earth with dignity and pride. Thank you all."

Delegate Sterling also spoke in favor of the motion, observing that as an ordained minister he could see no conflict with the job he performed.

There being no further discussion, Delegate Weatherwax moved for the adoption of Stand. Com. Rep. No. 106 and Res. No. 16, seconded by Delegate Goodenow. The question was put by the Chair and the motion carried.

INTRODUCTION OF RESOLUTIONS

A resolution (Res. No. 33) requesting the U.S. Congress to exempt Hawaii from the multilingual requirements of Title III of the Voting Rights Act, as amended in 1975, was offered jointly by Delegates Dyer and Iwamoto.

The President thereupon referred Res. No. 33 to the Committee on Bill of Rights, Suffrage and Elections.

A resolution (Res. No. 34) expressing deepest appreciation to the Con Con pages, office of the lieutenant governor, Aloha Council of Boy Scouts of America, Girl Scout Council of the Pacific and Camp Fire - Hawaii Council for their splended service to the Constitutional Convention was offered jointly by Delegates Campbell, Dyer and Ellis.

On motion by Delegate Dyer, seconded by Delegate Barr and carried, Res. No. 34 was adopted.

A resolution (Res. No. 35) directing the legislature to provide for the regulation and control of radioactive waste materials, including their disposal, storage and transportation, was offered by Delegate Laura Ching.

The President thereupon referred Res. No. 35 to the Committee on Environment, Agriculture, Conservation and Land.

At this time Delegate Hale moved to discharge Res. No. 11 from the Committee on Rules, seconded by Delegate Pulham. The President called for discussion, whereupon Delegate Takemoto stated that she had no objections.

Delegate Hale then moved that the matter be deferred until Wednesday, September 20, 1978 to give everyone a chance to read it. She stated that she did not want to ask anyone to vote on it if it was not in front of them.

The President noted that a motion was already on the floor to discharge Res. No. 11 from the committee and the proper procedure would be to affirm the motion to discharge the committee from further responsibility in the consideration of Res. No. 11, which in effect would bring it out of committee, for consideration by the body.

Delegate Waihee then rose and stated that he was not aware of this procedure and thought a 31-member recall procedure should be used. Delegate Hale responded that the committee had not adopted Res. No. 11, for which case that might have been appropriate.

There being no further discussion, the motion to discharge was put by the Chair and carried. The President then placed Res. No. 11 on the calendar for further consideration on Wednesday, September 20, 1978.

At this time Delegate Chung rose and commended Delegate De Soto for her chairing of the Committee on Hawaiian Affairs.

ADJOURNMENT

At 2:09 p.m., on motion by Delegate Silva, seconded by Delegate Waihee and carried, the Convention adjourned until 1:30 p.m. Wednesday, September 20, 1978.

SIXTY-THIRD DAY

Wednesday, September 20, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 1:30 p.m.

The President presided.

The Divine Blessing was invoked by the Reverend Robert Mackey of St. Louis-Chaminade Education Center.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Kaapu and Weatherwax who were excused and Delegates Chun, Eastvold, Ellis and Harris who were absent.

The President announced that the Journal of the Sixty-Second Day had been signed by the Secretary and approved by the President.

At this time Delegate Hale, on a point of inquiry, mentioned that she did not see Res. No. 11 on the agenda, noting that the Convention had voted to discharge the committee from consideration of it.

The President stated that the committee had been discharged from further consideration and he assumed it should be taken up at that time.

Res. No. 11, Delegate Hale explained, had been referred to the rules committee, which reported that they had been unable to get a quorum. The rule amendments, she further stated, had been written by the Legislative Reference Bureau at her request and after discussion with the bureau chief, who felt that better rules should be left for the 1988 convention than they had operated under.

On suggestion by the President, Delegate Hale then moved for the adoption of Res. No. 11, requesting amendment of the convention rules, seconded by Delegate Campbell.

Speaking for the motion, Delegate Hale clarified:

"One rule that we found difficult was this two-thirds rule for cutting off debate in the Committee of the Whole, and that one was changed. But we have done nothing with Rule 43, which I was informed by the parliamentarian the other day is impossible to carry out. That's the rule that 31 delegates can discharge a motion from committee 'provided that the committee has reported on the subject matter of such proposal for passage on Second Reading.' If a committee has reported on a subject matter for passage on Second Reading, it comes out in the form of a committee proposal. So the rule, as it's written, means nothing; it's not possible to do it. It is a rule that should not be there.

"The other portion of these suggested amendments--and they are technically not really a part of Res. No. 11, they are only suggested changes--has to do with how we should put out our committee reports and how we should handle resolutions.

"I would suggest that perhaps we could defer this to the end of the calendar, and the delegates could get their copies and then we could discuss it more intelligently. Or if our majority leader will give

the proper signal, maybe we can vote on it right now. I'd also like to speak last."

Delegate Taira rose to speak against the motion, explaining that the rules committee had never been able to get a quorum to discuss the resolution. He further explained that at that late stage a resolution on the rules would have no effect or impact on the convention proceedings. Leaving rules for a convention 10 years later, he added, might seem like a good idea but from his own experience those rules would be unacceptable to the people meeting in 1988. He then moved that the motion be tabled, seconded by Delegate Takemoto.

The motion to table Res. No. 11 was then put by the Chair and carried.

ORDER OF THE DAY

Stand. Com. Rep. No. 99, Res. No. 30--PROVIDING FOR THE SUBMISSION TO THE PEOPLE OF HAWAII OF THE AMENDMENTS PROPOSED BY THE CONSTITUTIONAL CONVENTION OF HAWAII OF 1978:

Delegate Iwamoto, for the Committee on Submission and Information, presented a report (Stand. Com. Rep. No. 99) recommending the adoption of Stand. Com. Rep. No. 99 and Res. No. 30 and thereupon moved for their adoption, seconded by Delegate Waihee.

The President called for discussion and recognized Delegate Iwamoto, who stated:

"Under the Rules of the Convention, your Committee on Submission and Information is required to submit a report on the following phases of its activities: (1) the method and manner of submitting amendments to the people; (2) the method of informing the people about the proposed changes in the Constitution; (3) a report to the people outlining the results of the Convention's work.

"The Committee on Submission and Information wishes to report its action regarding these categories. For the first phase of the work, the committee recommends that the proposed ballot attached to Res. No. 30 in form and content be submitted to a vote by the electorate at the general election on November 7, 1978. The committee decided to follow the philosophy of the designers of the 1968 ballot, except that it decided to combine Parts A and B of the '68 ballot into one question which would allow the voters to register a yes or no vote on all amendments. Stand. Com. Rep. No. 99 includes a copy of the resolution proposing the submission of amendments to the people, a sample of the official ballot and an informational booklet in plain language to help the voter understand the nature of the changes proposed.

"Your Committee deliberated at length on the form of the ballot and on the specific items listed in Part B. All committee members, including ex officio members, have participated fully in the discussion, and the resultant ballot form and individual titles have undergone many changes. The titles you see on the ballot form were first drafted by the convention attorneys, screened by the respective committee chairmen, then scrutinized by committee members. I would like to extend a special mahalo to Delegate Peterson who worked diligently Sunday evening to reword the information booklet so that it would be more understandable to the average citizen. We believe that this is a most desirable visual format that will aid voters in understanding the individual ballot items. The voting instructions on the information booklet have been greatly simplified. However, should a voter mark both parts of the ballot, your Committee has requested the lieutenant governor's office to recognize the precedence of Part B over Part A, using the rule of construction that the specific takes precedence over the general.

"On the method of informing the people about the proposed constitutional changes, your Committee feels that its obligations are to

utilize the most effective means of encouraging the public to learn about the amendments, to provide information fully and clearly and to inspire a widespread commitment to vote on the issues. The theme of the public information program will be 'Do Something Really Important.' The program will emphasize the effect of the amendments on the future of the individual citizen and the importance of making thoughtful and reasoned choices. Your Committee received proposals from a number of advertising and public relations firms and, on the basis of presentations and cost figures, selected the team of Steven Hirano, James Growney and Jack Kellner to prepare and implement the public information program.

"The voter information program will feature a newsletter containing general information on the Convention and its accomplishments and the need for full public participation in accepting or rejecting the amendments; a radio and television campaign augmented by newspaper advertising; a speakers bureau; an information center and hotline, and an 8-page newspaper supplement. For the final phase, that of reporting to the people the results of the Convention's work, your Committee feels that the program for public education will offer the electorate a comprehensive and coordinated program of information.

"Mr. President, it is with pleasure--and I'm sure some relief--that we of the Committee on Submission and Information submit to the Convention Res. No. 30, relating to the submission of amendments to the Constitution. My personal thanks go to the hardworking members of the committee, vice-chairpersons Barnard and Chung, and to the convention attorneys and my staff who have put in many long hours. We of the submission and information committee will continue to work on behalf of the Convention until the general election. We solicit the cooperation of all members of the Convention in this important work. We also anticipate and ask for the continued fine coverage and cooperation given by the media. Thank you."

The President noted that there were amendments to the ballot and to the informational booklet, and proposed that consideration first be given to those amendments relating to the ballot.

Delegate Iwamoto rose and moved for the adoption of Amendment No. 1, seconded by Delegate Silva, which amended the official ballot attached to Res. No. 30 by renumbering amendments numbered 30, 31 and 32, to read:

30. Code of Ethics
31. Preamble; State Boundaries and Motto
32. Limits on Adverse Possession

Speaking for her amendment, Delegate Iwamoto explained that the renumbering had been recommended by the attorneys in order to place the item "Limits on Adverse Possession" closer to the article referred to in the Constitution.

There being no further discussion, the question to amend Res. No. 30 by Amendment No. 1 was put by the Chair and the motion carried.

Delegate Hale moved for the adoption of Amendment No. 2, seconded by Delegate Iwamoto, which amended questions 1, 6 and 7 on the official ballot to read:

1. Twelve Member Jury; Civil Case Amount
6. Elections; Partial Public Financing[;]
7. Campaigns; Spending & Contribution Limits
- [7]8. Legislative Terms; Functions & Procedures; Salary Commission

Questions 8 through 34 on the official ballot are renumbered 9 through 35.

Speaking for the amendment, Delegate Hale explained that question No. 1 referred to more than just the 12-member jury as it also included the provision changing the amount in civil cases from \$100 to \$1,000. This, she pointed out, was a true constitutional amendment because it changed a provision already in the Constitution. She then explained:

"On question No. 6--on the sample ballot we were given with the committee report, it looked very simple just to put a line between the first and second lines and put another 'no' there so it would give people an opportunity to vote yes or no on public financing as separate from spending and contribution limits. It seemed to me we didn't want to combine the opposition because in the committee people who were for public financing were not necessarily for spending and contribution limits. It could be by combining the two we could lose this very important part of our suggested amendments. There again on the ballot it may not be as easy, although there certainly is plenty of room for another 'no.' We might have to redo our wording.

"On No. 8--No. 7 actually, on the original ballot--we have 'Legislative Terms; Functions & Procedures.' But really the most important change that we made is in the salary commission. I don't think we are telling the people what they're voting on if we don't include the salary commission in that item. It does seem important that those three items be made clear and we let the people know what they're really voting on."

Delegate Iwamoto then rose and indicated that she was in full accord with the changes suggested and had conferred with Delegate Hale. But, she pointed out, since then she had seen the proposed ballot format and could see no way to fit in the additions and separations indicated.

Delegate Chu, on a point of inquiry, asked whether they would be voting individually on the three questions or all at one time. The questions, the Chair responded, would probably be addressed individually as some might be preferred more strongly than others. But the question of space, he added, might be overriding on the issue.

Delegate Chu then moved to divide the amendment into three separate parts and to consider each separately, seconded by Delegate Dyer.

Delegate Sakima inquired whether the decisions would be subject to availability of space, to which the Chair responded affirmatively, adding that if space was not available nothing could be done about it.

There being no further discussion, the motion to divide the question of Amendment No. 2 was put by the Chair and carried. Delegate Hale then moved to adopt the first part, question No. 1, seconded by Delegate Chu. The Chair called for discussion on question No. 1.

Delegate Waihee then moved to amend the amendment as divided, that the amendment instead be recommended to the committee chairman to be implemented on a space-available basis, seconded by Delegate Silva.

Delegate Chu rose to speak against the motion. Delegate Waihee thereupon stated that he was amending question No. 1, explaining, "I would refer it rather than take solid action today--the amendment would amend the original motion to make it a suggestion the committee chairman will implement if there is space available."

Delegate Hale, speaking on the amendment to question No. 1, indicated that she had no objection to recommending it to the committee provided space was available. Space could probably be made available, she added, if they were not tied down to the way it was written and could, for example, substitute the figure "12" for the word.

Delegate Sutton, on a point of information, asked what was wrong with having

another part or another ballot if that was the only way to put what they wanted on it.

Delegate Waihee then rose on a point of order to state that the sense of his amendment was to allow for the kind of flexibility the original movant had in mind.

Delegate Chong, on a point of inquiry, asked if there were limitations on whether they could use one side of the ballot, two sides, or even limitations on the number of ballots. The Chair responded that presumably more than one ballot could be used but that this could create problems relative to how it would be printed. The space they were speaking of, he added, related to what they had available on the one ballot, since two ballots would create substantially more problems to the voting public.

Delegate Chu then rose to speak against the motion to consider the space problem, pointing out that more space could be obtained by reducing the print. She further stated:

"Most of all, I would object to having this kind of consideration enter into our deliberations in making this ballot as fair as possible, allowing the people to have their voice on each individual question. I would not want the space limitation to be an argument for why we should not change what has been proposed so far by the committee."

Delegate Alcon, on a point of inquiry, indicated that there was a great deal of space at the top of the ballot and that if they could move some of the instructional material up, it would allow an additional nine spaces.

The committee was cognizant of making maximum use of the space, Delegate Iwamoto stated, pointing out that they had considered eliminating the two spaces used for the word "or" in the voting instructions. But, she added, it had been decided by the committee that it was a very important word and would be subject to the Convention's change if they so desired.

On a point of information, Delegate Hale asked if there was anybody from the lieutenant governor's office who could be referred to if they had questions. In response, Delegate Iwamoto informed the delegates that there were two representatives from the lieutenant governor's office.

Delegate Hale, on a point of information, indicated that the words "Please read instructions and information..." could be moved up under the stub to give two more lines.

Delegate Iwamoto at this time requested a recess.

Delegate Chu then requested that they defer the space question until they dealt with the substance of the ballot.

The Chair pointed out that there was already a motion on the floor. The motion to adopt question No. 1 of Amendment No. 2, subject to space availability, was then put by the Chair and carried.

At 2:22 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 2:34 p.m.

Delegate Chu rose to make a further suggestion on question No. 1, to amend the language to "Right to Twelve Member Jury." The provision, she explained, essentially defined the right to a jury trial--the right to a 12-member jury and the right to a jury when the amount in controversy was over \$1,000.00.

At this time Delegate Miller moved for the adoption of the second part, question Nos. 6 and 7 of Amendment No. 2, seconded by Delegate Hale.

Delegate Dyer, speaking against the motion, stated that "Spending Limits" should be part of No. 6 rather than No. 7 as a spending limit was only possible with partial public financing.

Delegate Marumoto then moved to amend the amendment to have No. 6 read:

"Elections; Partial Public Financing and Spending Limits," seconded by Delegate Dyer.

Speaking for her amendment, Delegate Marumoto explained that in Buckley v. Valeo the U.S. supreme court had ruled that spending limits were constitutional only with public financing and so the two items should be placed together. She then requested that she withdraw her motion and restate it, explaining that the second part of Amendment No. 2 concerned both questions 6 and 7. There being no objection, Delegate Marumoto then moved, seconded by Delegate Haunani Ching, to amend the amendment to read:

6. Elections; Partial Public Financing and Spending Limits
7. Campaigns; Contribution Limits

Speaking for this amendment, Delegate Marumoto repeated her previous argument citing the supreme court case and added that with the word "limits" in both No. 6 and 7, the public would be more apt to vote for the two provisions.

Speaking against the amendment, Delegate Waihee stated that they were getting into fine distinctions and it would be better just to vote against the original proposal and go back to the language proposed by the committee. The spending and contribution limits and the financing of campaigns, he added, came out of the BORSE committee as one package and putting them all on one line of the ballot better reflected the intent of the committee.

Delegate Chu, also speaking against the amendment, agreed that Nos. 6 and 7 were all one package and totally dependent on one another. There was, she added, a single dominant plan and a unity of object and plan, and they should all be on the same line of the ballot.

Delegate Chong then rose to speak for the amendment, stating that as a member of the BORSE committee she felt that the amended way reflected the committee's intent. You could not have spending limits without partial public financing, she pointed out, and contribution limits was a completely separate item. If they voted down spending limits, she added, they must vote down partial public financing.

Delegate McCall, speaking in favor of the amendment, explained that Delegate Marumoto's amendment would improve the original language of Amendment No. 2 on Nos. 6 and 7, although he would prefer the original language.

As a member of the BORSE committee, Delegate Takehara pointed out that what they had done in No. 6 was to combine two totally different concepts. If you were for contribution limits and against partial public financing, she explained, you would be torn as to how to vote on this.

Delegate Silva, on a point of information, questioned the statement that one issue worked with the other, that if you didn't have one the other couldn't work. Wouldn't it then be practical, he asked, to put it together as a total package?

Delegate Chong, in response, explained that in order to have spending limits you must have partial public financing, citing Buckley v. Valeo. They had had spending limits in Hawaii, she pointed out, but it was found unconstitutional by the supreme court.

Delegate Taira, speaking against the amendment, said he felt they should use the original language of the submission and information committee. Public financing, he pointed out, was very crucial to the issue of whether the spending for campaigns could be limited. The public, he further stated, was anxious to see that all the spending and big contributions came to a reasonable limit, which was what this package would do, with the authorization of public financing tied in with limits on campaign expenditures, also tied in with limits on campaign contributions.

On a point of inquiry, Delegate Villaverde questioned the format of the original amendment, pointing out that if the public voted against No. 6, partial public financing, and for No. 7, spending and contribution limits, they would lose both. In response, Delegate Iwamoto conceded that the partial public financing and spending limits should be classified together as there could be no spending limits without partial public financing.

Delegate Villaverde then spoke for the amendment to the amendment, stating that it did solve that problem and carried out the intent of the BORSE committee.

Delegate Campbell, speaking in favor of the amendment to the amendment, emphasized the importance of presenting the work of the committee with integrity to the electorate. It was not correct, she explained, to put spending and contribution limits together on the ballot because they had been discussed separately and intended to be separate. This was also explicitly shown, she added, in the information booklet.

Delegate Miller also voiced her support of the amendment to the amendment.

Delegate Hale then rose to speak in support of the amendment to the amendment, acknowledging that the spending limits should go with partial public financing, that being the justification for public financing. Her concern, she stated, was that the people had the chance to say what they were for, that if they were for partial public financing and spending limits but against contribution limits, that they be allowed to say this.

There being no further discussion, the question on the amendment to the amendment was put by the Chair and the motion failed to carry by a vote of 36 ayes and 36 noes with the Chair casting the deciding no vote.

At 2:55 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 3:05 p.m.

At this time Delegate Hale requested that the second part of Amendment No. 2, question Nos. 6 and 7, be withdrawn, with the concurrence of Delegate Iwamoto. There being no objection, Nos. 6 and 7 of Amendment No. 2 were withdrawn.

Delegate Hale then moved, seconded by Delegate Iwamoto, for the adoption of the third part of Amendment No. 2, which added the words "Salary Commission" to question No. 8.

Delegate Nishimoto rose to speak in favor of the motion, stating that the salary commission was an important part of the proposal package. But he did take exception, he added, to the movant's statement that the salary commission was the most important change made by the committee.

Delegate Burgess, speaking for the amendment, suggested that if approved it be subject to space limitations.

There being no further discussion, the question on the third part of Amendment No. 2 was put by the Chair and the motion carried.

Delegate Waihee at this time asked if the subject of space limitation would be left to the discretion of the committee chairman, to which the Chair replied that this was his understanding.

Delegate Chu moved for the adoption of Amendment No. 3, seconded by Delegate Wurdeman, which amended question No. 10 on the ballot to read:

10. [Courts;] Intermediate Appellate Court;
District Courts

11. Judicial Selection; Discipline

Questions 11 through 34 on the official ballot are renumbered 12 through 35, and the informational booklet appropriately amended.

Speaking for her amendment, Delegate Chu explained that the questions on a ballot should allow the voters an opportunity to fairly express their will. Two or more distinct propositions, she advised, should not be submitted as a single question unless there was a unity of object and plan. There must, she added, be a natural relationship between the objects to be voted upon, and it must all be part of a single general scheme.

Delegate Chu then explained that question No. 10 on the ballot should be divided into two separate questions as the matter of the courts, appellate and district, was separate and distinct from the matter of judicial selection and discipline. The word "courts"

by itself, she further pointed out, might not be sufficiently clear to voters and could very well be ambiguous. Judicial selection and discipline, she added, dealt with the judges of the courts and the manner of their selection, which was quite different from the structure of the court. She continued:

"The rule is not merely if an amendment is capable of separation, because I would admit that many of these items would be. But, do they refer to a single dominant plan or scheme? Do they have a natural relationship to one another? Can they stand on their own? Do they rise or fall together or can they be separate? I think the courts have said that it is a common sense test and you must apply reason to fact, again looking at whether people would be given an opportunity to fairly express their will.

"There is one case that comes to mind, in which the state of Arizona submitted one question to the voters that would have (1) made a tax commission a constitutional body, (2) changed the method of taxing public utilities and (3) changed the procedure by which copper mines would be taxed. All of those amendments fell under the heading 'Taxation.' The court in that case (Kirby v. Luhrs) had no hesitancy in striking down that particular item on the ballot, and they called it logrolling of the worst type and violative of the spirit and letter of the Constitution.

"There are three items on the ballot that relate to Article I, and five that relate to tax and finance. I feel that the judiciary article is a very important one, and this is one of the main branches of our government. There is no question that the structure of the courts should be separated from judicial merit selection."

Delegate O'Toole rose to speak in favor of the amendment, agreeing that merit selection and the appellate court were totally different concepts and should be separate issues on the ballot. By putting the two concepts together, he pointed out, the impression could be given--since merit selection was a popular issue which the public wanted, while the bar association could launch a campaign against the appellate court--that the appellate court would have a better chance if it was coupled with a more popular issue such as merit selection. He further pointed out that combining the two would cause voting problems for those who supported merit selection but were against an appellate court.

Delegate Ikeda, speaking against the amendment, pointed out:

"The judiciary proposal was always thought of as being unified and integrated, although at first blush it may seem that there are separate concepts. But the intermediate appellate court is mentioned specifically in the section dealing with judicial selection, in that the procedure for the screening of candidates for judicial positions includes judges for this newly proposed intermediate appellate court. In addition, we have constitutionalized the district courts as well as an intermediate appellate court. This was previously merely stated in statute. We had also never stated any procedure in the Constitution for the selection of district court judges. But we have now done so, in the section dealing with judicial selection.

"Secondly, when we talk about unity of object and plan, I think the foremost consideration is the actual intent of the Convention. And if you use that test, if there was ever the possibility of challenge I think it would have to go back to the committee proposal and committee report. And I think, prevalent throughout, there is a theme that the approach was that of judicial reform, and it rested on a three-cornered foundation, one of which was the structure of the judiciary, which includes the intermediate appellate and district courts; and secondly, the heart of the system, the selection process, in which we came up with a judicial selection commission; and thirdly, providing in essence a nervous system, or keeping the system pure by providing for judicial discipline. In that respect, I think the approach has been unified and I would suggest that we keep it together."

Delegate Liu, speaking in favor of the amendment, disputed the previous speaker on the integration of the courts as part of a unified judiciary package. It would, he stated, only require minor technical changes by the revisor of statutes should the voters, given a fair chance to vote on each concept separately, approve one or both or neither. Although the approach in committee may have been unified, he pointed out, the final results were two separate and distinct concepts, and the public should be given a choice to decide on them separately. Combining them, he added, would leave many people who favored one but were opposed to the other in a quandary as to how to vote.

Delegate Burgess also spoke in favor of the amendment, reiterating that the appellate court and the merit selection system were two separate concepts in the judiciary package and the voters were entitled to decide separately on each. The entire judiciary article, he pointed out, had only one line on the ballot, as compared with taxation and finance, which got six lines--even though the judiciary was one of the three major branches of government. Advocates of the appellate court, he further stated, would want an appellate court whether or not the selection commission was approved. Since these were separate and distinct and each stood on its own merit, he concluded, they should be submitted separately to the voters, as were other proposals such as the Hawaiian affairs package.

Delegate Iwamoto, speaking against the amendment, reported that the question had been considered twice in committee, the first time losing by a small vote and the second time failing by an overwhelming vote of the committee.

Speaking against the amendment, Delegate Waihee reiterated that the package was an integrated one, with each part relating to the other. For example, he stated, merit selection had a direct relationship with the judicial discipline section.

Delegate Campbell rose to speak in favor of the amendment, pointing out that there were six distinct changes being proposed for the court system, yet the courts had only one item on the ballot. The appellate court, she further pointed out, should be set out separately because it was going to involve an expenditure of money and the electorate should have a say, separate from anything else, as to whether they wanted to spend the funds required to set up the new court. To deny them this, she added, was lack of integrity insofar as the presentation on the ballot.

Delegate Marumoto then spoke in favor of the amendment, explaining that she believed the appellate court would "ride home on the coattails" of the merit selection commission.

Delegate Chu, speaking last for the amendment, acknowledged that there was a relationship between the two items, which was why they were in the same article. There could be relationships, she pointed out, between any of the various items on the ballot. But, she emphasized, one concept dealt strictly with structure and the other with selection of judges, and they were totally separate.

There being no further discussion, the question to amend the ballot by Amendment No. 3 was put by the Chair. At this time Delegate Chu requested a roll-call vote and the Chair, on determining that there were ten seconds, so ordered.

Roll call being in order, the motion failed to carry by a vote of 28 ayes, 57 noes and 17 excused; with Delegates Alcon, Barnes, Barr, Blake, Blean, Burgess, Campbell, Chu, Crozier, Dyer, Fernandes Salling, Hale, Hoe, Hornick, Kimball, Kono, Rachel Lee, Liu, Marumoto, Miller, Odanaka, Ontai, O'Toole, Peterson, Sterling, Takitani, Wurdeman and Yamashita voting aye; Delegates Barnard, Chang, Calvin Ching, Donald Ching, Laura Ching, Haunani Ching, Chong, Chung, de Costa, Fujimoto, Fukunaga, Fushikoshi, Goodenow, Hagino, Hamilton, Hashimoto, Hayashida, Hino, Hirata, Hokama, Dennis Ihara, Les Ihara, Teruo Ihara, Ikeda, Ishikawa, Iwamoto, Izu, Kaito, Kojima, Ledward, Marion Lee, Lewis, McCall, Nakamura, Nishimoto, Nozaki, Okamura, Penebacker, Sakima, Sasaki, Shinno, Shon, Silva, Souki, Stegmaier, Stone, Sutton, Taira, Takahashi, Takehara, Takemoto, Tam, Tamayori, Villaverde, Waihee, Yoshimura and President Paty voting no; and Delegates Anae, Andrews, Cabral, Chun, De Soto, DiBianco, Eastvold, Ellis, Funakoshi, Hanaike, Harris, Hironaka, Kaapu, Lacy, Pulham, Uyehara and Weatherwax being excused.

Delegate Teruo Ihara, on a point of inquiry, questioned whether in No. 29 on the

ballot the word "Hawaiian" could be added. He had raised the question at the committee meeting, he explained, and had been advised that there was no room, but it seemed to be possible now on the proposed ballot format. Delegate Iwamoto responded that she had no objection if the chairman of the Hawaiian affairs committee concurred. If there were no objections, the Chair then advised, they would check with the committee chairman and address the matter subsequently.

Delegate Iwamoto then moved for the adoption of Amendment No. 4, seconded by Delegate Barnard, which amended the informational booklet to read in part:

Item No. 6:

- requires primary elections to precede general election by 45 or more days.

Item No. 16:

- includes a transitional section which provides
 - (1) for effective date on July 1, [1980] 1981,
 - (2) for uniform policies and methods of assessing real property by agreement of a majority of the counties or, in the absence of such agreement, by general law....

Item No. 19:

- beginning with the 1980 general elections, [provides] members of the board of education [to] will be elected in a nonpartisan manner from two at-large school board districts, one district for Oahu and the second district for the neighbor islands. Each school board district will consist of several departmental school districts. [Beginning with the 1980 general election each departmental school district will be served by at least one board member.]

Item No. 20:

- provides for the promotion of Hawaiian history, culture, and language[.] and a Hawaiian education program.

Speaking for her amendment, Delegate Iwamoto explained that in addition to the definitions indicated, there were technical changes such as reordering the items to conform to the numbering, for punctuation and grammatical purposes, etc. She further clarified:

"Specifically, item No. 6 would add a definition requiring primary elections to precede the general by 45 or more days. Item No. 16 would substitute the year 1981 for 1980, and this was checked with the chairman of the taxation and finance committee. In item No. 19, this change is being proposed with the concurrence of the education committee chairman. And also with the chairman of the education committee, item No. 20 is being proposed. Thank you."

There being no further discussion, the question to amend the informational booklet by Amendment No. 4 was put by the Chair and the motion carried.

Delegate Iwamoto then moved for the adoption of Amendment No. 5, seconded by Delegate Barnard, which amended the informational booklet as follows:

Items 8, 11, 12, 17, 27 and 28 are amended by deleting:

- [provides for related changes.]

Item 8 is further amended to read:

- increases the time between the [reapportionments] changing of boundaries for voting areas from 8 to 10 years beginning in 1981.

Item 26 is amended to read:

- ...house[.] of the legislature.

Item 33 is amended to read:

- would [not let] keep persons convicted (not just accused) of subversive activities [to hold] from holding public office.

Speaking for her amendment, Delegate Iwamoto explained:

"These again are technical changes. In the first one, deleting the words 'provides for related changes' in several items--it was pointed out that we have a phrase in item No. 34 that covers this description for all these related items. All the changes indicated are recommended because we feel that the language conforms more to the plain language requirement."

There being no further discussion, the question to amend the informational booklet by Amendment No. 5 was put by the Chair and the motion carried.

Delegate Hoe moved for the adoption of Amendment No. 6, seconded by Delegate Iwamoto, which amended the fourth point under item No. 23 in the informational booklet to read:

- gives each person the right to a clean and healthful environment [which will be] as defined by law.

Speaking for her amendment, Delegate Hoe explained that it would clarify language in one of the environment provisions to more correctly reflect the proposed amendment.

Delegate Chang then moved to amend the amendment, seconded by Delegate Waihee, by changing the second point under item No. 23 to read:

- requires the State to promote the development and use of these resources [if it is] in a manner consistent with conserving these resources and promoting the self-sufficiency of the State.

Speaking for the amendment to the amendment, Delegate Chang explained that it would conform the language with the intent of the original committee proposal. To that end, he added, he had used the language in the committee proposal.

There being no further discussion, the motion to amend the amendment was put by the Chair and carried.

There being no further discussion on Amendment No. 6, the motion was put by the Chair and carried.

At this time Delegate Peterson moved, seconded by Delegate Waihee, that consideration of the remaining amendments be deferred until the next day. It was his understanding, he explained, that it had been important to adopt the subject matter pertaining to the ballot that day but that that pertaining to the informational booklet need not be in final form until the following day.

Delegate Wurdeman, on a point of inquiry, asked whether it was the intent to defer all the remaining amendments, explaining that she had one among them. Delegate Peterson, in response, amended his motion to defer only those amendments he had submitted.

There being no further discussion, the motion to defer Amendment Nos. 7 and 8 until the next day was put by the Chair and carried.

At this time Delegate Wurdeman requested confirmation from the committee chairman that the voter education program would not present the pros and cons on the issues. Delegate Iwamoto responded in the affirmative, explaining that what they would be doing was informing the voters of what had been done.

Delegate Wurdeman then asked if the voter education package was based on the 1968 presentation to the voters. Basically it was, Delegate Iwamoto answered, explaining that they had discussed the matter with the educational consultant from the 1968 convention, who recommended that they tell the voters what the amendments were and what they meant. It was their intention, she added, to carry out the same format.

Delegate Wurdeman then directed a question to Delegate Alcon, who had been a 1968 delegate, inquiring as to the procedure at that time. Delegate Alcon, in response, explained that the 1968 speakers had been sent to different organizations to explain the amendments and proposals that had been passed. And of course, he added, there would be questions and the organization's members would probe for the pros and cons of the convention's actions, so the speakers did have to explain the rationale behind the actions that had been taken.

Delegate Wurdeman then moved for the adoption of Amendment No. 9, seconded by Delegate Hale, which amended by substitution Res. No. 30, the substituted resolution to read in part:

...WHEREAS, Section 2 of Article XV of the Constitution of the State of Hawaii requires the Convention to provide for the time and manner in which the proposed amendments to the Constitution shall be submitted to a vote of the electorate; and

WHEREAS, this Convention recommends that the submission of the proposed amendments shall be by ballot and shall be conducted and the results thereof determined in conformity with Section 2, Article XV of the Constitution, and that persons possessing the qualifications to vote for representatives to the State Legislature shall be entitled to vote on the ratification or rejection of said amendments; now, therefore,

BE IT RESOLVED by the Constitutional Convention of the State of Hawaii of 1978 that the proposed amendments to the Constitution be submitted to the people of the State of Hawaii in the form of the ballot attached hereto for ratification or rejection at the general election to be held on the 7th day of November, 1978; and

BE IT FURTHER RESOLVED that in preparation for the general election, this Convention shall prepare a comprehensive voter education program which shall include the presentation of the pros and cons of all the proposed amendments; and

BE IT FURTHER RESOLVED that the ballot for such submission shall be printed and distributed by the lieutenant governor of the State of Hawaii substantially in the form hereto attached....

Speaking for her amendment, Delegate Wurdeman explained that in general her resolution changed little; only in the second "be it resolved" paragraph, it provided that the pros and cons of all issues would be presented in the voter education program. And, she noted, that would be attached to the ballot once it was presented to the voters, but prior to that the voter education program would give the pros and cons. This would, she added, at least give an appearance of fairness from this Convention.

Delegate Iwamoto rose to speak against the amendment. The federal communications system, she stated, was treating the Convention as a nonpolitical entity because there were no candidates involved and because they were only recommending changes to the Constitution. Under this premise, she continued, the Con Con could only inform the public on what the changes were. They could not take sides and therefore could not present the pros and

cons, she explained, as they would then qualify as political and the stations would be obligated to allow equal time for all time they bought. And, she added, they would have to cut the education program in the broadcast media in half.

Delegate Campbell, speaking in favor of the amendment, stated:

"I cannot conceive that presenting both sides of any issue fairly and objectively and allowing the voter to make his or her decision based upon the two objectively stated positions could be regarded as political. As a matter of fact, it seems to me that the only fair and reasonable way a voter can make an objective determination on many of these complex questions--many of which he has never before fully studied or perhaps even encountered--is for him to look carefully at both sides of the question and then make a decision. Therefore, I believe the amendment does have merit and I urge my fellow delegates to support it. Mahalo."

Speaking for the amendment, Delegate Goodenow cautioned the delegates to make sure the voters were fully informed and educated on all the amendments. Voters would be faced with 116 proposals, she pointed out, and unless they had been fully informed and were familiar with all the issues, they might vote a blanket no or avoid any decisions and vote for only the popular and familiar issues. It was not political to present the pros and cons, she further stated, it was an informative and educational service that the public would need to be well informed.

Delegate Miller, speaking in favor of the amendment, stated that her primary objection was that the informational booklet inadequately explained the no vote. The voter, she pointed out, must know not only what he was voting on but what happened when he voted against it. The informational booklet, she explained, should indicate whether the Constitution already provided for each item, showing that it was either entirely new or replaced an existing provision. If it was a revision, she added, the language of the existing provision as well as the amended language should be included, and a statement explaining that with a no vote the existing section would remain in effect. Considering all the work they had done, she concluded, they must insure that voters received the greatest opportunity to know what they were voting on and the consequences of their vote. Let it be on the side of giving the public too much information, she added, rather than too little.

At this time Delegate Hale rose to inquire about the status of Res. No. 32 concerning delegates who were candidates for office participating in submission and information activities. The Chair responded that the resolution had been referred to the committee.

Delegate Hale then requested that her inquiry be directed to the committee chairman, explaining that since the chairman had indicated opposition to the amended resolution because it was political, she wanted to know if this would also apply to Res. No. 32. Delegate Iwamoto reported that the submission committee had voted to file Res. No. 32, which requested that candidates for office not be allowed to speak on behalf of the Convention at public hearings the Convention scheduled.

Delegate Sterling, speaking against the amendment, referred to the possibility of violating the federal equal time regulation. But, he added, they should all be committed to the package, which they could be proud of. Although there were things in it not to his liking, he observed, it was still the best package possible, the result of good honest debate. They must now, he noted, start contacting people and explaining the proposals so that all would be approved. They should not, he added, be knocking their product but be proud of it.

Delegate Hale then spoke for the amendment. Referring to her previous inquiry, she explained that if by presenting the pros and cons they would be considered political, then any delegate who was a candidate for office and spoke for the Con Con package could be said to be in violation of the federal regulation and the Convention might have to assure other candidates equal time.

It was the people, Delegate Hale continued, who had the final say and they as delegates were obligated to give the people a choice. They would be doing the people a disservice, she pointed out, by not letting them know the arguments, pro and con, on issues that it had taken them 2-1/2 months of great debate and study to decide. As was often said,

she added, if you didn't understand an issue, don't vote it in--and that could very well be the reaction of a poorly informed or uninformed public.

It also seemed unfair, she continued, that the people would not even be getting a voter pamphlet that would give them some concept of what had been involved in making these decisions. The people, she added, should be given some education as to some of the valid arguments against the proposals.

Delegate McCall, speaking against the amendment, pointed out that there was no way they could give the public all the testimony and all the arguments that they had heard over 2-1/2 months. They could only, he added, give some of that information, some of the pros and cons, and a speaker could not help a certain amount of personal bias. It could be a very dangerous thing, he concluded, for them to try and steer the public.

Delegate Souki, speaking against the amendment, related an experience he had had in a similar situation while serving on the Maui county charter commission. They had been informed, he explained, that under the state code of ethics the pros and cons could not be included in their educational literature. They should, he added, bear this in mind while deliberating this question.

Delegate Chong then spoke in favor of the amendment, expressing concern about the negative attitude toward the Convention and suggesting that they educate the public on the pros and cons to eliminate the possibility of a blanket no vote. But methods of public education, she pointed out, could be left to the lieutenant governor's office, which perhaps could put out a series in the newspapers, rather than the expensive television media, using language right out of the committee reports on these issues. Because there were issues that the public was concerned about that were not included in the Convention's package, she then stated, there should be a better education process for the public, so that instead of voting a blanket no they would be able to decide for themselves reasonably and intelligently which amendments to vote for.

Delegate Haunani Ching rose to speak against the amendment. They had been elected, she pointed out, to do what they felt was best for the people, and if they voted for a proposal that was the proposal that would be presented to the public. All the arguments, pro and con, had been thoroughly covered in the media, she further stated, and the public had been hearing both sides of the issues for 2-1/2 months. And a voter education pamphlet, she added, would have to be the 1978 Journal of the Constitutional Convention because there was no way the pros and cons of an issue could be presented without including all of them. And that, she concluded, was ridiculous and the amendment should be voted down.

Delegate Shon, on a point of information, indicated that the amendment implied there would be a document of pros and cons, as opposed to those forms the committee report specified. He then requested that the movant confirm or explain this implication. Delegate Wurdeman responded that there was no statement of a document and that the amendment was just based on the general idea in Stand. Com. Rep. No. 99. She was interested, she explained, in just one aspect of the voter education program, the pros and cons of the issues.

Delegate Shon then spoke for the amendment, assuming that it did not ask to change the presentation but simply, to the extent possible, that pros and cons be integrated. He saw no harm in the amendment, he added, since it seemed difficult not to have pros and cons integrated in the normal sense of the discussion, as to the impacts of the different issues.

Delegate Marumoto, speaking in favor of the amendment, pointed out that if it didn't pass there would be an 8-page newspaper supplement that would perhaps have sufficient room to present both sides of the issues. It could be done concisely, she added, and thus take little space.

Speaking in favor of the amendment, Delegate Campbell referred to an information leaflet put out for the voters by the secretary of state of California, which addressed itself mainly to the propositions placed before the voters. It effectively and succinctly educated the public, she explained, by presenting the pros and cons of each issue, in the form of education, so that the public could make educated decisions on voting.

Delegate Peterson then rose to offer further clarification on this voter education

booklet. Each proponent, he explained, was given a paragraph to state his reasons for supporting an issue and then those not in favor of it were given a paragraph for their reasons, as were those against. The proponents, he continued, were then given the chance to answer these arguments, and in addition the lieutenant governor's office prepared an objective summary of what the amendment would do. They seemed to be preparing the objective summary, he concluded, but they were leaving out the arguments for and against the proposals, and these the public would find beneficial.

Delegate De Soto, on a point of inquiry, asked who would determine the conflicting views on, for example, the Hawaiian homes issue, or on any of the more complex issues. Delegate Wurdeman, in response, referred to the materials they had been given at the beginning of the Convention by the Legislative Reference Bureau, explaining that these presented the pros and cons of particular issues.

Delegate Chung, speaking against the amendment, mentioned that it was a good package which the committee had worked hard to put together. They had discussed this matter with the public relations people, he explained, and they were very much against presenting the pros and cons because it would be a negative approach. To accomplish anything, he observed, you had to be positive; a negative approach only stirred up dissension and discontent. The game, he added, was about over and they should abide by whatever scores they had made and be proud of the package. He then appealed to the delegates to work together and inform the voters what was good and positive.

Also speaking against the amendment, Delegate Sterling related that it had been agreed that the speakers would be as objective and positive as possible. But those who disagreed, he pointed out, valued their right to dissent as much as did those who agreed. In presenting the pros and cons, he further argued, there would be "48, 49 people hanging on their right to dissent. Are we going to put in 48, 49 arguments against something?" There had been many different areas of dissent, he concluded, and they couldn't all be put in the booklet.

Delegate Haunani Ching then spoke against the amendment. Referring to the movant's suggestion of using the LRB material in drafting the pros and cons, she commented:

"Our Legislative Reference Bureau materials--I would not like to say they were the best that were presented to us. Some of those booklets were written by students attending the University, and for us as delegates who were elected by the people to give up this right to those students to decide how to present the arguments for what goes on the ballot, would be one of the silliest things we would have done--to leave our work to students. Thank you."

Delegate Wurdeman, speaking last for her amendment, explained that her intention in suggesting it was not to be disruptive but to offer an objective approach to the voter education program and to use the material only as one part. She further explained:

"For the same reasons that we are giving statements of fact in the booklet, I feel that information as presented is really knowledge communicated or received concerning a particular fact. I think by presenting both sides of the issues we would be doing this. Thank you."

There being no further discussion, the question to amend Res. No. 30 by substituting Amendment No. 9 was put by the Chair. At this time Delegate Wurdeman requested a roll-call vote and the Chair, on determining ten seconds, so ordered.

Roll call being in order, the motion failed to carry by a vote of 23 ayes, 60 noes and 19 excused; with Delegates Alcon, Barnes, Burgess, Cabral, Campbell, Chong, Chu, Crozier, Dyer, Goodenow, Hale, Kono, Lacy, Rachel Lee, Liu, Marumoto, Miller, Odanaka, Ontai, O'Toole, Peterson, Pulham and Wurdeman voting aye; Delegates Anae, Barnard, Blake, Chang, Calvin Ching, Donald Ching, Laura Ching, Haunani Ching, Chung, de Costa, De Soto, Fukunaga, Funakoshi, Fushikoshi, Hagino, Hamilton, Hashimoto, Hino, Hirata, Hironaka, Hoe, Hokama, Hornick, Dennis Ihara, Les Ihara, Teruo Ihara, Ikeda, Ishikawa, Iwamoto, Izu, Kaito, Kimball, Ledward, Marion Lee, Lewis, McCull, Nakamura, Nishimoto, Okamura, Penebacker, Sakima, Sasaki, Shinno, Silva, Souki, Stegmaier, Sterling, Stone, Sutton, Taira, Takahashi, Takemoto, Tam, Tamayori, Uyehara, Villaverde, Waihee, Yamashita, Yoshimura and President Paty voting no; and Delegates Andrews, Barr, Blean,

Chun, DiBianco, Eastvold, Ellis, Fernandes Salling, Fujimoto, Hanaike, Harris, Hayashida, Kaapu, Kojima, Nozaki, Shon, Takehara, Takitani and Weatherwax being excused.

At this time Delegate Hale rose on a point of personal privilege to inform the body that former supreme court Justice Abe had advised her of his intention to file a suit challenging the form of the ballot. She then suggested that, if they were going to defer the final action, it should be looked into.

Delegate Waihee then moved for the adoption of the ballot as amended at that time, seconded by Delegate Sterling. The ballot material, Delegate Waihee explained, was to be submitted to the lieutenant governor's office that afternoon.

Delegate Burgess then rose and reminded the Chair that the point raised earlier by Delegate Teruo Ihara concerning item No. 29 on the ballot had been set aside but was still pending. At this time Delegate Waihee advised the Chair that he had been informed by the chairman of the Hawaiian affairs committee that she would like to keep item No. 29 on the ballot as it was.

The resolution, the Chair then explained, was in two parts--the information booklet and the ballot--and the question at that time was on the adoption of the ballot portion. He then called for further discussion and recognized Delegate Liu, who inquired as to the handling of the deferred amendments, Nos. 7 and 8. The Chair explained that since both amendments dealt with the information booklet, they would be taken up the following day and would not affect any action taken on the ballot.

Delegate Marumoto, on a point of information, brought up the matter of the concerns about the ballot form by former Justice Abe that had been referred to earlier. Delegate Hale, in response and speaking against adoption of the ballot, argued that they should look into this matter before adopting the ballot. When a former chief justice who was also a constitutional authority questioned their work, she pointed out, they should at least find out his reasons before taking action.

There being no further discussion, the question to adopt the ballot portion of Res. No. 30 as amended was put by the Chair and the motion carried.

DEFERRED MATTER

Stand. Com. Rep. No. 105, Res. No. 28, RD. 1 (Committee on Public Health and Welfare; Labor and Industry--Deferred from September 19, 1978):

Delegate Fushikoshi, for the Committee on Public Health and Welfare; Labor and Industry, presented a report (Stand. Com. Rep. No. 105) recommending the adoption of Res. No. 28, as amended in RD. 1, requesting the legislature to address the problem of rising health care costs and to establish legislation to reduce medical care costs in Hawaii. Delegate Fushikoshi then moved for its adoption, seconded by Delegate Villaverde.

The President called for discussion and recognized Delegate Fushikoshi, who rose to speak for the motion. The public health committee, he stated, had gone on record to unanimously approve Res. No. 28 as amended. He then yielded the floor to Delegate Laura Ching who had introduced the resolution.

Delegate Laura Ching, speaking for the motion, stated:

"I'm sure my fellow delegates have read the recent news articles dealing with the extraordinary rise in health care costs throughout the State. As Res. No. 28 points out, the cost of health care services has risen approximately 53 percent in the last 2 years and 149 percent in the last 7 years. I talked to state Representative Byron Baker of the house public health committee and he informed me that no legislation has been passed nor are any new bills contemplated relating to the rise in health care costs. I think such legislation is overdue. Without some type of state regulation, a day in a hospital bed in Hawaii could easily reach \$2,000 a day within the next 10 years."

She then pointed out that the resolution simply requested the legislature to address this problem and determine if any measures could be taken to reduce the cost for the average citizen.

Delegate Sterling, speaking in favor of Res. No. 28, RD. 1, pointed out that question No. 13 on the ballot, special purpose revenue bonds, if ratified, could help alleviate these costs since it would allow hospitals to take advantage of a reduced rate of 6-1/2 percent.

There being no further discussion, the motion to adopt Stand. Com. Rep. No. 105 and Res. No. 28, as amended in RD. 1, was put by the Chair and carried.

At this time Delegate Tam moved that the Bill of Rights committee be discharged from consideration of Res. No. 25, relating to the "insanity" defense, seconded by Delegate Wurdeman.

Delegate Tam, speaking for his motion, explained:

"The matter, I believe, during the deliberations of the BORSE committee, regarded a particular proposal on the abolishment of the 'insanity' defense, which was submitted by this delegate. It is my information that the majority of the committee decided that although a proposal was not called for at this time, that a resolution was proper, and a majority of the committee did decide in favor of such a resolution upon proper presentation. One was prepared and submitted on September 12, 1978.

"Unfortunately, in the press of events and the pressure of time, no committee report was prepared on this matter to conform to the action of the committee. It is my understanding that the committee at this time has adjourned sine die, and will not hereafter meet. In light of the fact that we have only one more day in this Convention--and I believe tomorrow would be reserved for other matters--I would ask that this body consider this matter today. Therefore, I'm asking that we discharge the committee from consideration so that we can take action on it on the floor. Thank you."

Delegate Chang, on a point of inquiry, questioned the motion, explaining that it proposed to overturn a previous convention decision requiring a two-thirds vote if moved without notice. The Chair responded that in this case it was just a question of discharging the committee and would therefore only require a majority.

Delegate Funakoshi, speaking for the motion, confirmed that the committee had not acted on the matter. She explained that in committee they had voted 13 to 11 for the concept, and later by a majority vote of 16 to get the resolution out of committee. That, she noted, was not even mentioned, nor was a committee report put out on Res. No. 25. And when Delegate Tam again put in the resolution, she added, no action was taken.

Delegate Chang, on a point of information, inquired if the committee report had contained a reference to individual proposals that were filed, this one in particular. Delegate Hale responded that all committee reports had been filed and that they reported out committee proposals, not delegate proposals.

On a point of parliamentary inquiry, Delegate Chang stated:

"Robert's Rules of Order states that the motion to discharge from committee is proper only before the committee has made a final report on a matter that has been put into the committee's hands. Could you determine whether a report which states that the individual proposal has been filed in committee is in effect a final report on the matter, therefore rendering a motion to discharge from committee inappropriate?"

At this time the Chair called for a short parliamentary recess.

At 4:52 p.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 4:58 p.m.

At this time Delegate Waihee moved to defer action on Res. No. 25 until the following day, recommending that the delegates bring their copies of the resolution to the floor, seconded by Delegate De Soto. There being no objection, action on Res. No. 25 was deferred until Thursday, September 21, 1978.

Delegate Takemoto then moved that the Committee on Rules be discharged from consideration of Res. Nos. 11, 20 and 21, seconded by Delegate Villaverde. Speaking to her motion, Delegate Takemoto explained that the committee had been unable to reach a decision as to the disposition of these resolutions, and in addition on the referred matter relating to roll-call voting, Convention Rule 32. The committee, she added, had been unable to dispose of these matters because three meetings had to be cancelled for lack of a quorum.

There being no further discussion, the motion to discharge the Committee on Rules from consideration of Res. Nos. 11, 20 and 21 was put by the Chair and carried.

ADJOURNMENT

At 5:00 p.m., on motion by Delegate Waihee, seconded by Delegate Crozier and carried, the Convention adjourned until 9:00 a.m. Thursday, September 21, 1978.

SIXTY-FOURTH DAY

Thursday, September 21, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 9:00 a.m.

The President presided.

The Divine Blessing was invoked by the Honorable David D. Stegmaier, delegate from the Seventh District to the Constitutional Convention of Hawaii of 1978.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Eastvold, Hanaïke and Harris who were absent.

The President announced that the Journal of the Sixty-Third Day had been signed by the Secretary and approved by the President.

STANDING COMMITTEE REPORTS

Delegate Ledward, for the Committee on Budget, Accounts and Printing, presented a report (Stand. Com. Rep. No. 107) informing the Convention that Stand. Com. Rep. Nos. 108 and 109 and Res. Nos. 36 through 52 had been printed and distributed.

On motion by Delegate Ledward, seconded by Delegate Crozier and carried, Stand. Com. Rep. No. 107 was adopted.

Delegate Weatherwax, for the Committee on Bill of Rights, Suffrage and Elections, presented a report (Stand. Com. Rep. No. 108) recommending the adoption of Res. No. 33, requesting Congress to exempt Hawaii from the multilingual requirements of Title III of the Voting Rights Act, as amended in 1975.

The President called for discussion and recognized Delegate Dyer, who spoke for the motion as follows:

"Mr. President, I rise to speak in favor of Res. No. 33. This resolution requests Congress to exempt Hawaii from the multilingual requirements of Title III of the Voting Rights Act.

"The requirements of translation in the Voting Rights Act amendments were designed to assist the Puerto Ricans, who are American citizens but for whom English is not a first language, and would also help Americans of Mexican ancestry, who may have spent generations in the southwest but who continue to use Spanish as a first language.

"In Hawaii these requirements are both unnecessary and extremely costly. We are all minorities who use English as our language of communication. The immigrant newcomer must provide English competence in order to become a citizen and secure voting rights. While the Voting Rights Act amendments claim to be talking about 'language minorities,' the act is administered by those who think in terms of 'ethnic minorities.' The federal bureaucracy would consider that many of us at this Convention required ballots in Chinese, Japanese or Ilocano. The cost of foreign language election materials and ballots for the 1976 election was slightly more than a half million dollars--and only 191 ballots in the three languages were used. This averages \$2,600 per ballot of state funds. The

cost for the 1978 election will be considerably more with the constitutional amendments included. We cannot imagine that the number using the foreign language ballots will be measurably increased. We believe Hawaii qualifies for an exemption and urge your support of this resolution."

Delegate Alcon, speaking against the motion, pointed out that this State often complained that it had more immigrants coming here than any other state in the Union. The United States had passed a law, he stated, and it was therefore inherent upon the states to translate the ballot, and no state should be exempted. It was even more important, he added, because their constitutional amendments would be coming up for ratification and if a person did not understand what he was voting on it was most likely that he would vote no on all the amendments.

Delegate Tam then spoke against the resolution, echoing the concerns of the previous speaker. For many of his constituents, he noted, English was not their first language and the only way they could understand a ballot would be in their native language. And there were enough, he added, to justify some sort of aid in voting.

Delegate Chu, also speaking against the resolution, pointed out that the intent of the act was good, particularly in Hawaii where there were many cultures and many different languages spoken. It was important, she stated, that the right to vote be made meaningful for all people who were entitled to vote.

Delegate Iwamoto rose to speak in favor of the resolution. Her first reaction to the cost figures cited by the movant, she related, was one of disbelief but on checking it had been confirmed to her that the multilingual requirements of this act had cost the State \$2,600 for each person benefited. She did not feel that a minority should have \$2,600 per person spent on them, she commented, while the rest of the citizens have a much smaller amount spent to exercise their voting rights.

Delegate Wurdeman, speaking against the motion, pointed out that they were promoting bilingual and bicultural programs in their education system to meet a need. The parents would speak that language, she added, and "we owe them that right to vote."

Delegate Dyer mentioned that in the Philippines, with so many dialects spoken, the ballots were printed in English.

Delegate Alcon rose to speak against the resolution. Addressing the argument of excessive cost, he pointed out that it was a premise of democracy that money had to be spent in order to receive equal treatment. And referring to the statement that the minorities were costing the State more, he argued that equality was not equated to cost.

Delegate Funakoshi then explained that English-speaking Japanese--and possibly also Filipinos--had been considered in this total population proration. That, she added, was why the cost was so high per person.

Delegate Peterson, speaking for the resolution, commented that it would not keep people who spoke other languages from being considered in the election process, but merely requested that Hawaii be exempted from the requirements of the law. It was not so much an issue of reaching the problem, he explained, as a question of following a federal law which might not apply to Hawaii.

There being no further discussion, Delegate Weatherwax moved for the adoption of Stand. Com. Rep. No. 108 and Res. No. 33, seconded by Delegate de Costa. The question was put by the Chair and the motion carried.

INTRODUCTION OF RESOLUTIONS

The following resolutions were read by the Clerk and disposed of as follows:

A resolution (Res. No. 36) expressing deepest appreciation and gratitude to the Central Services Division and the Public Works Division of the Department of Accounting and General Services was offered by the President.

On motion by Delegate Waihee, seconded by Delegate Haunani Ching and carried, Res. No. 36 was adopted.

A resolution (Res. No. 37) expressing deepest appreciation to the members of the press, the wire services, radio stations and television stations for having provided excellent coverage of the activities of the 1978 Constitutional Convention was offered by the President.

On motion by Delegate Waihee, seconded by Delegate Haunani Ching and carried, Res. No. 37 was adopted.

A resolution (Res. No. 38) expressing deep appreciation and gratitude to the president of the senate and the speaker of the house of representatives of the state legislature was offered by the President.

On motion by Delegate Waihee, seconded by Delegate Haunani Ching and carried, Res. No. 38 was adopted.

A resolution (Res. No. 39) expressing deepest appreciation to the Department of the Attorney General for its splendid cooperation and service rendered to the 1978 Constitutional Convention was offered by the President.

On motion by Delegate Waihee, seconded by Delegate Haunani Ching and carried, Res. No. 39 was adopted.

A resolution (Res. No. 40) expressing deepest appreciation to the state Department of Transportation; Dr. Ryokichi Higashionna, Director of the Department of Transportation; Douglas Sakamoto, Deputy Director for Operations of the Department of Transportation; and William Kraft, Manager of the Honolulu International Airport, Air Transportation Facilities Division of the Department of Transportation, was offered by the President.

On motion by Delegate Waihee, seconded by Delegate Haunani Ching and carried, Res. No. 40 was adopted.

A resolution (Res. No. 41) expressing deepest appreciation to the entire staff of the Convention for outstanding services rendered to the 1978 Constitutional Convention was offered by the President.

On motion by Delegate Waihee, seconded by Delegate Haunani Ching and carried, Res. No. 41 was adopted.

A resolution (Res. No. 42) commending the League of Women Voters of Hawaii Education Fund and its sponsor organizations for the Ka Po'e Project was offered by the President.

On motion by Delegate Waihee, seconded by Delegate Haunani Ching and carried, Res. No. 42 was adopted.

A resolution (Res. No. 43) expressing appreciation to Hawaiian Telephone for the telephone directory of the 1978 Constitutional Convention was offered by the President.

On motion by Delegate Waihee, seconded by Delegate Haunani Ching and carried, Res. No. 43 was adopted.

A resolution (Res. No. 44) expressing deepest appreciation and gratitude to Kapiolani Community College and Joe Chun, Director of the Educational Media Center, was offered by the President.

On motion by Delegate Waihee, seconded by Delegate Haunani Ching and carried, Res. No. 44 was adopted.

A resolution (Res. No. 45) expressing deepest appreciation to the Legislative Reference Bureau was offered by the President.

On motion by Delegate Waihee, seconded by Delegate Haunani Ching and carried, Res. No. 45 was adopted.

A resolution (Res. No. 46) expressing deepest appreciation to the pages of the 1978 Constitutional Convention was offered by the President.

On motion by Delegate Waihee, seconded by Delegate Haunani Ching and carried, Res. No. 46 was adopted.

A resolution (Res. No. 47) expressing deepest appreciation to the Office of the Lieutenant Governor was offered by the President.

On motion by Delegate Waihee, seconded by Delegate Haunani Ching and carried, Res. No. 47 was adopted.

A resolution (Res. No. 48) expressing deepest appreciation and gratitude to the Hawaii Council of Churches, the Roman Catholic Diocese of Honolulu, the Hawaii Buddhist Council, the Hawaiian Mission of Seventh-day Adventists, the Hawaii Baptist Convention, the Oahu Association of Evangelicals, and the Honolulu Hawaii Stake, Church of Jesus Christ of Latter-Day Saints, was offered by the President.

On motion by Delegate Waihee, seconded by Delegate Haunani Ching and carried, Res. No. 48 was adopted.

A resolution (Res. No. 49) expressing sincere appreciation to D. Hebden Porteus and Tadao Beppu for outstanding services and advice rendered to the 1978 Constitutional Convention during its pre-Convention activities was offered by the President.

On motion by Delegate Waihee, seconded by Delegate Haunani Ching and carried, Res. No. 49 was adopted.

A resolution (Res. No. 50) expressing deepest appreciation to the State Foundation on Culture and the Arts, Alfred Preis, Executive Director, and Ronald Yamakawa, Art Specialist, was offered by the President.

On motion by Delegate Waihee, seconded by Delegate Haunani Ching and carried, Res. No. 50 was adopted.

A resolution (Res. No. 51) relating to freedom of the press was offered jointly by Delegates Waihee, Weatherwax and Hino.

On motion by Delegate Waihee, seconded by Delegate Funakoshi and carried, Res. No. 51 was adopted.

A resolution (Res. No. 52) expressing deep appreciation to the University of Hawaii for its cooperation and services rendered to the 1978 Constitutional Convention was offered by the President.

On motion by Delegate Waihee, seconded by Delegate Haunani Ching and carried, Res. No. 52 was adopted.

Delegate Teruo Ihara, on a point of personal privilege, mentioned that they had not included the General Services Administration and requested that the Journal reflect the Convention's appreciation for their cooperation. The President concurred and suggested that the Convention accord a resolution recognizing the services of the local office of the General Services Administration.

On motion by Delegate Teruo Ihara, seconded by Delegate Waihee and carried, the resolution (Res. No. 53) was adopted.

Delegate Marumoto then rose to inquire concerning the disposition of Res. No. 32, requesting that the submission and information committee not feature delegates who were candidates for office in the voter education program. To do so, she pointed out, seemed grossly unfair to nondelegate candidates for office.

Delegate Iwamoto responded that the committee had met on Tuesday and voted to file

the resolution. She then referred the delegates to Stand. Com. Rep. No. 109 which included a discussion on the committee's action and some of the rationale for filing.

The President then recognized Delegate Hale, who moved to take from the table Res. No. 11 amending the convention rules, seconded by Delegate DiBianco.

Delegate Waihee rose to speak against the motion but was advised the motion was not debatable. The question to take from the table Res. No. 11, which had been tabled on Wednesday, September 20, was then put by the Chair and the motion failed to carry.

ORDER OF THE DAY DEFERRED MATTERS

Stand. Com. Rep. No. 99, Res. No. 30, RD. 1 (Committee on Submission and Information--Deferred from September 20, 1978):

The President reminded the delegates that the main motion was still on the adoption of Stand. Com. Rep. No. 99 and Res. No. 30 as amended in RD. 1, and that discussion was now in order on the informational booklet attached to the ballot. For consideration at that time, he added, were Amendment Nos. 7 and 8.

Delegate Peterson then moved for the adoption of Amendment No. 7, seconded by Delegate Lewis, which amended item Nos. 11 and 12 in the informational booklet, to read in part:

11. STATE SPENDING LIMIT; TAX REFUND.

If adopted, this amendment:

- [limits the rate of growth of the State general fund expenditures to the estimated rate of growth of the State's economy and applies the limit to the governor's budget and legislative appropriations.]
- limits State general fund spending to the estimated rate of growth of the State's economy and applies the limit to the governor's budget and legislative appropriations.
- [provides for a tax refund or tax credit to the State's taxpayers when the State's general fund balance in each of two successive fiscal years exceeds five percent of general fund revenues for each of the two years; prohibits the State from engaging in deficit spending unless the governor declares that the public health, safety or welfare is threatened.]
- gives taxpayers a refund or credit whenever the general fund balance is more than five percent of general fund revenues for two years in a row.
- prohibits deficit spending unless the governor says that the public health, safety or welfare is threatened.
- [provides that if the legislature mandates any county to undertake new programs or to increase the level of services under existing programs, the State will share in costs.]
- requires the State to share in the cost of any new programs or increased services which the legislature requires that counties provide....

12. DEBT LIMITS; EXCLUSIONS.

If adopted, this amendment:

- limits the principal and interest on State debt to a percentage of general fund revenues.
- [requires the legislature to find that the debt limit will not be exceeded in authorizing bonds.]
- keeps the legislature from approving more bonds than are allowed under the debt limit.
- [limits maturities on general obligation bonds to twenty-five years.]
- requires that each general obligation bond be repaid within twenty-five years.
- excludes certain bonds from the State and county debt limits.
- [provides for the automatic cancellation of State appropriations financed by general obligation bond funds or general funds if not encumbered or expended within three years.]
- automatically cancels appropriations financed by general obligation bonds or general funds if not under contract or spent within three years.

At this time Delegate Peterson explained that both amendments had been rewritten and the redrafts were still in the printshop and not yet available to the delegates. Delegate Lewis then rose and requested that consideration be deferred to the end of the calendar. There being no objection, action on Amendment Nos. 7 and 8 was deferred to the end of the calendar.

Res. No. 25 (Committee on Bill of Rights, Suffrage and Elections--Deferred from September 20, 1978):

At this time Delegate Tam moved that the Committee on Bill of Rights, Suffrage and Elections be discharged from consideration of Res. No. 25, requesting abolishment of the "insanity" defense, seconded by Delegate Silva.

There being no discussion, the motion to discharge the committee and bring Res. No. 25 to the floor was put by the Chair and failed to carry.

Delegate Tam then rose to inform the Chair that it was his understanding the BORSE committee had already approved the matter by a majority of 16 votes and that a committee report was to have been prepared and submitted with the resolution to the body. He then requested that the Convention take up the matter, adding that this was in effect the recommendation of the committee that had been duly passed.

Delegate Weatherwax rose on a point of order to correct the statement with reference to it being the committee's intent to request abolishing the insanity defense. In fact, he stated, it had been voted down. He then explained that what the committee had passed was to have been a request to the legislature for a study to review the insanity defense, adding that they had not decided on the exact language to be used. He then moved to adopt this amended Res. No. 25, requesting a review of the insanity defense by the legislature, seconded by Delegate Villaverde.

Delegate Tam, speaking for the motion, explained that he had consulted with the committee chairman and that it had been the intent to amend the resolution on the floor. But, he added, the matter was to get the resolution on the floor to begin with. There was some amended language in the resolution, he further explained, on which he would accede to the chairman, adding that they had discussed possible revisions.

Delegate Weatherwax then explained that the amendment he had in mind in his motion was a revision in the first "be it resolved" paragraph, which directed the legislature to amend Chapter 704 of the Hawaii Revised Statutes.

At this time Delegate Hale rose on a point of order to voice her objection to this procedure, explaining that it would have been proper to vote to reconsider the resolution and then when it was before them, to amend it. As it was, she added, they were making a verbal resolution, which had not been done there before.

The Chair acknowledged that the point was well taken. If it was the wish of the body, he stated, to consider the resolution, it should be taken from the committee and amended, and if the body did not wish to discharge the committee, he did not concur with the motion to adopt a resolution on the floor verbally.

Delegate Weatherwax thereupon withdrew his motion.

Delegate Wurdeman, on a point of personal privilege, suggested that the first movant decide whether he wanted it handled that way. The decision, the Chair responded, was not to be made by the movant but by the wish of the body.

At this time Delegate Tam requested a short administrative recess.

At 10:02 a.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 10:08 a.m.

Delegate Weatherwax moved to reconsider the vote to discharge the committee from consideration of Res. No. 25, seconded by Delegate Villaverde. The Chair, on determining that the movant had voted on the prevailing side, called for discussion on the motion.

Delegate De Soto rose to speak against the motion to reconsider, pointing out that the topic had already been thoroughly considered and discussed, and adding that they were now being asked to reconsider a vote taken just 10 minutes before. It was sad, she commented, to end the Convention on this note just to satisfy one particular point of view, and reconsideration, she felt, would be a mistake.

There being no further discussion, the motion was put by the Chair and carried.

Delegate Tam then moved to discharge the BORSE committee from consideration of Res. No. 25, seconded by Delegate Wurdeman. There being no discussion, the motion to discharge the committee was put by the Chair and carried. The BORSE committee, the Chair declared, was discharged from further consideration of Res. No. 25.

Delegate Tam then moved for the adoption of Res. No. 25 with amendments, seconded by Delegate Donald Ching. The Chair called for discussion and recognized Delegate Tam, who moved to amend Res. No. 25, seconded by Delegate Wurdeman, to read:

REQUESTING [ABOLISHMENT] REVIEW OF THE "INSANITY" DEFENSE.

WHEREAS, the "insanity" defense evolved as a means of avoiding capital punishment at a period in history when cruel and unusual capital punishment was widely accepted and used; and

WHEREAS, the "insanity" defense is presently used as a means of possible confinement in a hospital environment; and

WHEREAS, an accused who is found "not guilty by reason of insanity" can be released on condition or discharged from custody at any time into the community at large; and

WHEREAS, the penal obligations and responsibilities for one's acts are being ignored because of the "insanity" defense is complete and absolute; and

WHEREAS, the result has been a grave loss of public confidence in our judicial system; and

WHEREAS, a further result has been a significant loss of respect for the law by both the law-abiding members of the public and the perpetrators of criminal acts; and

WHEREAS, many members of the public believe that our existing law enforcement statutes are ineffectual in coping with the growing crime rate; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that the Legislature of the State of Hawaii be directed to [amend] review the "insanity" defense of Chapter 704 of the Hawaii Revised Statutes [to abolish the "insanity" defense]; and

BE IT FURTHER RESOLVED that duly authenticated copies of this Resolution be transmitted to the office of the Governor, the office of the Chief Justice, and the members of the Legislature of the State of Hawaii at their next regular session.

Delegate Hale rose to question the language of the fourth paragraph--"the penal obligations and responsibilities for one's acts are being ignored because of the 'insanity' defense is complete and absolute...." Delegate Tam explained that the word "penal" had been added because the committee wanted it specific that the obligations and responsibilities referred to were the ones contained with reference to the criminal justice system. Delegate Hale then suggested that the word "of" after "because" be deleted for better sense, and Delegate Tam agreed to this amendment to his amendment.

Speaking for his amendment, Delegate Tam explained that the amendments made had all been discussed with the BORSE committee chairman and they had agreed that language calling for abolishment would be too strong at that time. It was also felt, he continued, that the legislature should be left some alternatives as to investigating and dealing with the problem.

Delegate Chong then spoke in support of Res. No. 25 as amended. As a mother of two law enforcement officers, she explained, she was concerned about the hazards involved in apprehending criminals. The judicial system, she pointed out, continuously allowed criminals back on the streets, often because of this insanity plea, and she supported a legislative review to hopefully find a solution.

Delegate Weatherwax, speaking in favor of the amendment, observed that changing "abolishment" to "review" was more in line with what the committee intended. They could, he felt, reach a consensus in the body and the legislature, which had the necessary time, could then review the matter in detail as to whether some remedy could be found, perhaps statutorily rather than constitutionally.

There being no further discussion, the Chair put the question to amend Res. No. 25 by the amendments proposed by Delegate Tam and the motion carried.

Consideration of Res. No. 25 as amended then being in order, the Chair recognized Delegate DiBianco, who rose to speak against the resolution. Commenting that he was having trouble with some of the statements in the resolution, he questioned whether they should be putting their stamp of approval on statements of alleged facts, clarifying as follows:

"For example, the first statement--that 'the "insanity" defense evolved as a means of avoiding capital punishment at a period in history when cruel and unusual capital punishment was widely accepted and used.' That may have been the genesis of the insanity defense--I'm not an expert on this matter, and I don't know. But I will point out that every jurisdiction--not just in this country but the world--has some form of insanity defense and many of those jurisdictions do not have capital punishment. So to say that one is tied with the other--and since now capital punishment may be an anachronism, therefore the insanity defense is an anachronism, as seems to be the implication in this first paragraph--is incorrect. There are people who have mental disorders such that they are not criminally responsible, and I think we have to face up to that.

"On the statement, 'Whereas, the result has been a grave loss of public confidence in our judicial system; and... a significant loss of respect for the law by both the law-abiding members of the public and the perpetrators of criminal acts,' it is true that there is some dissatisfaction in the public with our criminal justice system, but I don't think that you can tie that in with the insanity defense. I think that respect for the criminal justice system would deteriorate more than it has at the present time were we to abolish the insanity defense and start throwing people in prison who have serious mental disorders. It just doesn't seem to make any sense.

"The amendment to the resolution, asking the legislature simply to review Chapter 704, sounds on the face of it harmless enough. What can be harmful about a review? But the problem with this resolution and the problem with seeking a review of this particular statute, as opposed to all the other statutes in the Hawaii Revised Statutes, is that it singles this one out as if it's somehow deficient. I will submit to you that nobody in this Constitutional Convention has heard one word uttered by any expert in the field of mental health or in the criminal justice system--that has indicated there is anything wrong with the insanity defense as it is codified in Chapter 704 of the Hawaii Revised Statutes. All we have heard is the insistence of one delegate, the movant of this resolution, that he personally would like to see that defense abolished.

"For us to single it out and request its review is going along with the attitude that somehow it is deficient when we have no facts before us, no testimony and no proof that that is in fact the case. I would urge your negative vote on this resolution. Thank you."

Delegate Tam then rose to speak for the resolution, first addressing the arguments by the previous speaker. The first "whereas" clause, that the insanity defense evolved at a period in history when cruel and unusual capital punishment was widely used, he explained, referred to the origins of the defense in England when people were hung or beheaded in public. The source of the statement that it evolved as a method of avoiding capital punishment, he further stated, was a study that came out in August 1978 for the governor of New York by a panel with very high credentials in law, medicine, psychiatry, psychology and social work.

As to the matter of "a grave loss of public confidence" in the judicial system and "a significant loss of respect for the law" by law-abiding citizens and the perpetrators of crime, he continued, the source was a series of articles in The Honolulu Advertiser by Mike Keller--in particular the Sunday edition of September 17, 1978, which had an excellent study on the public's perception of the system. Addressing the assertion that there was no basis from any authority for what had been put forth to the body, he pointed to the work of the committee, to testimony at the public hearings and to active complaints in that area from persons in the medical field. Psychiatrists such as Dr. Byron Eliashof, he stated, had publicly taken stands against the law as it was in terms of the insanity defense, as well as persons working in medically related fields who had actually observed these abuses. He then explained:

"We're not trying to say that we should take out our frustrations against people who have mental problems. That's not the thing. We have kokua for those who have mental problems. The problem is that this kokua is being abused by others who take advantage of this sympathy and hide under this consideration, and who in no way qualify for any type of consideration, after most heinous crimes. It is to this that we are addressing ourselves.

"There must be something we can do. The concept when it began might have been a humane one. This is not to say that consideration shouldn't be given where it is deserved. It's just that it has gotten to the point where the definition, the application of this section has gotten so broad that it just about hides everybody who comes into it."

Delegate Chung, speaking in favor of the resolution as amended, mentioned that

he thought the legislature had appropriated funds last session for a review and study in this area. Noting that the issue was a very complex one, he explained:

"In law, there are four definitions of insanity for the purposes of criminal law: (1) the M'Naghten Rule; (2) the irresistible impulse test; (3) the Durham product test and (4) the substantial capacity test. All of these have developed over the years.

"In the M'Naghten right and wrong test--this happened in 1843 when M'Naghten claimed he was not responsible for his acts because he was insane and suffering from delusions. It was a case where he shot someone and pleaded insanity and was acquitted. There have been a lot of conflicts pro and con about this matter. In the M'Naghten Rule, at the time of the commission of the crime, (1) the person suffered a disease of the mind affecting the ability to reason, and (2) the accused understands the nature and quality of the act or understands that the act was wrong. Subsequent to this decision, another decision known as the irresistible impulse test came about in the state of Massachusetts. Broadly speaking, this irresistible impulse test permits a verdict of not guilty by reason of insanity if it is found that the defendant had a mental disease which caused a loss of self-control, even if the defendant knew what he or she was doing and knew that it was wrong. So again this is a refinement of the M'Naghten Rule. This also had a lot of pros and cons. Then we have the Durham product test, which happened in 1869 in New Hampshire, and again this Durham product test was to further refine the M'Naghten Rule. This also brought about much conflict. Then in 1965 the American Law Institute came up with what is called the substantial capacity test. And again, this is another concern of the insanity factor. Under this, there must be proof of a mental disease and proof that a defendant was substantially unable at the time to appreciate the wrongness of the act. It narrows down the Durham Rule.

"And finally, in our very complex society with the use of drugs and alcohol, you have what they call a concern about drug addiction and criminal responsibility, which in 1962 the U.S. supreme court made such a ruling on. And finally you have, recently, the partial insanity or diminished capacity factor as a defense. So here you have a whole series of very complex precedents. Therefore, in Hawaii, with the rising population, with increases in crime, it is important that we review this very vital and critical factor of the insanity plea, and hopefully the State may come up with a refinement on the law that will more or less guarantee the public safety, particularly in crimes against persons in Hawaii.

"Therefore, I feel it is an important subject that we have to address ourselves to for continuous and further study. I would like to congratulate the maker of this resolution. Thank you."

Delegate Campbell, speaking in favor of the resolution, stated:

"Mr. President, I think the record needs to be set straight. First of all, it is not correct that there is only one voice in this Convention speaking out in favor of this resolution. In the bill of rights committee, there was a very deep, abiding and widespread concern about this matter, and I think the concern lies strongly in the area of the administration of the justice system in our courts with respect to the insanity plea. There were concerns expressed about the fact that people who have used the insanity plea and have been released under the care of psychiatrists have not followed up with the required psychotherapy visits, they have not gone to the doctor, and they have gone out into the streets and been set loose upon the public.

"I think all of us are very much concerned about the safety of our children and our citizens, and it seems to me that those of us in

the committee who had expressed this very deep concern moved back from the position of actually having a proposal submitted by the committee because of some of the complicated problems that arose in effectuating this. But we did so because we had decided that a resolution would be submitted to the legislature so that they could look into the matter and hopefully make some positive resolution. For this reason, I rise and speak firmly in favor of this resolution, and I urge my fellow delegates to do so too. Mahalo."

Delegate Kaapu spoke in favor of the resolution, remarking that the convention floor might not be the place to debate its merits or demerits or the suggestions discussed earlier. The matter, he indicated, would be taken up by the legislature with or without their resolution because it was an important issue. He then suggested that if they felt there was any use in letting the legislature know how strongly they felt, that they vote on the matter and send it off.

Delegate Chu, speaking for the resolution as amended, expressed some concern in that its supporters, she felt, had sensationalized the issue out of proportion. There was no question, she acknowledged, that it was a problem, but not so much with the defense itself as with the administration of it. She then explained:

"The fact is that crime is often committed by individuals with very serious mental problems. There's no question of that. However, it's not necessarily a legal problem with the defense itself. Regarding this, I think the public is misinformed because they see it as an acquittal. It is called an acquittal, but that's only on legal grounds; it does not mean that the person is released. Prosecutors often argue to the jury--which is not really legal--that the person will be let out and released. That's not true. They may be acquitted--they may not be legally responsible--but they are not released.

"There's often a great deal of difficulty in working with the medical profession in the court system. The medical profession--doctors and psychiatrists--generally do not like to go to court. They do not like to be questioned, cross-examined and refuted. So there will always be members of the medical profession who will criticize the legal system. That's not to say that the legal system should not be improved, or there should not be some way of attempting to work with them. I think right now there is a committee of doctors, mental health professionals and average citizens who have a great deal of contact in this area, discussing viable solutions to this problem. So things are being done. However, I see no harm in submitting this resolution to the legislature, but I would like to state for the record my reservations about this."

Delegate DiBianco then rose to point out that the entire insanity defense had been completely reviewed by the State only 36 months before, in 1975. When the Hawaii Penal Code was codified and enacted into law, he explained, the legislature had to do a complete review of the insanity defense enacted into law, which was substantially the American Law Institute test mentioned earlier. It seemed odd, he then remarked, and would seem odd to the legislature, that with all the statutes that needed to be reviewed the Convention would pick one they'd just finished reviewing.

Delegate Silva, speaking in favor of the resolution, pointed out that it was basically only a resolution and attempted only to get the legislators to look into a matter of great concern to many citizens. There's a free government, he added, but there were people using this freedom to hurt others.

Delegate Funakoshi, voicing her support for the resolution, mentioned that the committee had felt that a resolution rather than a constitutional provision was the way to go. She then inquired as to the study done in 1975, if there was any report on it and its findings. Delegate DiBianco in response explained:

"When the entire Hawaii Penal Code was revised in 1975 and enacted into law--I think effective January 1, 1976--it was essentially the

model penal code which had been created by the commissioners of uniform laws, which was a group of law professors who draft up uniform laws for submission to legislatures for their consideration. And they accepted the model penal code's version, which on the question of the insanity defense had incorporated the American Law Institute's draft, as was described by Delegate Chung.

"The entire Hawaii Penal Code has, on a section-by-section basis, a discussion of each one of the sections, along with footnotes, and it describes why they did what they did. It's all available, it's a matter of public record and it's in our Hawaii Revised Statutes. Anybody can read it and find out why they accepted one particular insanity defense over any other. I would point out at this time that all the insanity defenses, except the one by the American Law Institute, are insanity defenses which were created by courts. The Durham test, the M'Naghten test, the diminished capacity test were all created by the courts. So to mandate the legislature to review the insanity defense is really not even half of the loaf, because the courts are going to go ahead and, in my opinion, do whatever they feel is necessary regarding the insanity defense anyway. It's a court-made law, not a legislative law, to a great extent."

Delegate Tam, speaking last for Res. No. 25 as amended, pointed out that the references to the American Law Institute and the model penal code by the previous speaker were not quite correct in that only part of the American Law Institute's model penal code was enacted by the legislature in 1975. Of the omitted parts, he added, some were in reference to this particular chapter and to this particular defense.

There being no further discussion, the question to adopt Res. No. 25, as amended in RD. 1, was put by the Chair and the motion carried.

At this time the President announced that discussion was in order on the informational booklet portion of Res. No. 30 as amended, and for consideration at that time was the motion to adopt Amendment No. 7, which had been deferred from earlier in the calendar, copies now having been printed and distributed.

Delegate Peterson, speaking for his amendment which amended item Nos. 11 and 12 in the information booklet, pointed out that the amended language made it easier to understand. Credit for the material in the booklet, he further advised, should go to the convention attorneys, LRB staff and committee chairperson as well as himself, as all had participated in the preparation. He then urged the delegates to vote in favor of Amendment No. 7, which combined his two earlier amendments No. 7 and 8.

There being no further discussion, the question to amend Res. No. 30, RD. 1, by Amendment No. 7 was put by the Chair and the motion carried.

At this time Delegate Iwamoto announced that two communications (Dept. Com. No. 3) had been received pertaining to Stand. Com. Rep. No. 99 and Res. No. 30, and she requested that they be entered in the Journal. One, she explained, was from the lieutenant governor's office clarifying the committee report on the number of ballot cards that could be used, and the other an opinion from the attorney general on the committee's recommendation as to how the votes would be tallied. The following communications were then read:

Office of the Lieutenant Governor
Honolulu, Hawaii

September 20, 1978

Honorable Karen H. Iwamoto, Chairperson
Committee on Submission and Information
1978 Constitutional Convention of Hawaii

Dear Delegate Iwamoto:

For your information, I have enclosed a copy of an Attorney General's Opinion which I had received regarding the legality of ignoring a vote in Part A of the ballot containing the proposed amendments to the State Constitution should a voter vote in both Parts A and B. In light of this opinion, your committee and the convention may wish to reconsider the matter of the vote tabulation.

With warmest Aloha, I remain,

Sincerely yours,

Morris T. Takushi
Director of Elections

State of Hawaii
Department of the Attorney General

September 20, 1978

Mr. Morris T. Takushi
Director of Elections
Office of the Lieutenant Governor
Hawaii State Capitol

Dear Mr. Takushi:

This is in response to your letter dated September 18, 1978 requesting our opinion on the following questions:

"(1) Should we consider the ballot to be invalidated if a voter votes 'Yes' in Part A and 'No' for some or all of the items in Part B?"

We answer in the affirmative.

"(2) Should we consider the ballot to be invalidated if a voter votes 'No' in Part A and 'No' for some or all of the items in Part B?"

We answer in the affirmative with one exception to be discussed below.

"(3) Should we recognize only the votes in Part B, if the voter voted in both Parts A and B?"

We answer in the negative.

The foregoing questions arose as a result of a submission to the Lieutenant Governor's Office of a proposed ballot by the Submission and Information Committee of the 1978 Constitutional Convention, a copy of which is attached to your request.

Upon examination of the proposed ballot, it is clear that the choice of voting in Part A and Part B is mutually exclusive.

Relevant authorities indicate that where there is an inconsistency in the marking of the ballot, the voter's intent is not clearly manifested and the ballot must be discarded or the vote invalidated. (State v. Barber, 198 So. 49 (1940); Murray v. Waite, 94 A. 943 (1915).)

The difficulty in this case lies in the equivocal interpretation of an inconsistent vote in Parts A and B. It is our position that in the event a voter votes in Part A and Part B, his intention cannot be determined and his ballot must be invalidated.

In only one instance, where the voter marks "No" to Part A, then proceeds to mark "No" to all items in Part B will his intention be clear and unambiguous. In all other cases where both parts are marked, the ballots should be considered to be "spoiled" and invalid.

Please note that this opinion is limited to the questions posed by you in your letter of September 18, 1978. We express no opinion on the form of the ballot, the grouping and wording of proposals, or any other matter.

Very truly yours,

Maria Sousa
Deputy Attorney General

Hironu Suzawa
(for) Valri Lei Kunimoto
Deputy Attorney General

Approved:

Ronald Y. Amemiya
Attorney General

Office of the Lieutenant Governor
Honolulu, Hawaii

September 21, 1978

Memorandum

To: Committee on Submission and Information

From: Office of the Lieutenant Governor
Elections Division

Subject: 1978 Con-Con Ballot Format

In prior discussions on ballot format, the use of more than one ballot card to accommodate a two or three part ballot was discounted because tabulation of votes would not be technically possible. The computer program currently in use is not capable of relating one ballot card to another card. Thus, once the voter drops his ballot into the ballot box there would be no way of determining whether or not he voted in more than one part. However, it is possible to utilize two or more ballot cards in the case where each ballot card submitted to the voter contains a blanket "YES" and a blanket "NO" vote covering the proposed amendments itemized on that ballot card. Utilization of this method of submission raises the question of whether a two or three card ballot would confuse voters.

Delegate Iwamoto then rose to inform the delegates that the first amendment passed contained a typographical error, that item No. 24 should have read "Land Management; Agricultural Land."

There being no further discussion, the question to adopt Stand. Com. Rep. No. 99 and Res. No. 30, RD. 1 as amended, was put by the Chair and the motion carried.

At 10:50 a.m., the Convention stood in recess subject to the call of the Chair.

The Convention reconvened at 11:02 a.m.

Delegate Iwamoto, for the Committee on Submission and Information, presented a report (Stand. Com. Rep. No. 109) informing the Convention of the disposition of Res. No. 32 and the rationale for it.

On motion by Delegate Iwamoto, seconded by Delegate Blean and carried, Stand. Com. Rep. No. 109 was adopted.

At this time the President addressed the Convention as follows:

"If the delegates would allow the Chair the opportunity to make a few remarks, then we could open the floor to those who care to make comments. So at this time I'd just like to go back for a few minutes and recount a few things, because at this point in time it seems a long time since we first got together in the Kaimuki library. I can remember that day not all that well, but it seemed almost like a harbinger of things to come. We had a hard time even deciding when next we were going to meet. In spite of the fact that the good delegate from the First District had a firm hand, I can remember some guy in particular with a mustache--and I finally caught his name, Waihee--was always jumping up and down, and I marked him then as a guy to watch. I figured he was going to be a real pain in the neck. I wasn't all that wrong.

"Nothing was very easy in our organization, and of course no one wishes more than I that there was less controversy and more concurrence at the time. But thinking back on it, in spite of the fact that we had any number of heated floor debates and procedural wrangles, and in spite of our strong personal differences on the issues, we rarely carried this off the floor. I can remember being quite amazed at the social gatherings in those early times, when it just looked like a private party of good friends. I think this has been carried on. Then when the pace did pick up and we got through our informational meetings and the committee meetings began to get long and late and everybody was shuffling back and forth--why, you all hung in there. It was tough going, there's no question about it. I certainly want to commend you for that kind of effort, and I particularly want to commend the committee chairmen who presided over committees that were larger than the entire state senate and somehow ran their informational sessions, reviewed the proposals, heard the testimony and came up with a package which we all took a whack at when it got to the floor. Trying to do this in the time available was more than anybody should be asked; 64 days was an unreasonably short time to address the job we had. The fact that we have corrected this for the next convention, whenever it may be, certainly is worth noting. But nonetheless, it was indeed a tough, tight time. I think that no convention ever went under a more pressure-packed, deadline-oriented schedule than this one did here.

"I know a number of you are more disappointed in what we did not do than pleased with what we did do. I do want to say that when the vote was counted and your amendment lost, you took it well and came back and argued the next issue that you were concerned with. I realize that some of these things die hard for a good number of you; you've got my aloha and respect for the way you handled yourselves. You know, in the last convention they talked about the debates but they simply did not have anything like the debating talent that we have here in this Convention. I'll put this group up against anybody. They talked about debates on Second Reading--those were just form letters that they went through. So when we say we let it all hang out, I think all of us concur that we did. I know that those who chaired the Committee of the Whole will remember those discussions very well, and they certainly more than earned their parliamentary spurs. A particularly big mahalo from me for doing such a good job.

"It's kind of behind us now. We somehow have taken 850-odd proposals and condensed them into a package that we're going to put to the voters on November 7. We recognize this is a compromise package. Nobody is completely happy with it. Some may even be disappointed. But nonetheless, I would hope that within that package there

is sufficient material, sufficient concern for you to go out and support it, because it really represents a tremendous effort on the part of all of us. No question, if we could turn the clock back to July 5 we would do a number of things differently. But I have no reservations myself in taking this product of our efforts and commending it to the voters of this State. I'm going to start speaking on the circuit soon, and I know that most of you will be invited to speak to any number of groups, and some of you are going to express reservations about some parts of this package. That certainly is your privilege and right. But I would hope that you would find the opportunity to take a positive note, because I do not feel the people of the State have fully understood or totally comprehended the genuine effort and concern that went into developing what we developed out of this Convention.

"So much of what was done here has been overshadowed by the media focusing on procedural wrangles and, coupled with the issue of initiative--really much of the solid accomplishment has become a little lost in the fog of controversy. We want to break out of that and try to call attention to the things that were done which we will be able to recommend to the voters this fall.

"I know it's a time to say thank you to a number of people here--and this body passed resolutions this morning--but I certainly want to commend our able support staff. I had a hard time talking George Amimoto into this job--and at that time he knew he was going to be in for a long, hard summer but he didn't know how long or how hard it was going to be. His whole gang here--Colin and sergeant at arms Gaylord, Walter and all that gang--kept everything in order. Our legal staff--Jim Funaki, Sherry, Neal, Carol and Fran--all were available at our beck and call, trying in every way they could to keep us on the right legal track. We challenged them time and again to be sure we were where we thought we were going to be with the legal angle. And then Rick Kahle and his great staff--how many of us would have been able to turn in the resolutions and proposals that we did without Rick and his gang there giving us the information and putting it together so we could introduce it. I wouldn't want to close without recognizing our two parliamentarians, who had absolutely nothing to do during this whole session that I can remember--Benedict and 'Opu,' a big mahalo to you. Certainly all of our personal staff and committee people, who kept our papers going and our schedules on track and coffee coming and without whose help there is absolutely no way--with the time pressures and constraints we had--that we could have gotten this job done.

"I want to thank the officers of this Convention for giving me a big hand in keeping us on schedule and for passing the word and keeping me posted on problems as they developed--they made a real big difference. There's no question that tomorrow is going to be a different day for all of us. It's going to be real different for me--nobody is going to run around calling me 'Mr. President' anymore. As a matter of fact, there'll probably be someone out on the North Shore who'll say, 'Hey, dude, you stay come back? I hear them buggas give you hard time, eh?' But I'll get over it. Lee Gomes and Sandy and June Watanabe and the TV crews will be searching down other quarries, and no one would really be concerned again if I showed up at the Fort Delicatessen.

"What I'll miss the most is all of you. Some of you have made my moments up here more than a little uncomfortable, but that was the way the game was played and I never took it at any time on a personal basis. I do feel that this Convention is unique in the fact that we do have certainly more of an 'aina. I definitely feel that we have an 'ohana feeling in this body that I don't think I have ever seen transcend any other group like it has this group in this Convention. There's no way, I think, that we could have gone through the time pressures and the effort, the deadlines, the public opinion, and come through without a

real strong bond between us, one that carries admiration and respect and aloha.

"In closing, let me say that I will be watching with interest our younger delegates as they pursue their careers, political and otherwise. I know when the '79 legislature convenes there's going to be a Con Con alumni over there. I don't know how large it's going to be, but I suspect it will get larger as the years go by. I certainly want to wish all the candidates luck and success in their forthcoming elections.

"So I'll be back behind the plow at Waialua, and I would appreciate any opportunity that you have to come by that way if you want to get out from the pressure-packed opportunities that face you around here--we offer you the North Shore and volleyball and whatever that you come out that way. I just want you to know that I have a very deep feeling of aloha and admiration for you. Each of you in your own way put an indelible stamp on this Convention. I just wish I had the time to go around and talk with each of you about the feeling and some of the funny things, some of the tough things, that each of you have done. Standing up here over the months--you just come to feel that all of you are more than just delegates. Sincerely, you're just people whose friendship I would treasure and would hope that we can continue. That about ends it, except to say that regardless of the outcome no one can say that this Convention did not give every effort to address itself to the issue of the State Constitution. I'm sure and I sincerely hope that when the voters come out on November 7, they will endorse the product of our efforts. With that I say mahalo."

Delegate De Soto then rose and made the following statement:

"Mr. President, I rise on a point of personal privilege. On behalf of your Committee on Hawaiian Affairs I would like to offer mohai aloha to an individual whom we have grown to love and respect. This person was born and raised here in Hawaii, a child of the 'aina. An individual who never boasted of his contributions to Hawaii. Never spoke about the historical role his kupuna played in Hawaii's past. Never talked about the fact that it was his kupuna along with others who supported her majesty, Queen Liliuokalani, during the dark days of her illegal overthrow. This man has served Hawaii and the nation during World War II far beyond the call of duty, this man who is a recipient of the Bronze Star and the Purple Heart and was wounded in battle as a major in the 101st Airborne Division. His community service, his government service, his business and professional service have contributed to the business of making and keeping Hawaii well.

"I met Bill Paty at this Convention's first caucus. All my preconceived anxieties about his luna image were laid to rest as I began to really know and appreciate this gentle person. His leadership in this Convention has been challenged from time to time by some who may be suspicious of any and all who do not share the same mana'o. But this only reflected the true test of patience and fortitude. I need to communicate to all that this man, Bill Paty, never asked for anything for himself during this entire Convention--not ever. His genuine efforts to bring this Convention together for the common good, his sensitivity and love for all people shall remind me always of what real dedication and strength is all about. His willingness to put aside his own desires for others will always give me, as well as others, insight to real na'au.

"On behalf of the committee, I wish to extend to you, sir, our deep and humble gratitude and to say further mahalo nui loa kakou, Mr. President. Please accept this small token of gratitude."

Delegate De Soto thereupon presented President Paty with a lei.

Delegate Pulham then commented as follows:

"Mr. President, I'm not going to try to follow that, as I have declined several other times during this Convention. I'm going to be very brief. I made the opening remarks when we began this Convention, and I'm not sure that everyone was listening. But I think that enough people were that I'm going to inwardly be thankful I had that opportunity. I'm certainly thankful that I had the opportunity to know and work with you all. It's been stated that we did not all get all that we wanted. We knew that when we came here.

"From the very beginning I remember those meetings that Bill was talking about, because I come from further back country than he does and was not prepared at all for what was going on here. I thought then that my position was one of working with this Convention to try to bring it all together and get the best product possible. I have at times supported Mr. Paty. I have not been disappointed. Rather than give you a speech today, I have--at my expense, incidentally--run it off and distributed it to you. I would simply ask the Clerk at this time to enter that copy into the Journal, and make this a very short but very fond aloha to all of you."

[The following is written testimony as submitted by Delegate Pulham.]

"My fellow delegates, now that we have essentially completed our Convention, I would beg leave to have a few short words with you. In my opening remarks, I attempted to show the need for each of us to rise above our self-interests in a quest for better government for all our people. One specific quote was from Charles Evans Hughes: 'While democracy must have its organization and controls, its vital breath is individual liberty.'

"In our personal reflections, we need to ask ourselves to what extent we have been successful in fulfilling the public trust which was given us. To me, the end product of our deliberations does contain some worthwhile, possibly even significant recommendations. But in all honesty, I wonder if it was the very best we could do. The sad part for me is that although I implored you all to do so, this group was unable to establish that public credibility so necessary to public confidence and peaceful acceptance of the work of this Convention.

"It is my belief the stifling of individual liberty has contributed significantly to this Convention's lack of progress. What really saddens me is the conviction by many young delegates that this is a prerequisite for progress in a democracy. This is the very attitude which has led to the demise of public confidence at all levels of our political system. The most persistent theme has been, we must stick together and vote as a unit if we want to get something done. I am going to submit that this is really the direct opposite of democracy in action. Democracy is really the coming together of people or their representatives, the exchange and communication of facts and ideas, a decision or vote by that group based on individual liberty and conscience with the preconceived understanding that everyone will then abide by the will of the majority.

"When any group or party becomes more important to politicians than the good of the people, when it becomes necessary to trade a vote for future consideration, regardless of motive, right then democracy ends and public confidence in the system begins the slide that ends in revolution. We must face the facts; we were elected as a nonpartisan group to do a specific task for our people. We had the opportunity to strike a significant blow for democracy. We have failed because we used the same tired party-prone tactics employed by incumbent politicians.

"I have a message for our young delegates and all delegates

young enough to listen. Don't you know that in every group, given a fair and equal chance to study, listen and vote on any issue, a natural majority will emerge? This is the majority based upon individual liberty and conscience which has the support and confidence of the people. Personal integrity is what it's all about. God help us, our State and our nation if we fail to listen."

At this time Delegate DiBianco rose and announced:

"Mr. President, I have a presentation to make to the majority members of this Convention on behalf of the minority. I'll be assisted by Delegate Chu. This is in the form of a scroll. I would ask you to accept this and see that it is given to the appropriate person.

RELATING TO CRUMBS.

WHEREAS, it is said that half a loaf is better than none;
and

WHEREAS, the majority in this Convention ate half the loaf and decided it was so good they ate the other half; and

WHEREAS, the minority is endowed with a true Hawaiian sense of generosity and wishes to share all it has; now, therefore,

BE IT RESOLVED that the independent faction of this Convention do hereby bestow upon the majority of this Convention through President William Paty one of the crumbs which we so fortunately received this summer, with our fondest hope that the future of the majority will be nothing but crumbs."

The President was then presented with gifts on behalf of the minority by Delegates DiBianco and Chu. The President thanked the delegates and remarked, "The Chair rather suspects what's in it. One luscious yellow crumb."

Delegate Villaverde then rose and stated:

"Mr. President, I rise to a last point of personal privilege. I also would like to have a piece of that majority crumb. I have in the last few days attempted to think and present possibly an extemporaneous type of speech, but I couldn't do that. There were too many words that had to be cut down. I finally came out with two prepared presentations here, and I chose the last. If I may, I'd like to read my prepared speech for the record as my last order of business.

"I have heard it said in the halls and outside by people considered troublesome and those considered true that this State, my State, has sunk so low that no one, neither God nor man, can cure the illness. I've heard that nothing can set the balance straight, bend the twisted super-structure back into place, or prop up that once firm but now failing foundation.

"I have read and reread polls that show in readable third-grade statistics that my neighbor doesn't trust the men and women that he or she elected or stood by and let his neighbor elect.

"I have yelled as loud as some have yelled, and sometimes louder, but I have never once believed my State, my country, was in fact the bureaucrat, the delegates, mayor, the governor, the presidents good or bad--a name on any ballot.

"If one man, one hundred men and women, or even one thousand stood charged or convicted of crimes against my State and country, it would still not be enough to convince me that this State couldn't recover--

if indeed it was ill--or that new men and women of strength as we have here wouldn't replace the few who have fallen. That my children wouldn't or couldn't have a better state with my help and that of my fellow statespersons concerned about their own children. To be a patriot, for whatever land or cause, means to believe, not blindly but honestly, in what you care about. Even now, in what some have termed 'the blackest day,' I find a hundred reasons, and if I thought long enough perhaps a hundred more, to go on believing.

"We do not need total reform. (But we changed some. Our newly revised upon ratification Constitution is enough. And we have asked for God's help to offer these changes to our people and our State.) What we need, all we need, are men and women willing to take on the task of implementing our Constitution, practicing and believing, really believing that these are just changes. Laws do need changing--yes, because people change. But once modified and on the books, a law should be lived up to. We're still growing. We will continue to have growing pains. The presidents, the senators, the delegates, the 12-person jury and the judge: none is God. No elected body is the state or country. We are the state and country. You and me--us. It can only stay that way as long as we care to keep it so.

"If crimes have been committed, directed toward this State, let them be found. If punishment is needed, let's get on with it. But please stop telling me my State is in trouble and not well. I use the proposed Preamble to remind us, we are unique as an island State. We must dedicate our efforts to fulfill the philosophy decreed by the Hawaii state motto, 'Ua mau ke ea o ka aina i ka pono.'

"In my own composition of 10 years ago, I left home to serve my country and State with an accrued military service of over 29 years, retiring as a commissioned officer. The lyrics are, I believe, most appropriate then and now:

Hawaii, my paradise Hawaii.
 Where lovers' dreams come true.
 Island across the sea
 Calling me to return,
 Remembering my love,
 My lovely Kuuipo.
 The sandy shores and the blue lagoons.
 Its bright moonlit skies
 For my Kuuipo.
 Come with me to Hawaii Nei,
 My dreams will come true for you and me
 Aloha, aloha, Hawaii my paradise.

"I do want to thank all of you who have made my tenure here an enjoyable one, a learning experience and a historical one. In my book you are all truly honorable delegates. Aloha and mahalo."

Delegate Ledward, on being recognized, made the following statement:

"Mr. President, I rise on a point of personal privilege. Ours was the first committee to finish and therefore I feel it's quite applicable that I speak first among the chairmen.

"I will not be able to sleep soundly until I thank the hardworking members of the Committee on Budget, Accounts and Printing, especially my vice-chairmen, Delegates Crozier and Hayashida, who took care of the daily motions to approve the printing of our papers, and our legal counsel, Jim Funaki. I think the budget, accounts and printing committee holds the record for the shortest official meetings--10 minutes, with a full quorum. Our committee work is done and there will be no further meetings. There are still some outstanding bills, but we have sufficient

funds in every account to pay all the bills, including your salaries and per diem. In fact, we have enough left over that, if you can live on your per diem alone, we can continue for another couple of months.

"Of the original sum that we approved, \$2,216,275, we spent \$1,350,875 and we have a balance of \$865,400 as of September 15. Plus we have the \$200,000 for submission and information and \$40,000 for LRB. We do have some outstanding bills but they will be paid later on. As I said, we have enough money to pay all the bills.

"There are many here who helped me in the work I had to do; I would like to thank them individually, but I'll do that later and not impose on your time. There is one person I would like to single out to thank. He was going around like he wasn't getting enough sleep, and he wasn't. At one point he was so exasperated with me he even threatened to run over me with his car--and we both live in Manoa. This is because I kept on taking out or putting in commas and semicolons, and for each change he had to write a lengthy explanation. The result was that he had to work until the wee hours of the mornings to meet the deadlines imposed by the hardworking chairman of the style committee. As if this wasn't enough, the night before we approved Exhibit B, the thick volume you got, I gave him another change. He had to stay up and write that one too. If I ever have to undertake the redrafting of any legal document, I would certainly choose him for my partner. The feeling, however, may not be mutual for the reasons I just mentioned. I was very impressed with his capabilities and am grateful for all he did to speed up the work of the style committee. Thanks to him and our very able chairman, Delegate Hamilton, the style committee was able to complete work well ahead of schedule. These two people and our consultant, Ed Joesting, and our hardworking committee clerk, Claire Woods, helped our style committee to have the most efficient, speedy meetings, second only to the budget, accounts and printing meetings. I feel you should all know about this special person because without him we would never have been able to end the session on time. This special person, for whom I have a lot of aloha, is none other than Rick Kahle of LRB, the patient, hardworking counsel of the style committee. My thanks and deepest appreciation to him for a job well done. Unfortunately--I hung onto him for as long as I could but he had to take his staff to lunch, and he's not here. But I'll send him a copy of this speech so he'll know we appreciate his efforts."

Delegate Marumoto then rose and spoke as follows:

"Mr. President, I look upon this day with some happiness and satisfaction and also with a little sadness and a little frustration, which I was never able to get rid of.

"My happiness stems from the many friends I've met here over the past few months, and I think I can say individually that I love you all, but collectively--well, that would be another matter. I feel satisfaction that I have worked very hard and my staff has worked very well with me. I enjoyed working in the committees and hammering out language and the work in the Committee of the Whole, and also for the many good things that did come out of this Convention--spending ceiling, open primary, etc. I'm happy that several of my concepts did find their way into the new proposed Constitution also.

"But the leave-taking of my newly found friends is very sad, and I will miss all of you. I'm also very sad we saw the death of many proposals that we discussed at length--initiative, referendum, recall, unicameralism, elected attorney general. But then, I was in the minority on all those issues. My frustration and almost despair stems primarily from the prevailing sentiment in this body--I would call it a philosophy--that we should not share our power with the people. I feel that this type

of philosophy is dangerous, possibly racist, demagogic and regressive. I must give you a warning as I leave. I feel that many of the delegates consider themselves heirs apparent to the power structure today. They do not look constructively into the future but would like to freeze the present. My Res. No. 32 died today, the last action on the floor. I feel that is indicative of something. I feel we must look toward the future and roll with the punches, so to speak. Look for the changes that will come, share the power with the people and think of them always. I felt that the public was disregarded in this Convention. I'm sorry to end on this note, but thank you for the opportunity of letting me say this."

Delegate Cabral then made the following statement:

"Mr. President, I rise on a point of personal privilege, and I would like to take this opportunity to take one last parting shot--I mean, offer some words of thanks, praise and condolence.

"I offer words of praise to the media, and in particular to Sandra Oshiro. I think she hit the height of her career doing the coverage of this Convention with the article in yesterday's *Advertiser*. She was very candid and very appropriate, and I think it hails what is in store for the future. In terms of thanks, I'd like to say that I will be leaving this Convention as a winner. I won't be walking out of here with my tail between my legs because--lo and behold, whether it be known to the majority leadership or not, I am a winner, because one of my key and primary issues that I had espoused and set my sights on prior to coming to the Convention was the issue of the open primary. Maybe through some fakes and decoys, in attacking unicameralism, initiative and so forth, in raising those I was able to fake a decoy for my prime issue, through the good graciousness of Delegate Rachel Lee who introduced the open primary in the Committee of the Whole. But in truth I think it's really a good gesture of "kohoku" and the young Turks by not proceeding with their proposal to defeat the open primary proposal.

"I offer my condolences because, as has been prophesied by the media as well as Delegate Marumoto, I think that the young aspiring delegates to this Convention have learned a very biased kind of lesson. I hope they still have in their minds and their hearts if they do pursue a political career that they will learn to open themselves up in a more objective and more constructive way, that they can benefit all the people in the State, as opposed, as I've so often said, to just a few. Thank you."

Delegate Sterling, also on a point of personal privilege, stated:

"I thank the people here for the beautiful experience I've had. I wish that Delegate Johnny Penebacker was here; last night he said that his hardest job was to act as interpreter between Delegates Masu Dyer and Famika Anae. Only in Hawaii could this happen. Only in Hawaii, where we can come and be appreciated as individuals--each of us made in the image of God, each of us with our special talents. And only Hawaii--Masu, John Penebacker and Famika Anae. It's a beautiful relationship. A little glance across the room. A touch. A touch of warmth. In a way I wish we could continue with this because I've made so many good friends here amongst the *opio* and *makua*. I have full confidence that the young ones particularly will go out and do a good job for Hawaii.

"I guess I'm one of the independents. But then I really feel very fortunate that out of the 12 proposals I introduced 8 are incorporated into the final ballot. So I can say that it wasn't that bad. It was a give-and-take proposition, all the way down. I enjoyed it very much, but I enjoyed mostly to be able to say I love you afterwards. This is what Hawaii is all about. I do wish Johnny was here and he could interpret this for Masu and Famika. Thank you very, very much."

Delegate Haunani Ching then stated:

"Mr. President, I did not plan on speaking today, but I think I'll take this opportunity as an officer and secretary of this Convention to convey my thanks to all of my fellow delegates who have been very cordial and nice, and to also apologize for my sometimes rudeness and very abrupt manners. But if you know me, if you've gotten to know me, actually I've been very mild at this Convention. I stand with a heavy heart to think that I have been around in the legislature for almost 13 years now, and I don't think I've ever met people like all of you. We may have differed but I think there is such a strong bond between all of us, and I hope that when you go forth in whatever endeavors you pursue--I wish you luck, much happiness, and thank you very much for making you a part of my life."

Delegate Waihee then rose on a point of parliamentary inquiry, to ask if the time limit had passed for reconsidering the open primary. He stated, "This is a sincere question because I would really hate to participate in a meaningless power play."

The Chair then inquired if he had voted on the prevailing side, to which Delegate Waihee answered, "I'm afraid I did not, Mr. President, but I assure you I will be able to find a delegate who has."

Delegate Kojima, on a point of personal privilege, observed:

"For three months this delegate from the deserts of west Kauai and Niihau has listened and has felt the strong wind of hot air blowing across the convention hall, from that direction to this--the air coming from the slopes of Maunakea, Haleakala, the Koolau mountains. It's been blowing every day, every hour, every minute, but finally that strong wind is going to cease, thank heaven. But, like Chase & Sanborn coffee from the old days, that hot air has been good to the last drop."

"So, on this last day, I'm going to miss you, Delegate Helene Hale, and I say mahalo to those guys across the hall. We on this side have been recipients of that blast of air, but we've been patient and maybe we will leave the hall a little better for our patience. Thank you."

Delegate Dyer, on a point of inquiry, asked what the delegate meant by "guys" across the hall.

Delegate Goodenow then rose and stated:

"I would like to remind, if I may, the good delegate from the Garden Island that the word is 'indigenous,' that he was searching for. We'll hear more about that later today."

"I would like to very frankly state how honored I have been to work with you all--each and every one of you, majority or minority--and how very honored I have been to be a vice-president of this Convention. I think we have done a lot here. Basically I was amazed and very happy about all of those 835 proposals--how very creative we were. Our job was to examine the Constitution of our State and see if there was anything we could do. I feel that we have adequately and to the best of all of our abilities done the very best. I would like to say that I'm very happy today. I'm saving that sadness that I know I'll feel as I go back, eventually, to the schoolroom. Thank you very much."

Delegate Liu rose and made the following statement:

"Mr. President, I wish that I could leave this hall today with memories as sweet as the flowers that hang from my neck. I wish that this day were far different from the day upon which we started. I wish that we had reached those deeper and calmer waters that I had hoped

this ship of hope, this Convention, would find. Waters where we could have found the peace and time to explore all that needed to be explored, where we could have had fresh air in which to see ourselves and think about our roles--to think about if we were to be the final makers of law, to think about whether we were supposed to be creative and deny to our constituents choices to ideas that were reasonable, rational and realistic. For by denying the reasonable and rational and things that were in the realm of the fundamentals of government--things like initiative, election of attorney general, abolishment or restructuring of the lieutenant governor's office--by denying these things, to me instead of courage there has been a subtle but firm disregard for the necessary.

"However, I would never argue, as some have, that because some issues have not passed, the people of this State will vote in the negative on all that we have done. Never would I argue this because I have faith in the ability of the voter to read, think, analyze and judge. The same qualities that instill in me the view that the voters would have acted intelligently on whatever we could and should have presented to them. But, was it all a waste--the money, the time, the hours? In terms of product, perhaps some might say so. But in terms of people learning that by staying away from the polls the majority can be denied, in terms of the public being educated by seeing what group wields inordinate power in this State--I say that this Convention has not been a waste.

"It is said that in disappointment, despair and loss, the seeds for change are spawned. To you all I express my feelings that the seeds have been planted here and that they will soon sprout."

Delegate Blake then rose on a point of personal privilege and stated:

"As one of the senior candidates in this Convention, it's been my privilege to observe most of the time how people operate. And it's been a pleasure observing one particular individual, who I thought in the beginning didn't know too much of what was going on, who got himself stabbed a few times but came bouncing back many, many times, who probably has a tremendous amount of intestinal fortitude for what he stands for. We have a group--a double-double minority group known as the 'Panaceas,' who today present to the first candidate for the 1980 Convention, Michael 'Panasonic' Crozier, properly endorsed by the entire State. We understand he's going to be one candidate who can run at large. And we present this to you, Mike."

Delegate Crozier was at this time presented with a giant petition. Delegate Takitani thereupon rose to state:

"Mr. President, it is with great pleasure and pride and the utmost respect and admiration that I rise to speak against this nomination. There are two reasons, Mr. President: No. 1, what has he done in this Convention? No. 2, I feel sorry for the next president if he has to sit in the front. But keeping consistent with my ways in the Convention--speaking against something and voting for it--I signed the paper."

Delegate Rachel Lee then stated:

"Mr. President, I rise on a point of personal privilege. I have given the image to many of our young delegates of a mother figure. As my last words on this last day, I would like to add a mother's advice. As all of you know, mother's advice never are appreciated, and I know what I am saying now will probably not be received too well. However, you know, as all mothers do, advice is always given for your own good. So this morning I'd like to leave a word of advice.

"On the first day when we met, my first impression was--I was delighted that there were so many young delegates, some younger than

my own son. And it thrilled me when I saw how intelligent they were, how articulate, and I said to myself, these will be future leaders of Hawaii. I went home and I was so happy, and I expressed this happiness to my friends and family. But as the Convention went by, I began to be dismayed because I thought the young delegates seemed to align themselves with the side that gave the impression that they would get the most benefit. The game of politics started, and at their young age they began to be politicians.

"My last message to you is--learn, please learn to be good politicians. But in your compromises, please don't compromise and vote for some valuable and worthwhile values just because you will end up receiving special favors and material gain. Please, pardon me for leaving this last message but I sincerely mean it, and I love you all. Thank you."

Delegate DiBianco then made the following statement:

"Mr. President, I rise to speak for what will no doubt be the last time in this Convention, a fact I'm sure will gladden many of your hearts. There are a lot of things that I should have spoken about this summer and didn't and probably a couple of things that I said that I shouldn't have--but I feel it important to make some final remarks for the record and therefore I've risen to speak. I have prepared this speech--the only time I've done so this summer--so that it can be incorporated into the record verbatim because I want to make sure that there are no mistakes in transcription. Some of my remarks may not please you but I hope you will accord me the courtesy of listening, because I intend to speak the truth as I see it.

"The 1978 Constitutional Convention was a disappointment. Although I learned to like many of you, regardless of where you stood on the issues or whether you were a majority or minority member, I was truly distressed by what I saw this summer. I can only hope that what occurred here this summer was a valuable lesson to many of you as it was to me. It is my own feeling that were this Convention to continue for another month, we would have had one more month of the same backroom politics we had all summer long.

"My disappointment is primarily twofold: first, I am disappointed because we did not present to the public the issues that they wanted to have. Some issues, such as initiative and referendum, were on the general public's mind when they sent all of us here to Con Con. And we did not have the decency to repay their confidence in us by putting this measure, and others, on the November ballot for their consideration. Secondly, I am disappointed at the ease with which many delegates committed their votes, not on single issues but for the whole summer, to persons both inside and outside this Convention in dereliction of their duty to their constituents. The timidity of some of the delegates--the political ambition of others--and the arrogance of some--was all distressing to me and, I think, to the general public.

"Also, there seemed to be a prevailing view among one group of delegates that they knew what was best for Hawaii. However, these delegates based their philosophy on ethnic and racial theories and biases and I believe they were completely misguided. There was much talk in this Convention about the uniqueness of Hawaii and its people. I have never accepted the notion that Hawaii's people are unique, because I believe that all people are the same. The more I observe people, the more I am convinced that there is no difference among any of us. We may eat different foods, speak different languages and have different arts and crafts--but we all have the same emotions, same thought processes, same desires, same faults and same virtues. I think much of the argument that Hawaii is unique and therefore should not learn from its sister states on the mainland or from the past experience

of others is simply a cover-up for political action based on ignorance or prejudice.

"As I have gone throughout my district campaigning for the legislature, I have been met over and over again with the question-- 'What went wrong at the Con Con?' The answer I give is simple; a coalition of anti-reform delegates including some delegates too timid to vote their consciences is what went wrong with the Con Con. That answer may not satisfy or appeal to you. But it is the answer I give.

"Perhaps my greatest disappointment is the fact that I saw so much talent wasted. I saw delegates with very good minds turn their decision-making over to others. We were not elected to do that. The waste of talent, the waste of time, the waste of money and the waste of confidence which had been placed in us by our constituents--these are irreparable losses.

"The State of Hawaii expected much from us. It did not get a fair return for its money or its hopes. This was to have been a truly grass-roots convention but instead it was just the same old political game-playing. There was no excuse for that.

"Many of us are campaigning for future political office. Those delegates who chose not to run for office this year will, I am sure, run for office in the not-too-distant future. The prospect of some running for office makes me happy. The prospect of others running makes me fearful. I do not believe that the State of Hawaii can take too much more of the kind of philosophy that dominated this Convention and, indeed, has dominated Hawaii politics for as long as I have been associated with the State.

"Many of you in this room are native-born. You owe Hawaii much. But I see many of Hawaii's sons and daughters taking from the State, not giving to it. Hawaii cannot continue to yield its bounty in the manner it has over the past two decades. The one rule in our politics appears to be selfishness. And I fear for the future of this State if that philosophy continues to prevail. The factionalism and ruthless political fighting that mark Hawaii politics are destroying this State, both financially and morally. In both ways, the State is nearing bankruptcy.

"Hawaii is here for all people, brown, black, yellow and white. But its future rests upon its ability to produce leaders who are not prejudiced, who have the courage of their convictions and who can see beyond the needs of their particular political or ethnic group. So far that leadership has not emerged and I do not see it on the horizon.

"Hawaii deserves better than it received from us this summer. And I think the majority of the people in this State would agree with me. Time will tell. Thank you very much."

Delegate Laura Ching then rose to offer the following remarks:

"Mr. President, I rise on a point of personal privilege. I'd like to share some of my parting thoughts with this body. Fellow delegates, I entered this Convention with trepidation, uncertain of my abilities and apprehensive of the people I would meet. I leave here a stronger, more knowledgeable person, with respect and aloha for all the wonderful people I have met. We have been through a lot together--hours of deliberations, countless numbers of public hearings, endless testimony and debate. I have learned much from this experience, from both the people of Hawaii and my fellow delegates. There have been good times and bad times at this Convention, but I will cherish this entire experience for years to come, and you people I will hold dear for the rest of my life.

"I have found the tasks bestowed upon us by the people of this

great State to be important, challenging and at times demanding. But I never for one minute lost the faith that we as delegates would make the best decisions necessary for the growth and welfare of the people we love in Hawaii. The value of the friendships I have made here is immeasurable, and I will look back with fond memories of this Convention and the people who made it great. Thanks to all of you for making this one of the most memorable experiences of my life."

Delegate Chu then spoke as follows:

"Mr. President, I haven't prepared a written speech because I found it difficult up till this moment to find the words to express the many feelings that I have. However, I am inspired at this time to speak on the feeling that I have about the growth experience this Convention has provided.

"I was born in the mid-40s, I was a post-war baby, I grew up in the booming '50s and the '60s, lived through the protests and the changes of the '60s, and now I'm living through the sobering influence of the '70s. I was very interested in the Constitutional Convention. In my brochure I said that these were very exciting times in the history of Hawaii, and I still feel that way. I feel that Hawaii has grown into a very cosmopolitan state with a very cosmopolitan, far-advanced government--that more than any other state in this Union. But yet it's maintained its aloha, it's maintained its openness, it's maintained its accessibility of government to the people.

"However, I'm not entirely disappointed by this Convention, in that I feel it's a growth experience for Hawaii. I am concerned very much about what the Advertiser's Sandra Oshiro has stated as the 'militant localism.' I'm concerned because what that should mean is pride in who you are, not intolerance of what other people are. I feel that that would be a regressive step for our government. I feel that we should maintain accessibility, openness and our aloha spirit to all people of the world. We should work together to advance the ideals of democracy, to make the phrase in the Preamble of our Constitution a reality, that this government shall be 'of the people, by the people and for the people,' and with an understanding heart toward all people of the earth."

Delegate De Soto rose and stated:

"Mr. President, I didn't come prepared to speak about anything that I have done or what I've felt or anything, because I would truly be non-Hawaiian. I come to bring praise to other people so that I may support them and their efforts. But some remarks have been made this noon that disgust me. I'm ever so grateful for the people in Waianae electing me, entrusting me to make decisions on their behalf. All of the decisions that I have made, even with respect to initiative and referendum, are because the people in Waianae, my constituents, felt they did not want it. I want to say to everybody here that these things are temporary. That all of us have differences of opinion and different ways of life. To totally assimilate is to ask someone to give up their soul.

"I think that this Convention--and only history will prove--has done amazingly well; with efforts toward the Hawaiian people as an example. And yet I have heard in these halls--what makes the Hawaiians think they're so special. I leave that to your own consciences. I am a mother and a grandmother of nine children. I hanau six of my own and hanai four. I have ten children. Of all different races, my hanai. But I stand here today quite proud of our opio. They're in a learning process, too. From the time of each of our hanau we didn't know how to walk. We had to learn how to walk and talk and eat. And so now this happens, the process of life, with the opio in this Convention. There is one factor that this Convention has and that is love, and the understanding of human beings one to the other.

"The opio have not always been right, nor have they always been wrong. And for some of you young people who I hope get elected and go on to the higher and larger and bigger games of politics, what transpired in this Convention is exactly what will transpire then. Politics to this old lady is grass roots--no college education, nothing, only a feeling of love for people of all races. It is my experience that all of us together collectively have done what we thought was right. Some of us lose hard. I know that some of us are not satisfied. But when it is time to face my maker, I will stand before the Great Spirit with complete satisfaction that I have truly attempted to represent my people.

"I love all of you from the bottom of my heart. History for the Hawaiian people has not been an easy road. And because all of you here have made it possible for them now to become to some degree self-determining, I think that the 1978 Convention for the Hawaiian people at least--and for some of you who don't think that that's a big deal, believe me, brother, believe me, sister, it's a big deal--it is an enormous thing that we have done here. We have made major in-roads to environment.

"In the time of Hewa-hewa, the kahuna to Kamehameha I, and in his prophesy, through the chants we learn when he was leaving Kona Kamehameha had some doubts about whether what he had done to conquer all the Islands was good or bad. He turned back toward the beach as he was walking down toward his canoe with a gun on it. At his side stood John Young and his kahuna, Hewa-hewa. He turned back to the beach as the people were lined up on the beach. First were all the chiefs and the warriors, and then the hoa'aina and maka'ainana--all the people had come down to bid him adieu. And he turned and tears ran down from his eyes and he said, 'Imua na po 'ihi. Inu 'ai ka 'awa'awa.' Hewa-hewa goes on to say in his chant that a time will come when a walewale will come and devour the Hawaiian race, and then another time will come, in the time of Lono i ka makahiki, where a new nation will be born again and this new nation shall rise to give forth to the world the true meaning of love. And in that chant, my kupuna tells me, the prophesy is there. This is the year 1978, where we're so involved in environmental issues. The new nation to be born is all of our children of all races, all races. You, young opio, will have a message for the world.

"I ask this Convention to please receive my deepest gratitude, my sincere love and my sincere wishes that when you leave this place you find some place in your heart for love for all of us. Although we may not agree, we certainly can agree about love. Love is a thing that will keep us. We will all die and go but that love will remain. I say to you opio, imua. I say to you who do not understand us, imua. I say to all of you, mahalo. To my staff, the members of the Hawaiian affairs committee and this body, history will prove that this certainly has not been a useless Convention. Mahalo nui loa and aloha."

Delegate Hale then rose to say:

"Mr. President, it's said that you can't teach an old dog new tricks. But I'd like to say that I've learned one thing in this Convention, and I learned it just the other day. Sometimes you have to be silent to be heard."

Delegate Chung, on a point of personal privilege, stated:

"My first point, Mr. President, is, after looking back on the days and months of the Convention, I don't think we could have found a better man than you to become our President. I think of the opening day, when I had the privilege of making a very brief remark in your behalf, and I might say that everything I said is a reality. Whatever we have accomplished has been a team effort, yet you at no time said, I did it. I'm

sure that whatever we have done, we can proudly say that we did it together. I think this is the kind of leadership that Hawaii is looking for. Therefore, without your type, certainly this entire body would have been in chaos.

"The other point I wanted to bring up is that all of us are only visitors on this earth. Some day we shall all leave. My personal philosophy is similar to what the late Pope John said, that the Almighty may not give me time to do all that I want to do, but during the time that he gives me I shall do the best I know how to finish the job and do the best job I know of. I'm sure this is a reflection of all of us here as I see you every day and hear you talk every day. We have tried our best to do the best job within a limited time.

"Finally, let me just go back at the earliest days of our Convention, right after we had met with a representative from the lieutenant governor's office regarding our timetable. And at that time I'd like to call your attention to the fact that many of us who had not yet made official our intention of running for public office were castigated by one of our members because we were accused of trying to speed up our time to work through things in a perfunctory manner so that we could all get out there and wave on the highway and go into politics. I'm sure all of us felt the sting at that time, and I didn't think about anything because it was too soon. And now we see one of the members who made those castigating remarks himself-- I just want to remind those, Mr. President, because of some of the remarks that were made. I share the feelings and sentiments of Delegate De Soto. I think it only fair that I personally be given--"

At this time Delegate Rachel Lee rose on a point of order, protesting, "Mr. President, this is a happy occasion--"

Delegate Chung, in response, said:

"I know it is a happy occasion, I'm very happy. Well, I express my happiness in many ways. So I'd like to say to all of you delegates-- 31 I was told are running for office--I want to wish you my sincerest aloha and best wishes for every success and, including any other person who's running in my same district, I just want to say, let's come out fighting, fight it fair, and let the best man win. Thank you."

Delegate Campbell then made the following statement:

"Mr. President, I rise to a point of personal privilege for the last time in this Convention. I would like to say first of all, mahalo to all those here who ever listened to what I had to say, and mahalo to those from whom I learned, for indeed I did learn much. This has been my first political experience in life, and it has been a learning experience. I want to thank Mr. President for the role he played, and I'd like to say that the Indians do indeed know what they say, that you have to walk in another man's moccasins to know how he feels. It was only when I stood in your place that I truly understood what it was that you were going through in the days that you led us in the Convention.

"I think that history will record this Convention with pluses and minuses. Some of the ones that I feel particularly gratified about are the fact that the people will be able to say something about the open primary, that there will be advancement in openness in government insofar as the legislature is concerned, that something has been attempted insofar as the escalating costs in campaign expenditures are concerned, something with respect to tightening our debt limit, and something with respect to righting some of the wrongs that have happened in history to our Hawaiian people.

"I was reared on the theory that 'there is so much bad in the best

of us and so much good in the worst of us that it doesn't behoove any of us to talk about the rest of us.' And maybe in learning that lesson I translated it into a cardinal principle in my own life. And that is, always look into the dignity of the man or the woman whom I confront. I never forget it. I seek to do the constructive instead of the destructive. I think that if all of us here, where so much talent is latent in all of us, use that talent to uplift the dignity of the rest of us, Hawaii will be the kind of place all of us want it to be. Mahalo nui loa."

Delegate Hirata then stated:

"Mr. President, I had prepared a speech today but I would prefer that it just be entered into the Journal. However, I would like to share a few thoughts with my fellow delegates here. I believe that, as one of the younger delegates, these past 3 months I have experienced so much and I've grown so old and matured so quickly. I want to thank our kupuna here at the Convention for giving us guidance and for sharing with us their years of wisdom. Lastly, I would like to thank my Auntie 'Frenchie' De Soto who brought with her, and taught us all, the true meaning of aloha."

[The following is written testimony as submitted by Delegate Hirata.]

"Right after the Con Con elections when we were called a 'do nothing' convention, I was almost convinced that we would be out of this building by Admission Day. But, like any good bureaucracy, we proceeded to find something to do. And we worked very hard at it, often filling our days and evenings. I believe that all of us worked earnestly. My only hope now is that the public will recognize our efforts as such.

"I would like, at this point, to express my frustration that this forum has been used by everybody and his brother to get what they couldn't get passed across the street. I resent the continued accusations that we were being led by a demagogue of some sort, simply because a group of delegates, who often constituted a majority, shared some common beliefs. I particularly resent the recent accusations by political candidates and the media that some of us, and I, are being manipulated. I resent that insinuation: My decisions and actions have been based on my own personal convictions and the dreams that I have for my children and the future of Hawaii. My decisions were not based on any 'orders' from anyone, either at or outside this Convention. The contrary in fact was true, particularly in the case of the legislature and the administration. Both were very reluctant to lend their technical assistance for fear it would be looked upon as 'meddling' or 'influence-peddling.' I think we all could have used a lot more technical expertise and knowledge in our deliberations and decision-making. I was elected, just as everyone else here, by the voters of my district; consequently, I have made my own decisions based on my own best judgment, just as many of you here have.

"Although I have often voiced my reservations about our proposed changes and I personally believe that our Constitution should be a short, concise document uncluttered with needlessly complicated formulas which make it difficult to act quickly in times of crisis. We worked hard to produce that kind of document. However, at times there was a necessity to be specific so that the Constitution would provide definite direction and fully define our intent.

"Notwithstanding all of our differences, I think we should all be proud of what has taken place here. I believe there has been open and free discussion. I think that there has been an exchange of ideas. I think that all of us have earnestly listened and considered our votes carefully. And I hope that we leave with a better understanding of each other and with the true spirit of aloha."

Delegate Hagino at this time made the following statement:

"Mr. President and fellow delegates, May 20, 1978 was the beginning of a very historic era in Hawaii's history. That was the day about 800 hopeful candidates were reduced to 102 Constitutional Convention delegates. The ages of the delegates ranged from 20 to 63; they came from the ranks of students, teachers, lawyers, blue-collar workers, lay ministers, retirees and managers. Two thirds of the delegates were lifetime residents and most have lived here for a long time. There were 82 delegates at the 1968 convention; in 1978, there are 102. And wouldn't you know it, the 20 new seats went to women. You've indeed come a long way.

"During this Convention there have been numerous birthdays, several wedding anniversaries, two marriages and the birth of two babies, not necessarily from the previously mentioned marriages. I sent out a survey last week, but unfortunately less than half the delegates finished it. One delegate even decided to use our right to privacy section. It is interesting to note that of these 45 who answered, 23 went to public high schools--this does not include the one who said he went to Furtado Memorial High--and 31 attended the University of Hawaii. I think this is a tribute to our public school system.

"I would like to share with you a very interesting story that was contributed by Delegate Shon. The Tamayori Row has the author of the first proposal (Shon), the author of the last proposal (Miller), and author of the most proposals (Takemoto). It also contains the Con Con veteran (Terry Ihara), two board of education candidates (Terry and Okamura), three house candidates (Shon, Miller and Takemoto), four committee chairmen (Ihara, Takemoto, Okamura and Iwamoto), one vice-president (Les Ihara), the youngest male (Yamashita), one vice-chairman (Tamayori) and an IRS agent (Kimball) to investigate them all.

"As the 1978 Constitutional Convention draws to a close, it is important for us to try to understand the significance of this Convention. Twenty-four years ago in 1954, a group of young leaders attained leadership in the territorial legislature. They burst upon the Hawaii scene like a supernova in the Pacific skies. They represented a generation of leaders coming of age. Their entrance into politics was viewed with distrust by many of the institutions in the territorial society, including newspapers. For some it was like another Pearl Harbor but today the names of those leaders have become household words: Burns, Cravalho, Inouye, Yoshinaga, Matsunaga and Ariyoshi. For the first few years little positive accomplishment was achieved. Hawaii was just beginning to emerge from a feudal and plantation era. It was not until the early statehood years that these leaders began to take firm steps in areas like education, health care, the arts, social and labor legislation. No aspect of society was left untouched by these leaders. With hindsight, the year 1954 is now referred to as the year of the Democratic revolution.

"I firmly believe, my fellow delegates, that 1978 will go down in history as a similar landmark for Hawaii. Although we may argue about what was done or not done at this Convention, although our proposals must still go to the people for ratification and although the coming years will be the true test of our work, the most important step has already been taken. That achievement came about, as I stated earlier, on May 20, 1978 when all of us were elected.

"The year 1978 is also the bicentennial of Captain Cook's western discovery of Hawaii. It can be said that 1978 is also a year of discovery for all of us. We are beginning to discover ourselves and what it is that makes us unique. The year began with the Hawaii Observer selecting the late George Helm as its man of the year. George Helm forced us to look at ourselves and at our Hawaiian-ness. This year also marks the continuation of the Hawaiian Renaissance. This Convention, I believe,

will play a vital role in this Hawaiian Renaissance. The Hawaiian affairs package marks a significant and sincere effort to right the wrongs perpetrated on the Hawaiian people. It was at this Convention that we began to look for unique Hawaiian and Pacific solutions.

"And so, who are we? And where are we going? I am not certain, and I don't believe anyone here is certain, of where Hawaii is going. I do believe that there are some rough years ahead and yet, like the earlier generation of leaders who were part of the '54 revolution and had to bide their time during the rest of the decade of the '50s, I feel confident that a new Hawaii is coming. Only this time the names of the leaders will be Waihee, Fukunaga, Shon, Chang, Hashimoto and Barnes.

"This closing day also marks the close of 16 years of illustrious and distinguished public service by Delegate Taira. While it is indeed a sad day, I look to the bright side--over 30 delegates are seeking to equal or better this distinguished mark and this Convention is the start of it. For some, like me, this may well be our last fling at politics. I have had many frustrations and yet few regrets. But in the next 2 to 4 years I look forward to seeing even more names, like Tamayori, Yamashita, Okamura, Izu, Crozier, Stegmaier and Hirata on the ballots.

"As all of you know, during this Convention I became a father for the second time. My fellow delegate, Dave Stegmaier, became a father for the first time. Mr. President, what greater testament of faith in the future can a young person have than to bear children into this world. I believe in our ability, my generation's ability, to make Hawaii a decent place for our keiki. I believe in our ability to make a better Hawaii. I believe that the Hawaii that is to come will be a good and decent society for Jeremy Kalama and Danielle Amiko Nawahinepuaokalelehuna.

"And so once again, who are we? We are, as George Helm said, 'one 'ohana.' We are one family. We may argue with each other but we must live together. To my fellow friends, take care, mahalo for the memories. But I will not say farewell. As I stated in a previous speech, my greatest fear on my wedding day was that I would be losing my friends. I pray that it will be different this time. And so instead I say aloha, see you in '88."

Delegate Donald Ching then stated:

"Mr. President, I beg the indulgence of the body. For the first time in this Convention, I'm rising on a point of personal privilege. About 4 months ago some of us got together to decide who would lead us in this Convention. It was not a very difficult decision. Bill, I just want to tell you, you didn't let us down. Thank you."

ADJOURNMENT

At 12:23 p.m., on motion by Delegate Waihee, seconded by Delegate Barr and carried, the Convention adjourned subject to the call of the Chair.

SIXTY-FIFTH DAY

Saturday, December 2, 1978

The Constitutional Convention of Hawaii of 1978 was called to order at 10:00 a.m. in the Senate Chamber of the State Capitol.

The President presided.

The Divine Blessing was invoked by the Reverend David Kaupu of the Kamehameha Schools.

The President declared a quorum and directed the Clerk to check the attendance, which showed that all delegates were present with the exception of Delegates Anae, Andrews, Cabral, Eastvold, Ellis, Marion Lee, Lewis, Nozaki, Villaverde and Yamashita who were excused.

The President announced that the Journal of the Sixty-Fourth Day had been signed by the Secretary and approved by the President.

At this time the President addressed the Convention as follows:

"Distinguished guests, friends, fellow delegates:

"The signing of this document that we are about to undertake in a ritual way marks the end of our task as delegates to the Constitutional Convention. That we are here signing the document containing all 34 amendments is something that few of us had any reason to expect would happen. Most of us were not pleased with the total product of the Convention. We had reservations about parts of some amendments and about entire amendments in other cases. But in the end we recognized that whether we as individual delegates agreed or disagreed with the majority judgments of the Convention, it was up to the voters of the State to make the final decision. They did as we did--they voted against many of them but in the final analysis the majority supported and approved each amendment.

"As part of our effort we have seen to it that the next convention will not be placed in the same tight time-frame that made for such constant pressure. We were told by the lieutenant governor's office that at all costs we must have our ballot and all our amendments translated into three languages by September 21 if we were to hold the referendum with the general election November 7. When the ballot form, patterned almost exactly like that of the '68 convention, was finally approved, the Chair was not aware of any concern expressed as to ballot structure by any government official, and objections in public areas were mild and muted. If for no other reason, most close observers thought that, whatever form the ballot took, the combination of the negative vote and/or total apathy would forestall acceptance of many of the amendments. This was not so. The people of the State did their homework. They used the information provided, they listened and they read. Considering the time the Committee on Submission and Information had to educate the public on all 34 amendments, that there was some confusion, some misunderstanding, and some questions, was recognized, was understandable and admittedly unfortunate. But overall, I thought the submission and information committee, individual delegates, the press, civic groups and others did one heck of a fine job in getting the story across. However, the ballot form

notwithstanding, the majority of the voters of this State by their vote on November 7 in effect endorsed the work of the Convention and gave you a well-deserved vote of confidence, and I feel you are to be congratulated for this.

"As we step forward now to sign as individuals, I will look on this not as a ceremonial gesture but as an opportunity to reaffirm my confidence in my fellow delegates who labored, argued, debated both on and off the floor to write, frame and bring forth these amendments.

"I am sure that in time as you may come to look again at this document you will see not only the print and the language but the memory's eye will conjure up those faces, those incidents, those personalities that made this Convention one that we will not soon forget. I know that out of this Convention there have been formed some very endearing and enduring friendships and some political careers launched. And so indeed I think this will be a living document and a testimony to the sincere and dedicated efforts of all of us.

"But overall, and I think more importantly, I know most of you feel as I do that we still have ahead of us the opportunity to aid in the implementation and the understanding of some of these amendments. I would hope also that you would feel as I do that these amendments that we proposed, given time, given understanding and given opportunity, will prove themselves in the only way they really can--by making for a better Hawaii for us, our children and the generations to follow.

"Mahalo."

The signing ceremonies began with the President affixing his signature to the Constitution, followed by the officers and delegates of the Convention.

At 10:45 a.m., at which time the last signature--that of Delegate Yoshimura--was affixed, the President announced that all delegates present had executed the Constitution of the State of Hawaii on the original sheet. The President further stated that those delegates who were unable to be present at that time to sign would be given an opportunity to do so at a later date.

On motion by Delegate Haunani Ching, seconded by Delegate Nakamura and carried, the President was authorized to approve the Journal of the Sixty-Fifth Day.

At this time Delegate Peterson moved that the Convention of 1978 recommend to future conventions that the ballot be designed in such a way that the public could vote yes or no on each proposed amendment.

The President stated that the motion was not in order but, this being an informal session, it would be duly noted, as well as the fact that the Convention was equally divided on the question. The Chair further stated that he recognized the problem and had given the matter serious consideration, but that in any case the Convention's recommendation would not be binding on the next convention.

At this time Chief Clerk George Amimoto, Assistant Clerk Colin Miyabara and Joyce Omine were recognized by the Convention and presented with leis in appreciation of their outstanding work.

Delegate De Soto then led the Convention in the singing of "Hawai'i Aloha."

ADJOURNMENT

At 10:55 a.m., on motion by Delegate Waihee, seconded by Delegate Ledward and carried, the Constitutional Convention of Hawaii of 1978 adjourned, subject to the call of the Chair.

CONVENTION DOCUMENTS

Resolutions

RESOLUTION NO. 1

ADOPTING THE RULES OF THE CONSTITUTIONAL CONVENTION OF 1978.

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that the Rules of the Convention be adopted in the manner and form hereto attached.

RESOLUTION NO. 2

CONGRATULATIONS AND THANKS TO DELEGATE TERUO IHARA.

WHEREAS, the facilities for this Constitutional Convention were unprepared a month ago; and

WHEREAS, Delegate Teruo Ihara, Chairman of the Facilities Committee, has worked tirelessly from early mornings to late evenings to direct preparation of the facilities; now, therefore,

BE IT RESOLVED that the delegates of this Convention individually and severally thank and congratulate Delegate Teruo Ihara for his efforts.

RESOLUTION NO. 3

RELATING TO WORDING OF OUR STATE CONSTITUTION.

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that since our Constitution should be written by the people and understood by the people, each proposal, rewrite or revision should be plainly worded, avoiding the use of technical terms.

RESOLUTION NO. 4

REAFFIRMING SUPPORT OF THE EQUAL RIGHTS AMENDMENT.

WHEREAS, the State of Hawaii was the first state to ratify the Equal Rights Amendment to the Constitution of the United States, action which was followed by overwhelming voter ratification of an Equal Rights Amendment to the Constitution of the State of Hawaii; and

WHEREAS, basic human rights and human dignity demand that there be no discrimination on the basis of sex, to guarantee that individuals are afforded equal opportunity and equal rights under the law, so that no person is subject to irrational and invidious discrimination on the basis of sex; and

WHEREAS, the people of the State of Hawaii have long been and continue to be committed to constitutionally based equality of rights without regard to sex, evidenced by the prohibition against denial of due process and equal protection on the basis of sex dating back to the earliest Hawaiian Constitution; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that it reaffirms support of the Equal Rights Amendment; and

BE IT FURTHER RESOLVED that duly authenticated copies of this Resolution be transmitted to the members of the Hawaii congressional delegation.

RESOLUTION NO. 5

RELATING TO PROPOSALS.

WHEREAS, Rule 55 of the Rules of the Convention provides that the Convention may set a date after which no proposal shall be introduced, except by committee; and

WHEREAS, it is deemed necessary to establish such a date for the standing committees to proceed on their deliberation of the proposals and conclude their work in an orderly and timely manner; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that no proposal shall be introduced after 4 o'clock p.m. of July 31, 1978, subject to being extended on input from the Lieutenant Governor's office, except by committee; and

BE IT FURTHER RESOLVED that said time and date of 4 o'clock p.m. of July 31, 1978 may be amended only by the affirmative vote of at least 52 delegates; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution be transmitted to each of the chairpersons of the standing committees of the Constitutional Convention of 1978.

RESOLUTION NO. 6

URGING RETENTION OF ARTICLE I, SECTION 8, OF THE STATE CONSTITUTION RELATING TO THE GRAND JURY.

WHEREAS, the seriousness of increasing criminal activity in the State of Hawaii has placed this concern at the top of the list of voter interest; and

WHEREAS, the people of the State of Hawaii have willingly assumed their share of the responsibility by participating in the Grand Jury System, in accordance with the provisions of Section 8, Article I, of the Constitution of the State of Hawaii; and

WHEREAS, this system specifically allows and encourages citizens to directly participate in the exercising of their rights and authority in the governmental processes; and

WHEREAS, the present Grand Jury System is the result of 800 years of legal evolution; and

WHEREAS, the Grand Jury System in its implementation is not a contributing factor to the primary concern of increasing crime; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that Section 8 of Article I of the Constitution of the State of Hawaii be retained in its entirety; and

BE IT FURTHER RESOLVED that duly authenticated copies of this Resolution be transmitted to each delegate and to the presiding officers of the state legislature.

RESOLUTION NO. 7

RELATING TO A BICAMERAL LEGISLATURE.

WHEREAS, it will serve as a useful guideline to the standing committees of the Constitutional Convention of 1978 to have a determination whether or not a bicameral form of legislature shall be retained for Hawaii by this Constitutional Convention; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that a bicameral form of legislature be retained; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution be transmitted to each of the chairpersons of the standing committees of the Constitutional Convention of 1978.

RESOLUTION NO. 8

RELATING TO THE BUDGET.

WHEREAS, by Act 17 of Special Session Laws of Hawaii 1977 and Act 243 of Session Laws of Hawaii 1978, the aggregate sum of \$2,500,000 was appropriated by the state legislature out of the general revenues of the State of Hawaii, or so much thereof as may be necessary, to the office of the Governor, or to the officers elected by the delegates if so designated by the Governor, for defraying the pre-session, session, and post-session expenses of the 1978 Constitutional Convention; provided that, of the sum so appropriated, \$240,547 may be contracted to the Legislative Reference Bureau for the following purposes: \$200,000 for a citizen education program and \$40,547 for staff services for the Constitutional Convention delegates; and

WHEREAS, on July 18, 1978, the Constitutional Convention adopted its budget, which covered \$2,259,453 of the aggregate sum so appropriated but did not include the said sum of \$240,547 because the Committee on Budget, Accounts and Printing, which had recommended the adoption of the budget, had assumed that the said sum of \$240,547 would be expended by the Governor for the special purposes intended therefor under Act 243 of Session Laws of Hawaii 1978; and

WHEREAS, it is now deemed necessary and appropriate that the said sum of \$240,547 be included in the budget of the 1978 Constitutional Convention for the purposes intended inasmuch as the Governor has duly delegated to the President of the Constitutional Convention the authority to expend the aggregate sum of \$2,500,000, which includes the said sum of \$240,547; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that the budget of the Constitutional Convention adopted on July 18, 1978 be and it is hereby amended by adding thereto an item for the said sum of \$240,547 as special expenditures and to read as follows:

"Special Expenditures:		
Citizen Education Program	\$200,000	
Legislative Reference Bureau		
Staff Services	40,547	\$240,547"

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the President of the Constitutional Convention and to the chairperson of the Committee on Budget, Accounts and Printing.

RESOLUTION NO. 9

RELATING TO CONFLICTS OF INTEREST CONCERNING PUBLIC EMPLOYEES.

WHEREAS, this Convention has adopted a code of ethics to prescribe the standards of conduct for the delegates; and

WHEREAS, this code was adopted under the guiding precept that the Convention should avoid even an aura or appearance of conflict of interest so that public confidence in the efforts and work product of the Convention will be assured; and

WHEREAS, delegates who are public employees and members of any of the thirteen public employee bargaining groups are in direct and indirect conflicts of interest when voting upon proposals having to do with Collective Bargaining for Public Employees; and

WHEREAS, such delegates are in direct conflict when voting on collective bargaining as they are personally part of the collective bargaining process in that they must individually ratify or discard every proposed agreement; and

WHEREAS, such delegates are in indirect conflict as members of the various unions which gain financially from each wage increase by virtue of their percentage assessments of dues and fees and in turn pass on to the delegate members these financial gains in the form of increased benefits; and

WHEREAS, such conflicts of interest must be ruled upon by the President and the various committee chairmen, thus imposing a most grievous burden on these individuals; now, therefore,

BE IT RESOLVED by this Convention, that this basic matter of conflict of interest on the part of delegates who are state and county government employees, when voting on proposals having to do with Collective Bargaining for Public Employees, be referred to the Ethics Committee for comment and recommendation and report as soon as possible so as to aid the President and the committee chairmen in their decisions.

RESOLUTION NO. 10

URGING FINANCIAL DISCLOSURE STATEMENTS BY CERTAIN NEWSPAPER EDITORS AND PUBLISHERS.

WHEREAS, this Convention recognizes the importance of a free press to a free society; and

WHEREAS, great newspapers contribute to the shaping and molding of public opinion and public policy; and

WHEREAS, the State of Hawaii has adopted the Newspaper Preservation Act, to assure economic survival for certain newspapers and thereby to assure diversity of editorial opinion in Hawaii; and

WHEREAS, newspaper editors and publishers influence the dissemination of information about public events and policy decisions; and

WHEREAS, editors have the sole power to edit the news and the power to edit the news is the power to control the news; and

WHEREAS, the public has a right to know the financial interests of those who receive state support and influence public policy and opinion; and

WHEREAS, that the newspaper business is one greatly affected with a public trust, and the public interest; now, therefore,

BE IT RESOLVED that this Convention transmit to the legislature its concern for and support of financial disclosure statements for editors and publishers of The Honolulu Advertiser and the Honolulu Star-Bulletin; and

BE IT FURTHER RESOLVED that duly authenticated copies of this Resolution be transmitted to each delegate and to the presiding officers of the state legislature.

RESOLUTION NO. 11

REQUESTING AMENDMENT OF THE RULES OF THE CONVENTION TO CLARIFY THE PROCEDURES THEREIN.

WHEREAS, the rules of the 1978 Constitutional Convention were adopted before the Convention met, based upon the rules of the 1968 Constitutional Convention, which were also adopted before that Convention met; and

WHEREAS, it appears after functioning under these rules that they do not set forth the procedures that the Convention should follow with sufficient clarity; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that the Rules of the Convention be amended to clarify the procedures set forth therein in the manner suggested in the attached exhibit or in a manner based upon the exhibit as suggested by the Rules Committee of the Convention; and

BE IT FURTHER RESOLVED that duly authenticated copies of this Resolution be transmitted to all delegates.

EXHIBIT

1. Rule 18(a) is amended to read:

"RULE 18. Functions of standing committees:

"(a) It shall be the duty of the standing committees to consider all matters which may be referred to them.

"Each standing committee shall submit to the Convention a report or reports, in writing, setting forth the results of its deliberations and its recommendations on all matters referred to it, in the same number and form as prescribed in these rules for proposals. Each standing committee shall file all delegate proposals when reporting its recommendations."

2. Rule 27 is amended to read:

"RULE 27. At meetings of the Convention the order of business shall be as follows (except at times set apart for the consideration of special orders):

1. Calling Convention to order.
2. Invocation.
3. Determination of quorum.
4. Reading of journal.
5. Presentation of petitions, memorials and communications.
6. Reports of standing committees.
7. Reports of select committees.
8. Introduction and first readings of proposals.
9. Reference of proposals.
10. Motions and resolutions.
11. Unfinished business.
12. Special orders of the day.
13. General orders of the day.
14. New business."

3. Rule 43, reading as follows, is deleted:

["RULE 43. A proposal may be recalled from a committee by the affirmative vote of thirty-one delegates, provided that the committee has reported on the subject matter of such proposal for passage on Second Reading."]

4. Rule 45 is amended to read:

"RULE 45. Each delegate proposal shall receive one reading and be reported upon as provided in Rule 18. Each committee proposal shall receive three separate readings in the Convention previous to being agreed upon, but no committee proposal shall be read twice on the same day or be considered on Third Reading until after at least forty-eight hours notice of the day upon which it is to be so considered has been given by announcement made in open session.

"All delegate and committee proposals may be read by their titles but on Third Reading all committee proposals shall be read throughout. No amendment shall be received to any committee proposal on its third reading unless by unanimous consent of the delegates present.

"All delegate and committee proposals shall, after the first reading, be printed for

the use of the members. Printed copies of committee proposals shall be used on their second and third readings."

5. Rule 46 is amended to read:

"RULE 46. The regular order to be taken by delegate and committee proposals shall be as follows:

"(a) Introduction, First Reading, and printing of sufficient copies of each delegate and committee proposal[.] in the most appropriate order as determined by the secretary.

"(b) Reference of delegate proposals to a general standing committee by the President.

"(c) Report by committee and printing of sufficient copies thereof. Introduction, First Reading, and printing of sufficient copies of each committee proposal.

"Four Convention days after the printing of said report and committee proposal it shall be placed on the general orders.

"(d) Second Reading: Consideration by the Committee of the Whole and by the Convention of the standing committee report, minority report, if any, committee proposal and action on amendments offered by delegates. Second Reading of committee proposal by the Convention.

"(e) Reference to the Committee on Style for report within five Convention days.

"(f) Report of the Committee on Style and printing of sufficient copies[,] of report and committee proposal, if necessary.

"(g) Action on report of Committee on Style: Consideration and action on amendments as to phraseology of committee proposal only; action on the report as amended and printing of sufficient copies[,] of committee proposal, if necessary.

"(h) Third Reading of committee proposal and agreement.

"(i) Reference of committee proposal to the Committee on Style for arrangement of sections and article or articles and for form.

"(j) Report of Committee on Style as to arrangement of sections and article or articles and printing of sufficient copies, if necessary."

6. Addition of a new rule to be inserted after Rule 46 to read:

"RULE . The regular order to be taken by resolutions shall be as follows:

"(a) Introduction and printing of sufficient copies of each resolution.

"(b) Reference to a general or administrative standing committee by the President.

"(c) Report by the committee and printing of sufficient copies thereof.

"(d) Adoption of the resolution, if recommended by the committee."

7. Rule 47 is amended to read:

"RULE 47. Any subject matter to be incorporated in the Constitution shall be by committee proposal. A proposal or resolution shall be introduced by one or more delegates or by a committee[.] in the case of a committee proposal."

8. Rule 48 is amended to read:

"RULE 48. Each proposal or resolution shall be typewritten on white paper which is 8-1/2" wide and 11" long with one original copy and seven copies thereof, and shall be dated and signed by the introducer or, if a committee proposal, by the chair of the committee introducing it."

9. Adding a new rule to be inserted after Rule 49 to read:

"RULE . (a) The caption of each resolution shall be:

Constitutional Convention of Hawaii

of 1978

Resolution

"(b) All resolutions shall be submitted in the form and in the number of copies designated by the Secretary."

10. Rule 52 is amended to read:

"RULE 52. Each proposal and resolution shall be delivered to the Secretary for introduction. The Secretary shall number and list all proposals and resolutions as presented. At each session of the Convention the Secretary shall read the number and title of each proposal and resolution so delivered to him/her for introduction, which shall be taken as the first reading of the proposal or resolution and as the ordering thereof to a second reading, if a committee proposal, and the President shall thereupon refer [it] the delegate proposal or resolution to a general or administrative standing committee."

11. Rule 53 is amended to read:

"RULE 53. The President shall refer each proposal and resolution introduced to the appropriate committee. Where a proposal or resolution embraces subject matter which falls within the proper consideration of several committees, the President, where practicable, shall divide the proposal or resolution and refer the parts to the appropriate committees; but if it is not subject to such division, the President shall refer it to an appropriate committee with instructions to consult with other committees on related matters.

"Any proposal which does not comply with the provisions of these rules as to form shall be referred to the appropriate committee as a petition."

12. Rule 54 is amended to read:

"RULE 54. A copy of each proposal and resolution introduced shall be delivered by the Secretary to the Committee on Budget, Accounts and Printing. The original shall be retained by the Secretary and one copy shall be delivered to the chair of the committee to which the proposal or resolution has been referred.

"Each successive reprint of a committee proposal or exhibit to a resolution differing from the previous print or reprint of the same proposal[,] or exhibit, which is presented to the Convention for consideration, shall bear a consecutive redraft number on the top of the first or title page thereof, as follows:

'Redraft No. 1,' or 'RD. 1'
'Redraft No. 2,' or 'RD. 2,' etc."

13. Rule 56 is amended to read:

"RULE 56. Each general standing committee may originate and report without specific reference, any committee proposal, the subject matter of which properly falls within the consideration of such committee under these rules. The minority in each committee may originate a minority report and in order to assist the minority in preparation of such report the committee shall make available to the minority all testimony, committee meeting minutes and other relevant materials."

14. Rule 58 is amended to read:

"RULE 58. Each amendment offered to a committee proposal or exhibit to a resolution shall be in writing and delivered to the Secretary and shall be entered on the journal. A copy of such amendment shall be delivered by the Secretary to the Committee on Budget, Accounts and Printing. The original shall be retained by the Secretary. One copy shall be delivered to the chair of the committee to which the committee proposal or exhibit to a resolution concerned has been referred."

15. Rule 59 is amended to read:

"RULE 59. Any committee proposal which has passed its second reading shall be referred to the Committee on Style for consideration as provided by these rules and when reported by said committee shall be subject to consideration and amendment as to arrangement and phraseology only, and, if any such amendment be adopted, shall be again referred to the Committee on Style for similar consideration and report thereof, and if said committee's report shall be adopted, it shall be ordered to be printed and to Third Reading."

16. Rule 60 is amended to read:

"RULE 60. [Proposals] Committee proposals which have passed two readings shall be prepared by the Secretary in proper form for printing for Third Reading and when the Secretary receives from the Committee on Budget, Accounts and Printing any committee proposal ordered to a third reading and the same shall be found correct, s/he shall affix his/her signature to each page of the copy to be used as the official copy."

17. Rule 61 is amended to read:

"RULE 61. On the question of the agreement upon any committee proposal on Third Reading, the vote shall be taken by ayes and noes and entered on the journal, and no committee proposal shall be declared adopted unless at least fifty-two delegates to the Convention shall have voted in favor of the adoption of the same."

RESOLUTION NO. 12

RELATING TO THE SCHEDULING OF CONVENTION MEETINGS ON SUNDAYS.

WHEREAS, Ua mau ke ea o ka aina i ka pono; and

WHEREAS, the prophet Moses was commanded, "Remember the Sabbath day to keep it holy. Six days shalt thou labor and do all thy work. But the seventh day is the Sabbath of the Lord thy God; in it thou shalt not do any work, thou, nor thy son, nor thy daughter, thy manservant nor thy maidservant, nor thy cattle, nor thy stranger that is within thy gates"; and

WHEREAS, after six days of labor, even Convention delegates are entitled to a Day of Rest; and

WHEREAS, if we are in violation of God's laws we cannot expect His blessings to attend our deliberations, blessings of which we are in continuous need; and

WHEREAS, the calling for Sunday of any official meeting of the Constitutional Convention or committee thereof would invite attendance thereat in violation of God's commands; and

WHEREAS, any delegate failing to attend Convention or committee meetings scheduled on Sunday would thereby be temporarily disenfranchised, in violation of the Bill of Rights, by that delegate's practice of religion; and

WHEREAS, members of the public wishing to attend such meetings may be constrained therefrom by their religious convictions or active participation in worship services; now, therefore,

BE IT RESOLVED that no official meetings of this Convention or its committees be scheduled or held on any Sunday; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be transmitted to each delegate of this Convention, and officers and committee chairpersons thereof.

RESOLUTION NO. 13

PROVIDING FOR THE USE OF NON-DISCRIMINATORY NOUNS, PRONOUNS AND ADJECTIVES IN THE STATE CONSTITUTION.

WHEREAS, the State of Hawaii is firmly committed to a public policy of non-discrimination and equal opportunity for all of its citizens; and

WHEREAS, the written language in our laws can be used either to fight discrimination or to perpetuate it; and

WHEREAS, the use of masculine nouns, pronouns and adjectives throughout the Constitution, though grammatically correct, might give an impression that the responsibilities, rights, and elected as well as appointed government positions are open only to men; and

WHEREAS, the State of Hawaii should actively encourage and afford the opportunity for both men and women to participate in all levels of government; and

WHEREAS, a change in the language of the State Constitution would affirmatively indicate to all people of Hawaii that they are an important part of society and expected to participate in government, regardless of their gender; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that this body hereby adopt a policy of using non-discriminatory nouns, pronouns and adjectives in the State Constitution and request the Committee on Style to effectuate this policy during its review of all committee proposals; and

BE IT FURTHER RESOLVED that, other rules of this Convention notwithstanding, the Committee on Style is instructed to implement this policy not only in the proposals which come before it but in all of the present Constitution; and

BE IT FURTHER RESOLVED that in carrying out the policy expressed in this Resolution the Constitutional Convention finds it necessary and directs the Committee on Style to submit a committee proposal conforming the Constitution to this policy where necessary and deleting as no longer necessary the second paragraph of Article XIV, Section 13, which reads: "Whenever any personal pronoun appears in this constitution, it shall be construed to mean either sex"; and

BE IT FURTHER RESOLVED that duly authenticated copies of this Resolution be transmitted to the Committee on Style.

RESOLUTION NO. 14

REQUESTING THE LEGISLATURE OF THE STATE OF HAWAII TO REVIEW AND REDRESS THE PROBLEMS OF THE PUBLIC LIBRARIES AS PART OF THE DEPARTMENT OF EDUCATION.

WHEREAS, the public libraries of the State of Hawaii are currently administered by the Department of Education, separate and apart from school libraries; and

WHEREAS, the competing needs of the educational system have resulted in internal disproportionate cutbacks in public library resources, and a seeming de-emphasis upon the importance of the public library system which serves the general public; and

WHEREAS, a variety of management studies, including those by the Legislative Auditor (1977), the Commission on Organization of Government (1977), and the Governor's Conference on Libraries and Information Services (1978), have concluded that the public libraries are being inadequately supported; and

WHEREAS, separate administration of the public library system would provide more equitable and independent recognition and evaluation of the library needs of the public, and of the importance of the public library system to the people; and

WHEREAS, long-standing problems encountered in ensuring adequate and appropriate public library resources for the State may be alleviated or solved by the establishment of a separate administrative entity for the public library system; and

WHEREAS, establishment of an independent library system to administer the public libraries of the State, separate and apart from school libraries which should remain a part of the educational system of which they are integral components, would enhance the responsiveness of the State to the needs of all the people; and

WHEREAS, the Committee on Education of this Constitutional Convention has in its Standing Committee Report No. 39, in recognition of the problems faced by the libraries, urged the Legislature to review and redress these problems; now, therefore,

BE IT RESOLVED that this Constitutional Convention of the State of Hawaii of 1978 request and recommend with equal urgency that the Legislature of the State of Hawaii immediately review and redress the problems of the public libraries as part of the Department of Education and recommend as a possible solution the creation of an independent statewide system of public libraries; and

BE IT FURTHER RESOLVED that duly authenticated copies of this Resolution be transmitted to the Governor, the Board of Education, and to the Legislature.

RESOLUTION NO. 15

AMENDING CONVENTION RULE 15.

WHEREAS, the issue of whether the motion of the Previous Question is to be governed by Convention Rule 15 or Rule 36 was referred to the Committee on Rules for clarification; and

WHEREAS, the motion of the Previous Question is different from the motion to close debate at a specified time; and

WHEREAS, in an effort to avoid future confusion regarding similar parliamentary matters; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that Rule 15 of the Rules of the Convention be and is hereby amended to read as follows:

"RULE 15. A quorum being present, [a] an affirmative majority vote of delegates present [shall be sufficient for the adoption of any motion or resolution or the taking of any action except where the affirmative vote of a greater number shall be required by these rules.] adopts any motion unless it is one of the particular motions that require a larger vote under parliamentary law or the Rules of the Convention."

RESOLUTION NO. 16

RELATING TO DEATH WITH DIGNITY.

WHEREAS, your Committee on Legislature is aware that modern science is capable of keeping a person alive through the use of life-support systems even though the person would not be alive but for the systems and has no hope of recovering; and

WHEREAS, the artificial prolongation of human life where none exists only serves to increase costs, both human and economic; and

WHEREAS, physicians cannot accommodate the wishes of relatives, family friends, and of the patient without incurring the risk of legal liability; and

WHEREAS, though a law defining death was enacted in 1978, Hawaii law does not provide for a procedure to die with dignity; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that all persons of sound mind shall have the right to refuse medical treatment for terminal illness and to die with dignity and that the legislature implement the sense and purpose of this Resolution; and

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the President of the Senate and the Speaker of the House.

RESOLUTION NO. 17

REQUESTING THE RETURN OF KAHO'OLAWA TO THE STATE FOR USE AS A CULTURAL SANCTUARY.

WHEREAS, the Island of Kaho'olawe has been unofficially under the jurisdiction of the United States Navy since Kaho'olawe Ranch subleased it to the Navy in 1941, and officially with the issuance of Executive Order 10436 on February 25, 1953, when President Eisenhower directed the Navy to assume complete authority over Kaho'olawe during the time of the Korean conflict; and

WHEREAS, the deep spirit of Hawaii and the movement among Hawaiians to regain their culture and to help regenerate the roots of that culture by opening up access to the land has again surfaced in the Kaho'olawe movement; and

WHEREAS, the people are quite concerned, for so much in Hawaiian culture centers on the 'aina and the spirit of the land; and

WHEREAS, the bombing and destruction of Kaho'olawe are contrary to the very essence of aloha 'aina, the love and reverence the Hawaiians have toward their land; and

WHEREAS, the Island of Kaho'olawe is rich in archaeological findings significant to the culture of Hawaii; and

WHEREAS, because of the historical, cultural and archaeological significance of the Island, it is essential that Kaho'olawe once again be returned to Hawaii for use as a living cultural sanctuary; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that the United States Navy is requested to cease its bombing, begin clearing the Island of all materiel and unexploded ordnance, and return the Island of Kaho'olawe to the State for use as a living cultural sanctuary; and

BE IT FURTHER RESOLVED that duly authenticated copies of this Resolution be transmitted to the President of the United States, the Secretary of the Navy, the members of Hawaii's delegation to Congress, the Governor of the State of Hawaii, the members of the State Legislature, and the Mayor and Council of Maui County.

RESOLUTION NO. 18

REQUESTING THE LEGISLATURE TO AMEND THE RETIREMENT SYSTEM LAW.

WHEREAS, public employees are entitled under present statutes to retirement benefits upon completion of at least 5 years of service and reaching the age of 55, 25 years of service, or 10 years of service as a judge, elective officer, or chief clerk or sergeant-at-arms of both legislative houses; and

WHEREAS, the 10-year retirement provision was enacted in 1969 for elective officers and judges and in 1975 for the chief clerks and sergeants-at-arms, and in addition these retirees receive a 3.5 percent retirement allowance while other public employees receive only 2 percent; and

WHEREAS, as a result of these differences in statutory benefits, an elective officer, judge, chief clerk, or sergeant-at-arms would receive more benefits than a general public employee even though both served the same number of years and paid the same amounts into the retirement system; and

WHEREAS, based upon a salary of \$1,000 a month and 10 years of service, an elective officer, etc. would receive \$350 a month in benefits as compared with \$200 a month for a general employee; and

WHEREAS, present law allows elective officers, etc. to retire after only 10 years of service instead of waiting for age 55 or 25 years of service like other employees, and thus it is possible that elective officers, etc. would receive more overall benefits since they could start receiving benefits at an earlier age; and

WHEREAS, the present law allows a great inequity favoring elective officers, judges, chief clerks, and sergeants-at-arms over all other public employees and represents favored treatment for a small group of people; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that the Legislature of the State of Hawaii is requested to amend the state retirement system law, removing the inequities discussed herein as soon as possible; and

BE IT FURTHER RESOLVED that duly authenticated copies of this Resolution be transmitted to the presiding officers and the majority and minority leaders of the next State Legislature.

RESOLUTION NO. 19

REQUESTING THE LEGISLATURE TO REFRAIN FROM ENACTING LEGISLATION APPLICABLE ONLY TO CERTAIN COUNTIES.

WHEREAS, the people and governments of the various counties are entitled to equal treatment in state legislation and to the assurance that the laws of this State will apply equally to all of its people regardless of where they live; and

WHEREAS, to this end, Article VII, Sections 1 and 2, provide that each political subdivision shall have and exercise such powers as shall be conferred under general laws and power to frame and adopt a charter for self-government as prescribed by general law; and

WHEREAS, although the general intent of requiring general laws is to prevent discrimination among the various counties by the State Legislature, and special laws applying only to specific counties or to a single county have been declared void; and

WHEREAS, the Legislature has in the past enacted laws which are in essence special laws applicable only to certain counties, but these laws have been upheld because they are based on a classification by population of the various counties; and

WHEREAS, although the Legislature could not enact a special law applicable only, for example, to the City and County of Honolulu, it could enact a law applicable to counties with a population of 200,000 or more (which is the City and County of Honolulu) since this is a classification of counties and qualifies as a general law; and

WHEREAS, the classification system could also make laws applicable only to the neighbor island counties, and in either case the classification system makes a mockery out of the intent and purpose of the general law requirement; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that the Legislature of the State of Hawaii refrain from enacting laws which are applicable to less than all of the counties, whether by means of classification or otherwise; and

BE IT FURTHER RESOLVED that duly authenticated copies of this Resolution be transmitted to the presiding officers and majority and minority leaders of the Legislature.

RESOLUTION NO. 20

AMENDING STANDING RULES OF THE CONVENTION: RULES 24 AND 32.

BE IT RESOLVED that Rules of the Convention are amended as follows:

"RULE 24. The rules of the Convention shall be observed in the Committee of the Whole so far as they may be applicable except that the Committee of the Whole cannot adjourn the Convention; no question may be laid on the table; the previous question shall not be ordered; [and] the motion to postpone indefinitely shall not be in order [.] and a roll call cannot be ordered in the Committee of the Whole."

"RULE 32. The vote upon any question shall be taken by the ayes and noes and entered on the journal, on motion made and seconded before the question is put and upon the request of at least [ten delegates.] one-fourth (1/4) of the delegates present."

"[A delegate may pass the first time his/her name is called by the clerk on any vote, but if s/he remains silent on the next call of his/her name, his/her vote shall be recorded as voting with the affirmative.]"

RESOLUTION NO. 21

AMENDING STANDING RULES OF THE CONVENTION: RULE 61.

BE IT RESOLVED that Rule 61 of the Convention be and is hereby amended to read as follows:

"RULE 61. On the question of the agreement upon any proposal on Third Reading, the vote shall be taken by ayes and noes and entered on the journal, and no proposal shall be declared adopted unless at least [fifty-two] sixty-eight delegates to the Convention shall have voted in favor of the adoption of the same."

RESOLUTION NO. 22

REQUESTING THE COMMITTEE ON STYLE TO CONSIDER ALL PORTIONS OF THE CONSTITUTION AS TO PHRASEOLOGY.

WHEREAS, Constitutional Convention Rules 18(b) and 59 limit the Committee on Style to consideration of committee proposals referred to the Committee; and

WHEREAS, Constitutional Convention Rule 62 does not appear to contemplate changes to the phraseology of portions of the Constitution not referred to the Committee on Style when it performs the functions required under that rule; and

WHEREAS, in its deliberations it appears that the Committee on Style has discovered various portions of the Constitution which appear to be in need of proper phraseology which do not appear to be within the Committee's jurisdiction; and

WHEREAS, the 1968 Constitutional Convention's Committee on Style functioned under the same constraints, and thus it appears that many portions of the Constitution have not been considered for the purpose of phraseology since it was originally written; and

WHEREAS, the Committee on Style should be authorized to review all portions of the Constitution, whether or not referred to it by committee proposal, for phraseology in order that the Constitution use the same phrasing throughout; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that this body hereby requests the Committee on Style to consider the phraseology used in all portions of the Constitution whether or not referred to the Committee by committee proposal; and

BE IT FURTHER RESOLVED that the Committee on Style set forth all recommended changes necessitated by this Resolution when it makes the report required by Constitutional Convention Rule 62; and

BE IT FURTHER RESOLVED that duly authenticated copies of this Resolution be transmitted to the Committee on Style.

RESOLUTION NO. 23

RELATING TO CODIFICATION OF THE GOVERNMENTAL SUNSHINE AND ACCESS PRINCIPLES.

WHEREAS, all political power of this State is inherent in the people; and the responsibility for the exercise thereof rests with the people; and

WHEREAS, all government is founded on this authority; and

WHEREAS, the opening up of governmental processes to public scrutiny and participation is the only viable and reasonable method of protecting the people's interest; and

WHEREAS, access to all discussions, deliberations, decisions, actions, regulations and services of government and its agencies, except where compelling interest of the State or its political subdivisions is to the contrary, as provided by law, is necessary for public scrutiny and participation; and

WHEREAS, a lack of a mechanism for decentralized governmental sunshine and access would be discriminating to working people, poor and inarticulate, handicapped, and rural and neighbor island people; and

WHEREAS, today's principal means for decentralized communication and information exchanges are electronic; now, therefore,

BE IT RESOLVED by this Constitutional Convention of Hawaii of 1978, that a codification of the governmental sunshine and access principles be extended to all bodies of government; and

BE IT FURTHER RESOLVED that these principles of sunshine and access be decentralized through electronic means, thereby avoiding discrimination; and

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the President of the Senate and the Speaker of the House.

RESOLUTION NO. 24

REQUESTING THE ESTABLISHMENT OF A STUDY COMMISSION TO INVESTIGATE THE WRONGS COMMITTED AGAINST, AND THE EXTENT OF THE INJURIES TO, THE HAWAIIAN PEOPLE AND TO RECOMMEND MEANS OF REDRESS.

WHEREAS, the people of the State of Hawaii recognize the wrongs committed against the Hawaiian people when, in 1893, the kingdom of Hawaii, the lawful and indigenous government of Hawaii, was unlawfully overthrown by a group of non-Hawaiian residents, all of whom conspired with the United States minister and the Armed Forces of the United States; and

WHEREAS, on December 18, 1893, in a message to the Congress President Cleveland did recognize this wrong in a statement he issued which acknowledged that "by an act of war, committed with the participation of a diplomatic representative of the United States and without the authority of the Congress, the government of a feeble but friendly and confiding people has been overthrown"; that "a substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people requires that we endeavor to repair"; and that "the United States cannot fail to vindicate its honor and its sense of justice by an earnest effort to make all possible reparation"; and

WHEREAS, a claim for repair of these wrongs to the Hawaiian people was presented to the Government of the United States of America by Queen Liliuokalani, the lawful monarch of Hawaii, and on July 15, 1893 a petition for redress was also presented by the Hawaiian Patriotic League, representing the Hawaiians; and

WHEREAS, in 1898 Hawaii was annexed to the United States, and by such annexation, among other things, the United States acquired ownership of vast landholdings that had been common property of the Hawaiians prior to the overthrow of their government; and

WHEREAS, the Constitutional Convention of 1978 recognizes that the Hawaiian people can never be made whole again for the wrong that was committed; and

WHEREAS, the people of the State of Hawaii have looked to and relied on the federal government to take the steps to investigate the wrongs committed and to provide redress if necessary; and

WHEREAS, Senate Joint Resolution No. 4 was introduced in the Senate of the United States on January 10, 1977 by Mr. Inouye and Mr. Matsunaga; and

WHEREAS, upon approval, Senate Joint Resolution No. 4 will establish a Hawaiian Native Claims Settlement Study Commission to conduct a study of the culture, needs and concerns of Hawaiians; the nature of the wrong committed against, and the extent of the injuries to, the Hawaiians by reason of the actions listed below regarding the overthrow of the indigenous and lawful government of the Hawaiian people; and the various means to remedy such wrongs; and to submit a report of its findings of the means and recommendations to remedy such wrongs to the Congress; and

WHEREAS, Senate Joint Resolution No. 4 passed the Senate of the United States during the 1977 session; and

WHEREAS, on May 23, 1978, a majority of the House of Representatives of the United States voted to support Senate Joint Resolution No. 4, which fell short of the necessary two-thirds vote; and

WHEREAS, on September 8, 1978, Senate Joint Resolution No. 4 was recommitted to the House Committee on Interior and Insular Affairs for further committee work; and

WHEREAS, it is essential to the Hawaiians and all the people of the State of Hawaii that the federal government conduct an investigation of the wrongs committed upon the Hawaiian people, which could be accomplished through the Hawaiian Native Claims Settlement Study Commission; and

WHEREAS, because of the wrongs committed to the Hawaiian people, it is essential to Hawaiians and all people of the State of Hawaii that there be a remedy for these wrongs committed, the recommendation for which could be developed by the Hawaiian Native Claims Settlement Study Commission; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that the House Committee on Interior and Insular Affairs is requested to return Senate Joint Resolution No. 4 to the House of Representatives of the United States for a vote; and

BE IT FURTHER RESOLVED that the House of Representatives of the United States act favorably on Senate Joint Resolution No. 4; and

BE IT FURTHER RESOLVED that duly authenticated copies of this Resolution be transmitted to the President of the United States, the House Committee on Interior and Insular Affairs, the members of the House of Representatives of the United States, the members of Hawaii's delegation to Congress, the President of the Senate of the United States and the Governor of the State of Hawaii.

RESOLUTION NO. 25

REQUESTING REVIEW OF THE "INSANITY" DEFENSE.

WHEREAS, the "insanity" defense evolved as a means of avoiding capital punishment at a period in history when cruel and unusual capital punishment was widely accepted and used; and

WHEREAS, the "insanity" defense is presently used as a means of possible confinement in a hospital environment; and

WHEREAS, an accused who is found "not guilty by reason of insanity" can be released on condition or discharged from custody at any time into the community at large; and

WHEREAS, the penal obligations and responsibilities for one's acts are being ignored because the "insanity" defense is complete and absolute; and

WHEREAS, the result has been a grave loss of public confidence in our judicial system; and

WHEREAS, a further result has been a significant loss of respect for the law by both the law-abiding members of the public and the perpetrators of criminal acts; and

WHEREAS, many members of the public believe that our existing law enforcement statutes are ineffectual in coping with the growing crime rate; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that the Legislature of the State of Hawaii be directed to review the "insanity" defense of Chapter 704 of the Hawaii Revised Statutes; and

BE IT FURTHER RESOLVED that duly authenticated copies of this Resolution be transmitted to the office of the Governor, the office of the Chief Justice, and the members of the Legislature of the State of Hawaii at their next regular session.

RESOLUTION NO. 26

RELATING TO THE CARE AND MAINTENANCE OF STATE MONEYS.

WHEREAS, the care and maintenance of State moneys are of great concern, and substantial sums of public funds are held in depositories until needed to pay for the State's obligations; and

WHEREAS, the assets of commercial banks in the State totalled \$3.4 billion as of June 30, 1977; and the total assets of savings and loan institutions in the State equalled \$2.4 billion on that same date; and

WHEREAS, as of June 30, 1977, only \$900,000 of the State's funds, representing 0.3 percent of the total of public funds held in depositories, was deposited with savings and loan associations, and the remainder, 99.7 percent of public funds, was deposited in commercial banks, which were able and willing to provide acceptable collateral; and

WHEREAS, the State Director of Finance is responsible, with the approval of the Governor, for the deposit of public funds; and the Director of Finance is required to comply with laws relating to such funds and to develop policies related thereto; and

WHEREAS, depositories holding public funds are required to furnish collateral for such deposits; and federally insured residential mortgage loans are one type of such collateral; and

WHEREAS, the savings and loan industry is a significant segment of the State's financial framework; and

WHEREAS, the primary objective of the savings and loan industry is to provide financing for the purchase and construction of homes in the State; and

WHEREAS, federally insured home loan mortgages constitute the principal asset of savings and loan associations, and such mortgages are secure and stable investments; and

WHEREAS, the Constitution of the State of Hawaii addresses many diverse aspects of the State's financial structure, including taxes, the budget, and audit and expenditure controls; and

WHEREAS, the subject of the care and maintenance of public funds is not addressed in the Constitution of the State of Hawaii; now, therefore,

BE IT RESOLVED that public funds should be distributed on a more equitable basis among the State's financial institutions, provided that such deposits are secured with approved collateral; and

BE IT FURTHER RESOLVED that the Director of Finance should examine the State's collateralization requirements for the deposit of public funds to allow more public funds to be deposited with savings and loan institutions, which are able and willing to provide acceptable collateral for such deposits; and

BE IT FURTHER RESOLVED that the State, and in particular the Director of Finance, should actively pursue means to equitably distribute public funds among the financial institutions of the State, including savings and loan associations, within a reasonable period of time; and

BE IT FURTHER RESOLVED that duly authenticated copies of this Resolution be transmitted to the Governor of the State of Hawaii, the members of the State Legislature, and the State Director of Finance.

RESOLUTION NO. 27

REQUESTING THE LEGISLATURE OF THE STATE OF HAWAII TO STUDY THE NEED FOR A NATIONAL CONSTITUTIONAL CONVENTION FOR THE PURPOSE OF PROPOSING AMENDMENTS TO THE UNITED STATES CONSTITUTION, AND TO PETITION CONGRESS IF SUCH A NEED IS FOUND TO EXIST.

WHEREAS, Article V of the United States Constitution provides for the calling of an unlimited national constitutional convention for the purpose of proposing amendments to the United States Constitution; and

WHEREAS, the last national constitutional convention was held in 1787, and since then more than 300 applications from state legislatures have been presented seeking such a convention; and

WHEREAS, there have been more than 200 state constitutional conventions in the various states, including three in the State of Hawaii; and

WHEREAS, forty-six of the fifty states have petitioned Congress for a national constitutional convention in the past 14 years; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that this body hereby requests the Legislature to study the need for a national constitutional convention for the purpose of proposing amendments to the United States Constitution and to petition Congress for a convention if such a need is found to exist; and

BE IT FURTHER RESOLVED that duly authenticated copies of this Resolution be transmitted to the Governor and members of the Legislature.

RESOLUTION NO. 28

REQUESTING THE LEGISLATURE OF THE STATE OF HAWAII TO ADDRESS THE PROBLEM OF RISING HEALTH CARE COSTS AND TO ESTABLISH LEGISLATION TO REDUCE MEDICAL CARE COSTS IN THE STATE OF HAWAII.

WHEREAS, the future of Hawaii's people to obtain needed medical care at a reasonable cost is being readily eroded; and

WHEREAS, Article VIII, Section 1, of the Hawaii State Constitution states: "The State shall provide for the protection and promotion of the public health"; and

WHEREAS, 7.3 percent of the total personal income of all the people in Hawaii was spent on health care costs in 1977; and

WHEREAS, the per capita expenditure for health care services has risen approximately 53 percent in the last 2 years and 149 percent in the last 7 years; and

WHEREAS, the cost for a day in a Hawaii hospital bed is approximately \$200 and rising; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that this body hereby requests the Legislature to address and resolve the problem of rising health care costs throughout the State; and

BE IT FURTHER RESOLVED that duly authenticated copies of this Resolution be transmitted to the Governor, the Department of Health, and to the Legislature.

RESOLUTION NO. 29

REQUESTING THE REVISOR OF STATUTES TO EFFECT NECESSARY REARRANGEMENT, RENUMBERING AND TECHNICAL CHANGES OF SECTIONS AND ARTICLES WITHIN THE CONSTITUTION AS MAY BE NECESSARY AFTER THE NOVEMBER ELECTIONS.

WHEREAS, various amendments to the State Constitution have been framed by the Constitutional Convention of Hawaii of 1978 for submission to the electorate for ratification or rejection; and

WHEREAS, in the exercise of the electorate's freedom to ratify or reject the several proposals, one or some of the proposals may be rejected by the people of this State; and

WHEREAS, such ratification of some and rejection of others may require rearrangement, renumbering and technical changes of the amendments ratified and parts of the State

Constitution affected by such ratification or rejection when the Constitutional Convention is not in session; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that the Revisor of Statutes of Hawaii is respectfully requested by the Constitutional Convention of Hawaii of 1978 to effect such necessary rearrangement, renumbering and technical changes of the sections within the articles of the State Constitution, as may be affected, for proper form and arrangement and proper order in the State Constitution in the event that any or some of the amendments to the State Constitution proposed by the Constitutional Convention of Hawaii of 1978 are not ratified by the electorate; and

BE IT FURTHER RESOLVED that a duly authenticated copy of this Resolution be transmitted to the Revisor of Statutes.

RESOLUTION NO. 30

RELATING TO PROVIDING FOR THE SUBMISSION TO THE PEOPLE OF THE STATE OF HAWAII OF THE AMENDMENTS PROPOSED BY THE CONSTITUTIONAL CONVENTION OF THE STATE OF HAWAII OF 1978.

WHEREAS, pursuant to Section 2 of Article XV of the Constitution of the State of Hawaii, the duly elected delegates of this Constitutional Convention of the State of Hawaii of 1978 have assembled at Honolulu from the 5th day of July, 1978 for the purpose of proposing amendments to the Constitution; and

WHEREAS, various amendments to the Constitution have been framed by this Constitutional Convention; and

WHEREAS, Section 2 of Article XV of the Constitution of the State of Hawaii requires that the proposed amendments to the Constitution be submitted to the people of the State in the form of the ballot attached hereto for ratification or rejection; now, therefore,

BE IT RESOLVED by the Constitutional Convention of the State of Hawaii of 1978, that the proposed amendments to the Constitution be submitted to the people of the State of Hawaii in the form of the ballot attached hereto for ratification or rejection at the general election to be held on the 7th day of November, 1978. Persons possessing the qualifications to vote for representatives to the legislature of the State of Hawaii shall be entitled to vote on the ratification or rejection of said amendments. Such submission shall be by ballot and shall be conducted and the results thereof determined in conformity with Section 2, Article XV of the Constitution. The ballot for such submission shall be printed and distributed by the lieutenant governor of the State of Hawaii and shall be substantially in the form hereto attached; and

BE IT FURTHER RESOLVED that the lieutenant governor is hereby requested, in the case of any conflicting votes on the same ballot, to recognize the specific vote over the general; and

BE IT FURTHER RESOLVED that the returns of said submission shall be made by the election officers directly to the lieutenant governor, who shall certify the results of the submission to the governor; and

BE IT FURTHER RESOLVED that the lieutenant governor is hereby requested to do whatever is necessary to have the proposed amendments properly submitted to the electorate.

AMENDMENTS 1-34 PROPOSED BY CONSTITUTIONAL CONVENTION

1. 12 MEMBER JURY; CIVIL CASE AMOUNT. (Article I, Sections 13 and 14)

If adopted, this amendment provides that:

o

a person can have a jury trial in a civil case where the amount in question is \$1,000 or more rather than \$100 or more as it now reads.

- o a person shall have a 12 member jury in a criminal jury trial.

2. INDEPENDENT GRAND JURY COUNSEL. (Article I, Section 11)

If adopted, this amendment provides:

- o an independent lawyer to advise the grand jury.
- o a way to choose those lawyers, and requires that the legislature set their pay and how long they shall work.

3. RIGHT TO PRIVACY. (Article I, Section 6)

If adopted, this amendment:

- o adds a new section on the right to privacy for people to do certain personal things, and controls the use of some personal information about themselves.
- o directs the legislature to carry out this section.

4. OPEN PRIMARY ELECTION. (Article II, Section 4)

If adopted, this amendment:

- o allows a person to vote in any election without letting anyone know what party he or she prefers.
- o keeps each person's party preference a secret.

5. RESIGNATION OF CANDIDATES FROM PUBLIC OFFICE.
(Article II, Section 7)

If adopted, this amendment:

- o makes any elected public officer who wants to run for another office quit before running for any other office if the term of office sought begins before the end of his elected term.


6. ELECTIONS; PARTIAL PUBLIC FINANCING; SPENDING AND CONTRIBUTION LIMITS. (Article II, Sections 5, 6 and 8)

If adopted, this amendment provides that the legislature shall:

- o create a campaign fund to pay part of the cost of state and local political campaigns for public office.
- o set a spending limit for all candidates.
- o limit the amount a person may give to any candidate or legal campaign group.
- o require primary election to precede general election by 45 or more days.

ENGLISH FACSIMILE BALLOT

SIDE 1

STATE OF HAWAII  TOP **B**

OFFICIAL BALLOT
GENERAL ELECTION
 TUESDAY, NOVEMBER 7, 1978

AMENDMENTS TO THE STATE
 CONSTITUTION PROPOSED BY THE
 1978 CONSTITUTIONAL CONVENTION


(OVER)
 This stub shall be removed by the Election Official only.

Please read Instructions and Information in the booklet which is part of this ballot. The full text of the proposed amendments on the ballot numbered 1-34, inclusive, is available for inspection in your voting unit.

VOTE ONLY IN PART A OR PART B DO NOT VOTE IN MORE THAN ONE PART		
PART A ON ALL PROPOSED AMENDMENTS AS LISTED UNDER PART B, I VOTE:	YES	+
	NO	+
OR		
PART B I VOTE <u>YES</u> ON EACH OF THE PROPOSED AMENDMENTS AS LISTED BELOW <u>EXCEPT</u> THAT I VOTE <u>NO</u> ON THE FOLLOWING:		
1. 12 MEMBER JURY; CIVIL CASE AMOUNT	NO	+
2. INDEPENDENT GRAND JURY COUNSEL	NO	+
3. RIGHT TO PRIVACY	NO	+
4. OPEN PRIMARY ELECTION	NO	+
5. RESIGNATION OF CANDIDATES FOR PUBLIC OFFICE	NO	+
6. ELECTIONS; PARTIAL PUBLIC FINANCING; SPENDING & CONTRIBUTION LIMITS	NO	+
7. LEGISLATIVE TERMS; FUNCTIONS & PROCEDURES; SALARY COMMISSION	NO	+
8. REAPPORTIONMENT PROCEDURES	NO	+
9. EXECUTIVE DEPARTMENTS; TERM LIMITS	NO	+
10. COURTS; JUDICIAL SELECTION; DISCIPLINE	NO	+
11. STATE SPENDING LIMIT; TAX REFUND	NO	+
12. DEBT LIMITATION; EXCLUSIONS	NO	+
13. SPECIAL PURPOSE REVENUE BONDS	NO	+

**CONTINUED ON OTHER SIDE
(OVER)**

SIDE 2

STATE OF HAWAII  TOP

OFFICIAL BALLOT
GENERAL ELECTION
 TUESDAY, NOVEMBER 7, 1978

AMENDMENTS TO THE STATE
 CONSTITUTION PROPOSED BY THE
 1978 CONSTITUTIONAL CONVENTION

CONTINUED FROM OTHER SIDE
 This stub shall be removed by the Election Official only.

Please read instructions and information in the booklet which is part of this ballot. The full text of the proposed amendments on the ballot numbered 1-34, inclusive, is available for inspection in your voting unit.

14. REVENUES; BUDGET; POST-AUDIT	NO	+
15. TAX REVIEW & TAX CONFORMANCE	NO	+
16. COUNTY POWER TO TAX REAL PROPERTY	NO	+
17. PUBLIC HEALTH & WELFARE	NO	+
18. POPULATION GROWTH MANAGEMENT	NO	+
19. BOARD OF EDUCATION	NO	+
20. EDUCATION; HAWAIIAN STUDIES	NO	+
21. UNIVERSITY BOARD OF REGENTS	NO	+
22. WATER RESOURCES; PROTECTION & CONTROL	NO	+
23. ENVIRONMENT & RESOURCE PROTECTION	NO	+
24. LAND MANAGEMENT; AGRICULTURAL LAND	NO	+
25. CONTROL OF MARINE RESOURCES	NO	+
26. RESTRICTIONS ON NUCLEAR ENERGY	NO	+
27. DEPARTMENT OF HAWAIIAN HOME LANDS	NO	+
28. OFFICE OF HAWAIIAN AFFAIRS	NO	+
29. TRADITIONAL & CUSTOMARY RIGHTS	NO	+
30. CODE OF ETHICS	NO	+
31. PREAMBLE; STATE BOUNDARIES & MOTTO	NO	+
32. LIMITS ON ADVERSE POSSESSION	NO	+
33. MISCELLANEOUS REVISIONS	NO	+
34. TECHNICAL & STYLE CHANGES	NO	+

(OVER)

7. LEGISLATIVE TERMS, FUNCTIONS AND PROCEDURES; SALARY COMMISSION.
(Article III, Sections 9, 12 and 15; Article XVIII, Section 2;
Article IV, Sections 6 and 7)

If adopted, this amendment:

- o requires the appointment of a legislative salary commission by November 30, 1978 and every 8 years from then on to set legislative salaries, which will go into effect for the following legislature unless the governor or the legislature disapproves.
- o makes the legislature set a deadline for all bills to be introduced and also requires a recess after the deadline of not less than 5 days between the 20th and 40th session day.
- o opens to the public all decision-making meetings of legislative committees.
- o increases the waiting period required between the time when the printed bill is distributed and its third or final reading from 24 hours to 48 hours.
- o staggers the terms of office for senators starting from the 1978 general election so that about half of the senators will be elected at each general election.
- o provides for placement of holdover senators and method of keeping the staggered terms for the senate upon reapportionment.

8. REAPPORTIONMENT PROCEDURES. (Article IV, Sections 1, 2 and 8)

If adopted, this amendment:

- o increases the time between the changing of boundaries for voting areas from 8 to 10 years beginning in 1981.
- o allows the commission 30 more days (from 120 to 150 days) in which to file its reapportionment plan.
- o requires the reapportionment commission to also reapportion the United States congressional districts.

9. EXECUTIVE DEPARTMENTS; TERM LIMITS. (Article V, Sections 1, 2 and 6; Article XVIII, Section 4)

If adopted, this amendment:

- o limits the governor and lieutenant governor to two terms in a row beginning this year.
- o puts units with similar purposes and functions in the same executive department.

10. COURTS; JUDICIAL SELECTION; DISCIPLINE. (Article VI, Sections 1, 2, 3, 4 and 5; Article XVIII, Section 5)

If adopted, this amendment:

- o creates an intermediate court of appeals, and makes district courts a constitutional rather than legislative creation.
- o makes courts limit the time they have to finish their cases.
- o removes minimum salaries for judges from the constitution and creates a salary commission.
- o requires judges to be State of Hawaii residents and citizens of the State and the United States who are licensed attorneys.
- o adds a judicial selection commission to recommend (1) judges for the supreme court, court of appeals or circuit court, who are then picked by the governor and approved by the senate; and (2) judges for district courts, who are then picked by the chief justice of the supreme court.
- o gives the supreme court more power to discipline judges and starts a judicial discipline commission.

11. STATE SPENDING LIMIT; TAX REFUND. (Article VII, Sections 4, 5, 6, 8 and 9; Article VIII, Section 5)

If adopted, this amendment:

- o limits State general fund spending to the estimated rate of growth of the State's economy and applies the limit to the governor's budget and legislative appropriations.
- o gives taxpayers a refund or credit whenever the general fund balance is more than five percent of general fund revenues for two years in a row.
- o prohibits deficit spending unless the governor says that the public health, safety or welfare is threatened.
- o requires the State to share in the cost of any new programs or increased services which the legislature requires that counties provide.

12. DEBT LIMITATION; EXCLUSIONS. (Article VII, Sections 11 and 13)

If adopted, this amendment:

- o limits the principal and interest on State debt to a percentage of general fund revenues.
- o keeps the legislature from approving more bonds than are allowed under the debt limit.
- o requires that each general obligation bond be repaid within twenty-five years.
- o excludes certain bonds from the State and county debt limits.

- o automatically cancels appropriations financed by general obligation bonds or general funds if not under contract or spent within three years.

13. SPECIAL PURPOSE REVENUE BONDS. (Article VII, Sections 12 and 13)

If adopted, this amendment:

- o allows the legislature, by a two-thirds vote of each house, to pass enabling legislation to authorize issuance of special purpose revenue bonds if the issuance of such bonds is found to be in the public interest by the legislature.
- o allows the issuance of special purpose revenue bonds for manufacturing, processing or industrial enterprises, utilities serving the general public, health care facilities provided to the public by non-profit corporations, and low and moderate income government housing programs.
- o requires a second two-thirds vote of each house of the legislature before bonds can be issued for any project or program.
- o requires that State credit cannot be used directly or indirectly and State shall not be liable for repayment of bonds.
- o allows the legislature to authorize the counties to issue such bonds but requires a two-thirds vote of the county council before such bonds may be issued.
- o excludes such bonds from the State or county debt limits.

14. REVENUES; BUDGET; POST-AUDIT. (Article VII, Sections 7, 8 and 10)

If adopted, this amendment:

- o establishes a council on revenues to prepare State revenue estimates and requires the governor and legislature to consider such estimates in developing the State budget and making appropriations.
- o provides for direct submission by the judiciary of its budget to the legislature.
- o clarifies State auditor's duty to include post-audits of programs and performance of State agencies.

15. TAX REVIEW AND TAX CONFORMANCE. (Article VII, Sections 2 and 3)

If adopted, this amendment:

- o allows the legislature to conform all or any portion of the State income tax laws to the federal income tax law.

- o establishes a tax review commission to evaluate the State's tax structure and recommend revenue and tax policy.

16. COUNTY POWER TO TAX REAL PROPERTY. (Article VIII, Sections 3 and 5; Article XVIII, Section 6)

If adopted, this amendment:

- o grants the counties the exclusive power to exercise all functions, powers and duties relating to the taxation of real property.
- o includes a transitional section which provides (1) for effective date on July 1, 1981, (2) for uniform policies and methods of assessing real property by agreement of a majority of the counties or, in the absence of such agreement, by general law, and (3) for dedications of land for specific use, for assessment at its value in such use, and for real property tax exemptions, both of which shall not be altered for a period of eleven years, except that increases for either may be granted by agreement of a majority of the counties.

17. PUBLIC HEALTH AND WELFARE. (Article IX, Sections 2, 3, 4, 7, 8, 9 and 10)

If adopted, this amendment:

- o allows flexibility in programs for care of handicapped.
- o gives the legislature power to establish eligibility standards for public assistance.
- o deletes the power to conserve and develop natural beauty, which is shifted to the article on Conservation and Development of Resources.
- o authorizes the State to provide for (1) public safety, (2) the security of the elderly, (3) preservation of cultural resources, and (4) promotion of a healthful environment.

18. POPULATION GROWTH MANAGEMENT. (Article IX, Section 6)

If adopted, this amendment:

- o requires the State and its counties to plan and manage the growth of the population except that each county may plan and manage its growth in a more restrictive manner than the State.

19. BOARD OF EDUCATION. (Article X, Sections 2 and 3; Article XVIII, Section 7)

If adopted, this amendment:

- o beginning with the 1980 general elections, members of the board of education will

be elected in a nonpartisan manner from two at-large school board districts, one district for Oahu and the second district for the neighbor islands. Each school board district will consist of several departmental school districts.

- o provides that at least one member of the board of education live in each departmental school district.
- o provides that the board of education has jurisdiction, subject to general laws, over the internal organization and management of the public school system.

20. EDUCATION; HAWAIIAN STUDIES. (Article X, Sections 1 and 4)

If adopted, this amendment:

- o prohibits discrimination in public educational institutions on the basis of sex.
- o provides for the promotion of Hawaiian history, culture, and language and a Hawaiian education program.

21. UNIVERSITY BOARD OF REGENTS. (Article X, Section 6)

If adopted, this amendment:

- o clarifies the board of regents' exclusive jurisdiction, subject to statewide laws, over the internal organization and management of the University of Hawaii.

22. WATER RESOURCES: PROTECTION AND CONTROL. (Article XI, Section 7)

If adopted, this amendment:

- o obligates the State to protect, control, and regulate the uses of Hawaii's water resources for the benefit of the people of Hawaii.
- o requires the legislature to insure that there is a water resources agency to help protect, control, and regulate the water.

23. ENVIRONMENT AND RESOURCE PROTECTION. (Article XI, Sections 1 and 9)

If adopted, this amendment:

- o requires the State and counties to conserve and protect the natural beauty and natural resources of Hawaii.
- o requires the State to promote the development and use of these resources in a manner consistent with conserving these resources and promoting the self-sufficiency of the State.

- o requires the State to hold all public natural resources in trust for the benefit of the people of Hawaii.
- o gives each person the right to a clean and healthful environment as defined by law .
- o gives each person the right to sue to enforce this right but the legislature may limit and regulate this right in a reasonable manner.

24. LAND MANAGEMENT; AGRICULTURAL LAND. (Article XI, Sections 3 and 4)

If adopted, this amendment:

- o requires the State to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and assure that agriculturally suitable lands will be available.
- o requires the State to identify which agricultural lands are needed to promote the future of agriculture.
- o requires that lands identified as important for agriculture shall not be used for any other purpose unless (1) certain standards and criteria set by the legislature are met, and (2) the change is approved by a two-thirds vote of the governmental body which is to approve changes in the use of the land.
- o permits the State to acquire interests in real property in order to control development and land use; deems exercise of such power to be for a public use and purpose.

25. CONTROL OF MARINE RESOURCES. (Article XI, Section 6)

If adopted, this amendment:

- o gives the State the power to manage and control the ocean waters and lands which are located within the boundaries of the State.
- o reserves to the State the right to manage and control ocean waters and lands which are located outside the boundaries of the State as long as federal or international law does not prevent the State from doing so.
- o adds to the list of areas not open to the public those areas where a state-licensed mariculture operation is operating but requires the legislature to establish guidelines for mariculture operations to protect the public's use and enjoyment of the reefs.

26. RESTRICTIONS ON NUCLEAR ENERGY. (Article XI, Section 8)

If adopted, this amendment:

- o requires anyone wishing to construct a nuclear

fission power plant or dispose of radioactive material to receive the approval of two-thirds of the members of each house of the legislature.

27. DEPARTMENT OF HAWAIIAN HOME LANDS. (Article XII, Section 1; Hawaiian Homes Commission Act, 1920, as amended; Sections 204, 212, 213 and 221)

If adopted, this amendment:

- o requires the legislature to fund the Department of Hawaiian Home Lands.
- o guarantees that traditional funding continue.
- o allows the department more flexibility.

28. OFFICE OF HAWAIIAN AFFAIRS. (Article XII, Sections 4, 5 and 6)

If adopted, this amendment:

- o sets forth the trust corpus and beneficiaries of the Admission Act.
- o establishes an Office of Hawaiian Affairs with an elected board of trustees and provides for an effective date.

29. TRADITIONAL AND CUSTOMARY RIGHTS. (Article XII, Section 8)

If adopted, this amendment:

- o allows descendants of native Hawaiians, subject to state regulation, to exercise rights that have been customarily and traditionally exercised.

30. CODE OF ETHICS. (Article XIV)

If adopted, this amendment:

- o extends ethics codes to constitutional convention delegates and employees.
- o provides that ethics codes must require provisions for financial disclosure.
- o requires an independent commission to supervise ethics codes.
- o requires lobbyist registration.
- o requires candidates for political office to file financial disclosures.

31. PREAMBLE; STATE BOUNDARIES AND MOTTO. (Preamble; Article XV, Sections 1, 4 and 5)

If adopted, this amendment:

- o revises the Preamble.

- o affirms that the State's boundaries include the waters around all the State's islands.
- o picks a State motto and official languages of English and Hawaiian.

32. LIMITS ON ADVERSE POSSESSION. (Article XVI, Section 12)

If adopted, this amendment:

- o eliminates the acquiring of title to real property by adverse possession, except that five acres or less may be claimed by adverse possession, but not more than once in 20 years.

33. MISCELLANEOUS REVISIONS. (Article XVI, Sections 3 and 13; Article XVII, Section 2)

If adopted, this amendment:

- o would keep persons convicted (not just accused) of subversive activities from holding public office or employment.
- o says that governmental writing meant for the public must be in plain language.
- o changes from 10 to 9 years the time when voters must be asked if they want to have another constitutional convention.
- o lets the next constitutional convention start a month earlier, giving them at least 5 months (instead of 4) before the general election.

34. TECHNICAL AND STYLE CHANGES.

If adopted, this amendment:

- o changes the Constitution where the subject may now be unconstitutional or unnecessary under the Constitution of the United States.
- o changes style and language.
- o replaces words which sound like they apply to only men or women by words which apply to everyone.
- o makes small changes which are related to the main purposes of the other amendments.

RESOLUTION NO. 31

AMENDING CONVENTION RULE 37.

WHEREAS, there are still certain issues which should be reconsidered before the Constitutional Convention of Hawaii of 1978 adjourns; and

WHEREAS, in order to so consider such issues as additions to existing committee

proposals without considering the deletion of those ideas which the Convention has already accepted, Rule 37 of the Convention concerning reconsideration should be amended; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that Rule 37 of the Rules of the Convention be amended to read as follows:

"RULE 37. A motion to reconsider any vote must be made before the end of the second Convention day after the day on which the vote proposed to be reconsidered was taken, and by a delegate who voted in the majority and the same majority shall be required to adopt a motion to reconsider as was required to take the action to be reconsidered[.]; provided that a motion to reconsider any committee proposal may be made at any time in order to add new material to a previously considered committee proposal."

RESOLUTION NO. 32

RELATING TO SUBMISSION AND INFORMATION.

WHEREAS, the Committee on Submission and Information is empowered by the Constitutional Convention of Hawaii of 1978 to promote and disseminate to the public, information regarding the proposed amendments which will be placed upon the general election ballot; and

WHEREAS, the Committee on Submission and Information will be extensively utilizing the print and electronic media to transmit their message to the people of Hawaii; and

WHEREAS, there are 31 delegates of the Constitutional Convention of Hawaii of 1978 who are candidates for public office this fall; and

WHEREAS, should the Committee on Submission and Information inadvertently feature any of these candidates in the mass media, it would unduly advantage that candidate; now, therefore,

BE IT RESOLVED that the Constitutional Convention of Hawaii of 1978 mandate that the Committee on Submission and Information conscientiously avoid the featuring of any candidate for office this year by using his/her name, photograph, voice or film; and

BE IT FURTHER RESOLVED that no officers of the Convention shall authorize candidates to speak on behalf of the Convention concerning the work of the Convention.

RESOLUTION NO. 33

REQUESTING THE UNITED STATES CONGRESS TO EXEMPT HAWAII FROM THE MULTILINGUAL REQUIREMENTS OF TITLE III OF THE VOTING RIGHTS ACT, AS AMENDED IN 1975.

WHEREAS, in 1975 the United States Congress amended the Voting Rights Act, and such amendments were designed to encourage full participation in the electoral process by the citizens of the country; and

WHEREAS, one of the amendments to Title III of the act requires the states to provide voting assistance to certain foreign language minority groups with high illiteracy rates; and

WHEREAS, the guidelines of the United States Justice Department recognized four subgroups of Asian-Americans, the Japanese, Chinese, Filipinos and Koreans, but failed to consider the various dialects spoken by the subgroups; and

WHEREAS, to comply with the intent of the congressional mandate, Hawaii accommodated such dialects in providing voter materials in the 1976 elections; and such assistance included printing registration and voting forms and informational materials in Ilocano,

Japanese and Chinese, and providing persons to orally assist members of the Japanese, Chinese and Filipino subgroups at the polls; and

WHEREAS, Hawaii's state and county governments expended more than \$500,000 to provide the required multi-lingual assistance in the 1976 elections; and

WHEREAS, statistics compiled by the office of the Lieutenant Governor reveal that only 191 persons requested foreign language ballots in the 1976 elections; and

WHEREAS, the Voting Rights Act defines an illiterate person as one who has not completed the fifth elementary grade in any school, but there are many individuals in Hawaii who have learned to read and write the English language without formal education; and such individuals would therefore not require a foreign language ballot; and

WHEREAS, another reason for the low demand for foreign language ballots may be the substantial decline in the illiteracy rate in English of the foreign language subgroups since 1970; and

WHEREAS, the experience of the 1976 elections indicates that the printing of voter information forms and ballots in foreign languages is a financial burden on the State, especially when the cost-effectiveness ratio of such assistance is very low; and

WHEREAS, to this date the Constitution of the State has not been translated into any foreign language; and to comply with the Voting Rights Act, the office of the Lieutenant Governor must provide multi-lingual voter information and material with respect to the amendments to the State's Constitution proposed by the Constitutional Convention of Hawaii of 1978; and

WHEREAS, since 1968 the office of the Lieutenant Governor has developed and conducted various voter registration and education programs, and such programs have been successful, as indicated by the 6% increase in voter turnout between the 1974 general election and the 1976 general election; and

WHEREAS, in Hawaii the voter information programs of the office of the Lieutenant Governor have been more effective than the multi-lingual requirements of Title III of the Voting Rights Act in promoting voter participation; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that the United States Congress be requested to exempt Hawaii from the multi-lingual requirements of Title III of the Voting Rights Act, as amended in 1975; and

BE IT FURTHER RESOLVED that duly authenticated copies of this Resolution be transmitted to the Congress of the United States, the members of Hawaii's congressional delegation and the Lieutenant Governor of Hawaii.

RESOLUTION NO. 34

EXPRESSING DEEPEST APPRECIATION TO THE CON-CON PAGES, THE OFFICE OF THE LIEUTENANT GOVERNOR, THE ALOHA COUNCIL OF BOY SCOUTS OF AMERICA, THE GIRL SCOUT COUNCIL OF THE PACIFIC, AND THE CAMP FIRE - HAWAII COUNCIL FOR THEIR SPLENDID SERVICE TO THE CONSTITUTIONAL CONVENTION OF HAWAII OF 1978.

WHEREAS, the office of the Lieutenant Governor initiated the Con-Con Page Program, which provided young people, representing the Aloha Council of Boy Scouts of America, the Girl Scout Council of the Pacific, and the Camp Fire - Hawaii Council, to assist the Constitutional Convention of Hawaii of 1978; and

WHEREAS, the Con-Con pages facilitated the proceedings of the Convention by their dependable and diligent service, including providing assistance at the Convention's information desk and delivering messages, mail and published materials for the Convention; and

WHEREAS, the efforts and diligence of Samuel Adams, Ronse Akiu, Stephen Chang,

Meiling Ching, Mari Dyer, Joechelle Flores, Rachel Fretwell, Tina Maria Garza, Charles Hemenway, Garrett Kashimoto, Charles Kealoha, Ardie Kepoo, Margaret Limm, Roy Machado, Michael Tamashiro, Lori Piikea Tomczyk and Warren Tyau, as participants of the Con-Con Page Program, are deserving of recognition; and

WHEREAS, the Con-Con pages volunteered their time and exemplify the finest qualities of Hawaii's youth; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that it express its deepest appreciation and aloha to the Con-Con pages, the office of the Lieutenant Governor, the Aloha Council of Boy Scouts of America, the Girl Scout Council of the Pacific, and the Camp Fire - Hawaii Council; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be forwarded to each Con-Con page, the office of the Lieutenant Governor, the Aloha Council of Boy Scouts of America, the Girl Scout Council of the Pacific, and the Camp Fire - Hawaii Council.

RESOLUTION NO. 35

DIRECTING THE LEGISLATURE TO PROVIDE FOR THE REGULATION AND CONTROL OF RADIOACTIVE WASTE MATERIALS, INCLUDING THE DISPOSAL, STORAGE, AND TRANSPORTATION OF SUCH MATERIALS.

WHEREAS, the radioactive waste material produced by nuclear fission power plants is dangerous in the extreme; and

WHEREAS, one ounce of plutonium is enough to kill every human being on this planet if dispersed; and

WHEREAS, there is a high probability of sabotage and unavoidable accident occurring during the transportation, storage, and disposal of radioactive waste; and

WHEREAS, the State of Hawaii has a compelling state interest to protect its citizens and their environment from the dangers of radioactive contamination; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that this body hereby directs the Legislature to provide for the regulation and control of radioactive waste material, including the disposal, storage, and transportation of such material, so as to ensure the highest possible safety and health standards for this and future generations of Hawaii's people; and

BE IT FURTHER RESOLVED that duly authenticated copies of this Resolution be transmitted to the Governor, the Director of the Department of Health, and to the Legislature.

RESOLUTION NO. 36

EXPRESSING DEEPEST APPRECIATION AND GRATITUDE TO THE CENTRAL SERVICES DIVISION AND THE PUBLIC WORKS DIVISION OF THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES.

WHEREAS, the Department of Accounting and General Services has unstintingly and graciously performed many services and acts of kindness for the benefit of the Constitutional Convention of 1978; and

WHEREAS, Steven Fernandes provided invaluable assistance in preparing the contract for the Old Federal Building and William Lee provided invaluable assistance as head architect in drawing up the plans for the use of the facilities; and

WHEREAS, Hideo Murakami and Mike Tokunaga provided outstanding service as comptroller and deputy comptroller to the Convention; and

WHEREAS, Richard Ajimine, Ralph Ornellas, Kiyoshi Tagawa, Stephen Saiki and

Richard Fujikawa from the Cabinet Shop and Joel Fujita from the Paint Shop of the Physical Plant Operation and Maintenance Branch provided invaluable assistance in the making of nameplates, gavels, cabinets and other physical alterations and the painting of signs; and

WHEREAS, Danny Low, Building Maintenance Supervisor, Richard Lee and other members of the branch provided invaluable assistance in maintaining the facilities for the Convention; and

WHEREAS, Richard Nakamura, Division Chief, Akira Kubota, Building and Grounds Superintendent and George Higa, Procurement and Supply Specialist, provided valuable assistance in assuring that the administration of the various types of services provided functioned smoothly; and

WHEREAS, Roy Yokomura and Paul Moniz provided invaluable assistance in the speedy procurement of furniture and other supplies; and

WHEREAS, this unselfish and wholehearted cooperation shall not go unnoticed by this body; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that the members of the Central Services Division and Public Works Division of the Department of Accounting and General Services be thanked for giving unselfishly of their time and for contributing to a smooth and successful convention session; and

BE IT FURTHER RESOLVED that a duly certified copy of this Resolution be transmitted to the Central Services Division and the Public Works Division of the Department of Accounting and General Services.

RESOLUTION NO. 37

EXPRESSING DEEPEST APPRECIATION TO THE MEMBERS OF THE PRESS, THE WIRE SERVICES, RADIO STATIONS AND TELEVISION STATIONS FOR HAVING PROVIDED EXCELLENT COVERAGE OF THE ACTIVITIES OF THE CONSTITUTIONAL CONVENTION OF HAWAII OF 1978.

WHEREAS, the Constitutional Convention of Hawaii of 1978 has almost completed its deliberations and is about to take its place in history; and

WHEREAS, the members of the press, the wire services, radio stations and television stations have performed a vital service in the democratic process by informing the public of the many proposed amendments and other issues considered by the Constitutional Convention; and

WHEREAS, Sandra Oshiro and Douglas Woo of The Honolulu Advertiser, Lee Gomes of the Honolulu Star-Bulletin, June Watanabe of the Associated Press, Bob Miller of KHET-TV, Richard Borreca of KHVH, Susan Hale of the Maui News, Leslie Wilcox of KGMB-TV, Emerald Yeh of KITV-TV, and KHON-TV have provided excellent reporting of the activities of this Convention; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that it takes this means to express its appreciation to the members of the press, the wire services, radio stations and television stations for having provided excellent coverage of the activities of the Constitutional Convention of 1978; and

BE IT FURTHER RESOLVED that duly certified copies of this Resolution be forwarded to Sandra Oshiro, Douglas Woo, and the editor of The Honolulu Advertiser; Lee Gomes and the editor of the Honolulu Star-Bulletin; June Watanabe of the Associated Press; Bob Miller and the station manager of KHET-TV; Emerald Yeh and the station manager of KITV-TV; Leslie Wilcox and the station manager of KGMB-TV; Richard Borreca and the station manager of KHVH; Susan Hale and the editor of the Maui News; and the station manager of KHON-TV.

RESOLUTION NO. 38

EXPRESSING DEEP APPRECIATION AND GRATITUDE TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES OF THE HAWAII STATE LEGISLATURE.

WHEREAS, the Constitutional Convention of Hawaii of 1978 has almost completed its deliberations and is about to take its place in history; and

WHEREAS, the work of the Convention could never have been completed without the unselfish cooperation rendered by the President of the Senate and the Speaker of the House; and

WHEREAS, the use of the meeting rooms, conference rooms, auditorium, and other facilities of the Legislature by the Convention has greatly facilitated the work of the Convention; and

WHEREAS, the Convention has been able to utilize the services of the Senate printshop, which has allowed the smooth and timely functioning of the business of the Convention; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that this body express its deep appreciation and gratitude to the President of the Senate and the Speaker of the House of Representatives of the Hawaii State Legislature; and

BE IT FURTHER RESOLVED that duly certified copies of this Resolution be transmitted to Senate President John Ushijima and to Speaker of the House James Wakatsuki.

RESOLUTION NO. 39

EXPRESSING DEEPEST APPRECIATION TO THE DEPARTMENT OF THE ATTORNEY GENERAL FOR ITS SPLENDID COOPERATION AND SERVICE RENDERED TO THE CONSTITUTIONAL CONVENTION OF HAWAII OF 1978.

WHEREAS, the Constitutional Convention of Hawaii of 1978 has nearly completed its proceedings; and

WHEREAS, the Department of the Attorney General provided the Convention with invaluable and prompt assistance and guidance, thus facilitating its proceedings; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that it express its appreciation and aloha to the Department of the Attorney General for its splendid cooperation and service rendered to the Convention; and

BE IT FURTHER RESOLVED that a duly certified copy of this Resolution be transmitted to Ronald Amemiya, Attorney General.

RESOLUTION NO. 40

EXPRESSING DEEPEST APPRECIATION TO THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF HAWAII; DR. RYOKICHI HIGASHIONNA, DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION; DOUGLAS SAKAMOTO, DEPUTY DIRECTOR FOR OPERATIONS OF THE DEPARTMENT OF TRANSPORTATION; AND WILLIAM KRAFT, MANAGER OF THE HONOLULU INTERNATIONAL AIRPORT, AIR TRANSPORTATION FACILITIES DIVISION OF THE DEPARTMENT OF TRANSPORTATION.

WHEREAS, the Constitutional Convention of Hawaii of 1978 has nearly completed its proceedings; and

WHEREAS, delegates of the Convention traveled from the seat of the Convention in Honolulu, Hawaii to the various neighbor islands to conduct public hearings and to discuss issues affecting the proceedings of the Convention with the residents of these neighbor islands; and

WHEREAS, the Department of Transportation of the State of Hawaii; Dr. Ryokichi Higashionna, Director of the Department of Transportation; Douglas Sakamoto, Deputy Director for Operations of the Department of Transportation; and William Kraft, Manager of the Honolulu International Airport, Air Transportation Facilities Division of the Department of Transportation, provided the delegates of the Convention with parking space at the Honolulu International Airport and at other airports on the neighbor islands, including furnishing parking at the Department of Transportation's parking structure at Honolulu International Airport; and such parking greatly facilitated the delegates' neighbor island hearings; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that it express its deepest appreciation and aloha to the Department of Transportation, Dr. Higashionna, Douglas Sakamoto and William Kraft; and

BE IT FURTHER RESOLVED that a duly certified copy of this Resolution be transmitted to Dr. Higashionna, Director of the Department of Transportation.

RESOLUTION NO. 41

EXPRESSING DEEPEST APPRECIATION TO THE ENTIRE STAFF OF THE CONVENTION FOR OUTSTANDING SERVICES RENDERED TO THE CONSTITUTIONAL CONVENTION OF HAWAII OF 1978.

WHEREAS, the Constitutional Convention of Hawaii of 1978 has nearly completed its work and is ready to take its place in history; and

WHEREAS, the Convention staff worked many long hours, often late into the night and over weekdays, weekends and holidays; and

WHEREAS, the staff of the Convention rendered outstanding service by performing its demanding work, and work of the highest quality, often beyond the normal call of duty, unselfishly, fully, responsibly and conscientiously; now, therefore,

BE IT RESOLVED by the Constitutional Convention of 1978, that this body extend to the entire staff of the Convention its sincere gratitude and thanks.

RESOLUTION NO. 42

COMMENDING THE LEAGUE OF WOMEN VOTERS OF HAWAII EDUCATION FUND AND ITS SPONSOR ORGANIZATIONS FOR THE KA PO'E PROJECT.

WHEREAS, 'o ka po'e ke kumu o ke kanawai translated into English means "the people are the source of the law"; and

WHEREAS, it was in this spirit that the League of Women Voters of Hawaii Education Fund, Inc. initiated an ambitious project of seeking out and encouraging broader state-wide community involvement in the 1978 constitutional revision process; and

WHEREAS, the Ka Po'e project, which was made possible through grant funds from various organizations, provided citizens throughout the State an opportunity to learn the fundamentals of constitutional revision and to identify issues for consideration by the 1978 Constitutional Convention; and

WHEREAS, as part of the Ka Po'e project, a workshop was held June 13-16, 1978 for orientation of the newly elected delegates to the 1978 Constitutional Convention of Hawaii which offered instruction to the convention delegates with respect to the technical procedures of a convention and the community's assessment of the major constitutional issues for 1978; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that this body does hereby commend the League of Women Voters of Hawaii Education Fund, Inc. and its sponsor organizations for their valuable service to the community through the Ka Po'e project and for organizing and presenting an excellent workshop for the convention delegates; and

BE IT FURTHER RESOLVED that a duly certified copy of this Resolution be transmitted to the League of Women Voters of Hawaii.

RESOLUTION NO. 43

EXPRESSING APPRECIATION TO HAWAIIAN TELEPHONE FOR THE TELEPHONE DIRECTORY OF THE CONSTITUTIONAL CONVENTION OF 1978.

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that this body, by this means, express its appreciation to Hawaiian Telephone Company for providing the Convention with a telephone directory of the Constitutional Convention of 1978; and

BE IT FURTHER RESOLVED that a duly certified copy of this Resolution be transmitted to Donald Kuyper, President of Hawaiian Telephone Company.

RESOLUTION NO. 44

EXPRESSING DEEPEST APPRECIATION AND GRATITUDE TO KAPIOLANI COMMUNITY COLLEGE AND JOE CHUN, DIRECTOR OF THE EDUCATIONAL MEDIA CENTER.

WHEREAS, the Constitutional Convention of Hawaii of 1978 has almost completed its deliberations and is about to take its place in history; and

WHEREAS, Kapiolani Community College through the work of Joe Chun, Director of the Educational Media Center, provided the Convention with two television receivers and all the necessary accessories; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that it express its deepest appreciation to Kapiolani Community College and Joe Chun; and

BE IT FURTHER RESOLVED that a duly certified copy of this Resolution be forwarded to Dr. Joyce Tsunoda, Provost, and Joe Chun, Director of the Educational Media Center of Kapiolani Community College.

RESOLUTION NO. 45

EXPRESSING DEEPEST APPRECIATION TO THE LEGISLATIVE REFERENCE BUREAU.

WHEREAS, the Legislative Reference Bureau has unstintingly and diligently performed many invaluable services for the Constitutional Convention of Hawaii of 1978; and

WHEREAS, the Legislative Reference Bureau books in the Hawaii Constitutional Convention Studies 1978 served as an excellent reference source of material and information; and

WHEREAS, the work was challenging and difficult, and the Legislative Reference Bureau rose and met the challenge in splendid fashion; and

WHEREAS, the Legislative Reference Bureau under the direction of Mr. Richard F. Kahle, Jr., performed these invaluable services under the pressure of deadlines and lengthy work hours; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that the members of the Legislative Reference Bureau including Mr. Richard F. Kahle, Jr., Susan Claveria, Frances Michelle Dick, Lester J. Ishado, Henry Iwasa, Wendy Kugiya, Kenneth Lau, Jon Okudara, Joyce Aramaki, Sally Hayashi, Maizie Yamada, Laurie Yonamine, Randall Hiu, Georgine Fong, Jean Imamoto, and Hanako Kobayashi and the various authors of the Hawaii Constitutional Convention Studies 1978 be thanked for their many contributions to the success of this session; and

BE IT FURTHER RESOLVED that a duly certified copy of this Resolution be transmitted to the Legislative Reference Bureau.

RESOLUTION NO. 46

EXPRESSING DEEPEST APPRECIATION TO THE PAGES OF THE CONSTITUTIONAL CONVENTION OF HAWAII OF 1978.

WHEREAS, this Constitutional Convention of Hawaii of 1978 has received the benefit of wonderful work from many volunteers who served as pages through the Con-Con Page Program; and

WHEREAS, these pages have fulfilled the sometimes thankless but important task of delivering messages on the Convention floor; and

WHEREAS, these pages completed this thankless task without complaint and with graciousness and aloha; and

WHEREAS, the excellent work of these pages should not go unnoticed; and

WHEREAS, the office of the Lieutenant Governor, Aloha Council of Boy Scouts of America, the Girl Scout Council of the Pacific, and the Camp Fire-Hawaii Council were instrumental in the initiation and coordination of this program; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that Samuel Adams, Ronse Akiu, Stephen Chang, Meiling Ching, Mari Dyer, Joechelle Flores, Rachel Fretwell, Tina Maria Garza, Charles Hemenway, Garrett Kashimoto, Charles Kealoha, Ardie Kepoo, Margaret Limm, Roy Machado, Michael Tamashiro, Lori Piikea Tomczyk and Warren Tyau be warmly and humbly thanked by this body for their assistance during the course of this Convention; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be forwarded to the office of the Lieutenant Governor, the Aloha Council of Boy Scouts of America, the Girl Scout Council of the Pacific, and the Camp Fire-Hawaii Council.

RESOLUTION NO. 47

EXPRESSING DEEPEST APPRECIATION TO THE OFFICE OF THE LIEUTENANT GOVERNOR.

WHEREAS, the office of the Lieutenant Governor and in particular those members charged with the responsibility of supervising elections were most gracious in sharing their knowledge of the elections system with the Constitutional Convention of Hawaii of 1978; and

WHEREAS, members of the office were patient and cooperative with this Convention in our mutual efforts to resolve problems regarding the process of voter ratification; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that the office of the Lieutenant Governor, including the Honorable Nelson Doi, Morris Takushi, Dolores Tsukano, Michele Hamner, Larry Ebisugawa, Isamu Katada, Daniel Dagdagdan, Patricia Tottori, Kathy Lau and Marsha Onaga, be thanked by this Convention for the immeasurable assistance offered by them to this Convention; and

BE IT FURTHER RESOLVED that a duly certified copy of this Resolution be transmitted to the office of the Lieutenant Governor.

RESOLUTION NO. 48

EXPRESSING DEEPEST APPRECIATION AND GRATITUDE TO THE HAWAII COUNCIL OF CHURCHES, THE ROMAN CATHOLIC DIOCESE OF HONOLULU, THE HAWAII BUDDHIST COUNCIL, THE HAWAIIAN MISSION OF SEVENTH-DAY ADVENTISTS, THE HAWAII BAPTIST CONVENTION, THE OAHU ASSOCIATION OF EVANGELICALS, AND THE HONOLULU HAWAII STAKE, CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS.

WHEREAS, the Hawaii Council of Churches, the Roman Catholic Diocese of Honolulu,

the Hawaii Buddhist Council, the Hawaiian Mission of Seventh-day Adventists, the Hawaii Baptist Convention, the Oahu Association of Evangelicals, and the Honolulu Hawaii Stake, Church of Jesus Christ of Latter-Day Saints have graciously provided the Constitutional Convention of Hawaii of 1978 with chaplains to invoke the daily blessings upon this body; and

WHEREAS, these chaplains commenced the daily session of the Convention regardless of the convening hour of the Convention; and

WHEREAS, the delegates of the Convention have been guided by these inspiring messages in their deliberations to consider amendments to the Constitution of the State of Hawaii for the benefit of all people of this State; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that it extend to the Hawaii Council of Churches, the Roman Catholic Diocese of Honolulu, the Hawaii Buddhist Council, the Hawaiian Mission of Seventh-day Adventist, the Hawaii Baptist Convention, the Oahu Association of Evangelicals, and the Honolulu Hawaii Stake, Church of Jesus Christ of Latter-Day Saints its sincere gratitude and appreciation; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be forwarded to the Hawaii Council of Churches, the Roman Catholic Diocese of Honolulu, the Hawaii Buddhist Council, the Hawaiian Mission of Seventh-day Adventists, the Hawaii Baptist Convention, the Oahu Association of Evangelicals, and the Honolulu Hawaii Stake, Church of Jesus Christ of Latter-Day Saints.

RESOLUTION NO. 49

EXPRESSING SINCERE APPRECIATION TO D. HEBDEN PORTEUS AND TADAO BEPPU FOR OUTSTANDING SERVICES AND ADVICE RENDERED TO THE CONSTITUTIONAL CONVENTION OF 1978 DURING ITS PRE-CONVENTION ACTIVITIES.

WHEREAS, the Constitutional Convention of Hawaii of 1978 has almost completed its deliberations and is about to take its place in history; and

WHEREAS, one of the more important phases of this Convention was its pre-Convention activities; and

WHEREAS, the outstanding services and advice provided by D. Hebden Porteus, President, and Tadao Beppu, Secretary of the Constitutional Convention of 1968, were invaluable to the Convention during its pre-Convention days; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that this body express its appreciation to D. Hebden Porteus and Tadao Beppu for their outstanding services and advice and lending of their unselfish and tremendous expertise during the pre-Convention days; and

BE IT FURTHER RESOLVED that duly certified copies of this Resolution be transmitted to D. Hebden Porteus and to Tadao Beppu.

RESOLUTION NO. 50

EXPRESSING DEEPEST APPRECIATION TO THE STATE FOUNDATION ON CULTURE AND THE ARTS, ALFRED PREIS, EXECUTIVE DIRECTOR OF THE STATE FOUNDATION ON CULTURE AND THE ARTS, AND RONALD YAMAKAWA, ART SPECIALIST.

WHEREAS, the Constitutional Convention of Hawaii of 1978 has nearly completed its proceedings; and

WHEREAS, the State Foundation on Culture and the Arts, Alfred Preis, Executive Director of the State Foundation on Culture and the Arts, and Ronald Yamakawa, Art Specialist, coordinate and arrange for the placement of works of art in state buildings as part of the Art in State Buildings Program; and

WHEREAS, the State Foundation on Culture and the Arts, Alfred Preis and Ronald

Yamakawa furnished many beautiful paintings to the Convention, thus enhancing the physical surroundings of the Convention; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that it express its deepest appreciation and aloha to the State Foundation on Culture and the Arts, Alfred Preis, and Ronald Yamakawa; and

BE IT FURTHER RESOLVED that a duly certified copy of this Resolution be forwarded to Alfred Preis, Executive Director of the State Foundation on Culture and the Arts.

RESOLUTION NO. 51

RELATING TO FREEDOM OF THE PRESS.

WHEREAS, the State of Hawaii Constitutional Convention of 1978 has expressed its concern with assuring individual freedom from unjustifiable intrusion by the government, as well as by private parties, by proposing an amendment to Article I to include a separate and distinct section devoted entirely to the right to privacy; and

WHEREAS, it is the express intention of this Convention that the right to privacy be recognized as a fundamental right for purposes of constitutional analysis; and

WHEREAS, concerns have been raised with respect to potential conflicts between said proposed amendment on the right to privacy and the freedom of the press, as guaranteed in both the United States Constitution and the Constitution of the State of Hawaii; now, therefore,

BE IT RESOLVED that the Constitutional Convention's recognition of the right to privacy, as provided in said amendment, is not intended to violate the freedom of the press.

RESOLUTION NO. 52

EXPRESSING DEEP APPRECIATION TO THE UNIVERSITY OF HAWAII FOR ITS COOPERATION AND SERVICES RENDERED TO THE CONSTITUTIONAL CONVENTION OF HAWAII OF 1978.

WHEREAS, the Constitutional Convention of Hawaii of 1978 has almost completed its deliberations and is about to take its place in history; and

WHEREAS, the Law School of the University of Hawaii has provided invaluable input on the legal aspects of the issues under consideration by the Convention, through the members of its faculty and through the papers on proposed constitutional amendments prepared by students in seminars on the Constitutional Convention offered at the law school; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that it take this means to express its appreciation to the Law School of the University of Hawaii; and

BE IT FURTHER RESOLVED that duly certified copies of this Resolution be transmitted to Ambrose Rosehill, Chairman of the Board of Regents, to President Fujio Matsuda, to Chancellor Douglas S. Yamamura, and to Acting Dean of the Law School, A. Jerome Dupont, at the University of Hawaii.

RESOLUTION NO. 53

EXPRESSING DEEP APPRECIATION AND GRATITUDE TO THE GENERAL SERVICES ADMINISTRATION.

WHEREAS, the Constitutional Convention of Hawaii of 1978 has almost completed its deliberations and is about to take its place in history; and

WHEREAS, the work of the Convention could never have been completed without the cooperation rendered by the General Services Administration; and

WHEREAS, Richard Nee, Buildings Manager, and Harry Lee, Assistant Buildings Manager, provided invaluable assistance in maintaining the facilities for the Convention; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that this body express its deep appreciation and gratitude to Richard Nee and Harry Lee; and

BE IT FURTHER RESOLVED that a duly certified copy of this Resolution be transmitted to the Public Buildings Service of the General Services Administration.

Standing Committee Reports

STANDING COMMITTEE REPORT NO. 1

Your Committee on Budget, Accounts and Printing begs leave to report that Res. No. 1, Spec. Com. Rep. No. 1 and the list of standing committee appointments have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 2

Your Committee on Budget, Accounts and Printing begs leave to report that Res. No. 2 and Proposal Nos. 1 through 7 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 3

Your Committee on Budget, Accounts and Printing begs leave to report that Proposal Nos. 8 through 44 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 4

Your Committee on Budget, Accounts and Printing begs leave to report that Proposal Nos. 45 through 97 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 5

Your Committee on Budget, Accounts and Printing begs leave to report that Proposal Nos. 98 through 115 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 6

Your Committee on Budget, Accounts and Printing begs leave to report that Res. No. 3, Spec. Com. Rep. No. 2 and Proposal Nos. 116 through 144 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 7

Your Committee on Budget, Accounts and Printing begs leave to report that Proposal Nos. 145 through 183 and Res. Nos. 4 and 5 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 8

Your Committee on Budget, Accounts and Printing begs leave to report that Proposal Nos. 184 through 222, Res. Nos. 6 and 7 and Stand. Com. Rep. No. 9 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 9

Your standing Committee on Budget, Accounts and Printing to which was referred the matter of the budget for the Constitutional Convention of Hawaii of 1978 begs leave to report as follows:

The purpose of this budget is to allocate the funds appropriated to the Constitutional Convention under Section 7, Act 17, Session Laws of Hawaii 1977, and Act 243, Session Laws of Hawaii 1978.

Your Committee received a proposed budget which was prepared by the temporary Chairman of the Convention through his Ad Hoc Budget Committee and which provided your Committee with much guidance in developing the budget. Your Committee would like to express its appreciation for the work of the temporary Chairman and his Ad Hoc Budget Committee in developing the proposed budget. Your Committee reviewed the proposed budget in detail and made the necessary adjustments.

However, your Committee anticipates that the budget may need some minor adjustments in the future. It was not possible for your Committee to anticipate all matters. The cost of certain items may have been underestimated and new expenses may arise in the future. Therefore, your Committee intends that upon adoption of the budget the President, in consultation with the chairperson of the Committee on Budget, Accounts and Printing, be given the discretion to make any necessary adjustments in the budget in order to insure that the budget be kept within the appropriated sums. Your Committee feels that the President in consultation with the chairperson would be the appropriate authority to exercise this discretion, for it would be in conformity with his duties to insure that the Convention proceed and conclude in an orderly and timely fashion within the appropriated sums.

Your Committee on Budget, Accounts and Printing is in accord with the budget in the form attached hereto and recommends its adoption; and recommends further that upon adoption of the budget, the President, in consultation with the chairperson of your Committee on Budget, Accounts and Printing, be given the discretion to make any necessary adjustments in the budget in order to insure that the budget be kept within the appropriated sums.

Signed by all members of the Committee. Delegate Lacy did not concur.

1978 CONSTITUTIONAL CONVENTION BUDGET

Period: May 21 - September 22, 1978

Delegates' Salary:	\$408,000
Delegates' Per Diem:	
Session	\$118,500
Pre-Convention seminar and caucus	12,000

Pre-session committee meetings and authorized move-in	15,000	
Vacate offices	1,500	<u>147,000</u>
Delegates' Staff Allowance	428,400	
Administrative Staff	99,150	
Central Services (Con Con Support Staff)	178,025	<u>705,575</u>
Other Expenditures:		
Stationery and Office Supplies	50,000	
Office Furniture and Equipment	200,000	
Telephone Charges	80,000	
Sound Systems - Setup and Rental	30,000	
Printing and Binding, Journal	125,000	
Submission and Information	50,000	
Postage	5,000	
Convention Travel	47,500	
Employees' Auto Allowance	1,700	
Printing Services - Equipment and Space Rental	1,500	
Rental - Federal Building	140,000	
Building Repair & Renovation	40,000	
Miscellaneous	10,000	
Unemployment	125,000	
Workers' Compensation	50,000	<u>955,700</u>
TOTAL BUDGETED		\$2,216,275
APPROPRIATED		<u>2,259,453</u>
BALANCE		<u>\$ 43,178</u>

STANDING COMMITTEE REPORT NO. 10

Your Committee on Budget, Accounts and Printing begs leave to report that Proposal Nos. 223 through 244, Stand. Com. Rep. No. 11 and Res. No. 5, RD. 1, have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 11

Your Committee on Rules, to which was referred Resolution No. 5, entitled: "RELATING TO PROPOSALS," begs leave to report as follows:

The purpose of this resolution is to set a date after which no proposal shall be introduced, except by committee.

In the Rules of the Convention, Rule 55 provides that the Convention may set a date after which no proposal shall be introduced, except by committee. Resolution No. 5 addresses this rule by establishing a deadline for the introduction of all individual proposals at 4 p.m. of July 31, 1978, except by committee.

Your committee finds that the request of the Lt. Governor's office that all amendments to the State Constitution be submitted to his office by September 20, 1978 (in order for the amendments to be put on the ballot for the General Election on November 7, 1978) may be restrictive for the Convention's timetable.

Resolution No. 5 recommends a July 31st deadline for the introduction of all individual proposals. Your committee finds that should the Lt. Governor's office be firm in its September 20th deadline, it will be necessary to amend Resolution No. 5 by amending the third paragraph to read: "BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that no proposal shall be introduced after 4 o'clock p.m. of July 24, 1978, subject to being extended on input from the Lt. Governor's office, except by committee...."

Your committee also recommends that further discussion be held with the Lt. Governor's office regarding the submission deadline of September 20th. If it is ascertained that the September 20th deadline may be extended, your committee recommends an extension of the July 24th deadline regarding the introduction of all individual proposals.

Your Committee on Rules is in accord with Resolution No. 5, as amended herein and recommends the adoption of the resolution in the form attached hereto as Resolution No. 5, RD. 1.

Signed by all members of the Committee. Delegate DiBianco did not concur.

RESOLUTION NO. 5, RD. 1

RELATING TO PROPOSALS.

WHEREAS, Rule 55 of the Rules of the Convention provides that the Convention may set a date after which no proposal shall be introduced, except by committee; and

WHEREAS, it is deemed necessary to establish such a date for the standing committees to proceed on their deliberation of the proposals and conclude their work in an orderly and timely manner; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that no proposal shall be introduced after 4 o'clock p.m. of July 24, 1978, subject to being extended on input from the Lieutenant Governor's office, except by committee; and

BE IT FURTHER RESOLVED that said time and date of 4 o'clock p.m. of July 24, 1978 may be waived or amended only by the affirmative vote of at least 68 delegates; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution be transmitted to each of the chairpersons of the standing committees of the Constitutional Convention of 1978.

STANDING COMMITTEE REPORT NO. 12

Your Committee on Budget, Accounts and Printing begs leave to report that Proposal Nos. 245 through 292 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 13

Your Committee on Budget, Accounts and Printing begs leave to report that Proposal Nos. 293 through 330 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 14

Your Committee on Budget, Accounts and Printing begs leave to report that Proposal Nos. 331 through 374 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy members.

STANDING COMMITTEE REPORT NO. 15

Your Committee on Budget, Accounts and Printing begs leave to report that Proposal Nos. 375 through 433 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 16

Your Committee on Budget, Accounts and Printing begs leave to report that Proposal Nos. 434 through 465 and Stand. Com. Rep. No. 17 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 17

Your Committee on Style, to which was referred Convention Resolution No. 3, entitled: "RELATING TO WORDING OF OUR STATE CONSTITUTION," begs leave to report as follows:

The purpose of this resolution is to request simplicity and clarity of style in each proposal submitted to the Convention.

Your Committee on Style concurs with the intent and purpose of Res. No. 3 and recommends its adoption.

Signed by all members of the Committee.

STANDING COMMITTEE REPORT NO. 18

Your Committee on Budget, Accounts and Printing begs leave to report that Proposal Nos. 466 through 512 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 19

Your Committee on Budget, Accounts and Printing begs leave to report that Proposal Nos. 513 through 543 and Res. No. 8 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 20

Your Committee on Budget, Accounts and Printing begs leave to report that Proposal Nos. 544 through 573 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 21

Your Committee on Budget, Accounts and Printing begs leave to report that Proposal Nos. 574 through 608 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 22

Your Committee on Budget, Accounts and Printing begs leave to report that Proposal Nos. 609 through 835 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 23

Your Committee on Budget, Accounts and Printing begs leave to report that Stand. Com. Rep. No. 24 and Res. No. 8, RD. 1, have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 24

Your standing Committee on Budget, Accounts and Printing, to which was referred Resolution No. 8, entitled: "RELATING TO THE BUDGET" begs leave to report as follows:

The purpose of this resolution is to authorize the inclusion of the sum of \$240,547 to the existing budget adopted by and for the 1978 Constitutional Convention.

By Act 17 of Special Session Laws of Hawaii 1977 and Act 243 of Session Laws of Hawaii 1978, the aggregate sum of \$2,500,000 was appropriated by the State Legislature out of the general revenues of the State of Hawaii, or so much thereof as may be necessary, to the office of the Governor, or to the officers elected by the delegates if so designated by the Governor, for defraying the pre-session, session and post-session expenses of the 1978 Constitutional Convention; provided that, of the sum so appropriated, \$240,547 may be contracted to the Legislative Reference Bureau for the following purposes: \$200,000 for a citizen education program and \$40,547 for staff services for the Constitutional Convention delegates.

The Constitutional Convention adopted its budget, which covered \$2,259,453 of the aggregate sum so appropriated but did not include the said sum of \$240,547 because the Committee on Budget, Accounts and Printing, which had recommended the adoption of the budget, had assumed that the said sum of \$240,547 would be expended by the Governor for the special purposes intended therefor under Act 243 of Session Laws of Hawaii 1978.

The said sum of \$240,547 should be included in the budget of the 1978 Constitutional Convention for the purposes intended inasmuch as the Governor has duly delegated to the President of the Constitutional Convention the authority to expend the aggregate sum of \$2,500,000, which includes the said sum of \$240,547. To this end, the resolution amends the budget by adding thereto an item for the said sum of \$240,547 as special expenditures to read as follows:

"Special Expenditures:

Citizen Education Program	\$ 200,000	
Legislative Reference Bureau		
Staff Services	40,547	\$240,547"

Your Committee has amended the resolution by deleting the reference to Act 2 of Session Laws of Hawaii 1978 in the first whereas clause. Reference to said Act 2 was made by inadvertence and mistake inasmuch as said Act does not relate to appropriations for the 1978 Constitutional Convention.

Your Committee on Budget, Accounts and Printing concurs with the resolution as amended and recommends that it be adopted in the form attached hereto as Resolution No. 8, RD. 1.

Signed by all members of the Committee.

RESOLUTION NO. 8, RD. 1

RELATING TO THE BUDGET.

WHEREAS, by Act 17 of Special Session Laws of Hawaii 1977 and Act 243 of Session Laws of Hawaii 1978, the aggregate sum of \$2,500,000 was appropriated by the state legislature out of the general revenues of the State of Hawaii, or so much thereof as may be necessary, to the office of the Governor, or to the officers elected by the delegates if so designated by the Governor, for defraying the pre-session, session, and post-session expenses of the 1978 Constitutional Convention; provided that, of the sum so appropriated, \$240,547 may be contracted to the Legislative Reference Bureau for the following purposes: \$200,000 for a citizen education program and \$40,547 for staff services for the Constitutional Convention delegates; and

WHEREAS, on July 18, 1978, the Constitutional Convention adopted its budget, which covered \$2,259,453 of the aggregate sum so appropriated but did not include the said sum of \$240,547 because the Committee on Budget, Accounts and Printing, which had recommended the adoption of the budget, had assumed that the said sum of \$240,547 would be expended by the Governor for the special purposes intended therefor under Act 243 of Session Laws of Hawaii 1978; and

WHEREAS, it is now deemed necessary and appropriate that the said sum of \$240,547 be included in the budget of the 1978 Constitutional Convention for the purposes intended inasmuch as the Governor has duly delegated to the President of the Constitutional Convention the authority to expend the aggregate sum of \$2,500,000, which includes the said sum of \$240,547; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that the budget of the Constitutional Convention adopted on July 18, 1978 be and it is hereby amended by adding thereto an item for the said sum of \$240,547 as special expenditures and to read as follows:

"Special Expenditures:		
Citizen Education Program	\$200,000	
Legislative Reference Bureau		
Staff Services	40,547	\$240,547"

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the President of the Constitutional Convention and to the chairperson of the Committee on Budget, Accounts and Printing.

STANDING COMMITTEE REPORT NO. 25

Your Committee on Budget, Accounts and Printing begs leave to report that Stand. Com. Rep. No. 26, Com. P. No. 1 and Res. No. 9 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 26

Your Committee on Ethics to which were referred proposals numbered 31, 94, 106, 109 and 404, all relating to codes of ethics in constitutional conventions; and proposals numbered 116, 183, 318, 418, 492, 500, 523, 539, 551, 641, 734 and 823, all relating to codes of ethics in government in general, begs leave to report as follows:

The proposals covered several subject matters related to Section 5 of Article XIV of the Hawaii State Constitution, which, in its present form, mandates that there be codes of ethics that apply to officers and employees of the State and its political subdivisions. The proposals, without exception, sought to extend this constitutional language in one or more of the following areas: (1) wider applications for such codes; (2) further specifications for the administration of such codes; and (3) further specifications as to the definition of such codes and the components they must entail.

All committee meetings were open to the public and many citizens, groups and organizations representing a cross section of our community were invited to present their views on the subjects covered by the proposals at the public hearings.

The following citizens presented their views:

Mr. Gary Slovin, Executive Director, State Ethics Commission; Delegate James Shon; Delegate Naomi Campbell; Delegate Dennis Chun; Lt. Governor Nelson K. Doi; Daniel H. Case, President, Hawaii State Bar Association; Delegate Bruce Yamashita; Buck Buchwach, Executive Editor, Honolulu Advertiser; George Mason, Hawaii Pacific Business News; John E. Simonds, Managing Editor, Honolulu Star-Bulletin; Delegate John Waihee; Reverend William Smith, Chairman, City & County Ethics Commission; and Jim Hall, for Delegate Georgia Miller.

The committee, having conducted public hearings and deliberated upon the subjects covered by the proposals, presents for your consideration Section 5 of Article XIV to the Hawaii State Constitution, amended as follows.

Article XIV, Section 5, is amended to read:

"CODES OF ETHICS

"Section 5. The people of Hawaii believe that public officers and employees must exhibit the highest standards of ethical conduct, and that such standards derive from the personal integrity of each individual in government. In keeping faith with this belief, the legislature, [and] each political subdivision, and the constitutional convention shall adopt a code of ethics, which shall apply to appointed and elected officers and employees of the State or the political subdivision, respectively, including members of boards, commissions and other bodies.

"Each code of ethics shall be administered by a separate ethics commission, except that the code of ethics adopted by the constitutional convention shall be administered by the State Ethics Commission. No member of an ethics commission shall, during his term of office, run for or hold any office in any political organization, or directly or indirectly make any political contribution, or take part in any political campaign. The members of commissions shall be selected in a manner which assures their independence and impartiality.

"Each code of ethics shall include, but not be limited to, provisions on gifts, confidential information, the use of position, contracts with government agencies, post-employment, financial disclosure, and lobbyist registration and restriction. The financial disclosure provision shall require all elected officers, all candidates for elective office, and such appointed officers and employees as shall be provided by law to make public financial disclosure. Other public officials with significant discretionary or fiscal powers as provided by law shall make confidential financial disclosure. All financial disclosure statements shall include at least the following areas: sources and amounts of income, ownership and officership interests in businesses, ownership of real property, debts, creditor interests in insolvent businesses and the names of persons represented before government agencies."

Your Committee has substantially amended Section 5 of Article XIV. It is your Committee's belief that the subject of ethics in government is one of great importance which warrants such revision. Because the Constitution organizes the powers and procedures of government, "governing those who govern," your Committee believes that it is logical and essential that the Constitution contain some basic guidelines as to the form of ethics regulation that shall apply to those who govern.

Hawaii established what is generally considered to be the first comprehensive state ethics code in the nation in 1967. The 1968 Constitutional Convention of Hawaii sanctioned this new development in Article XIV, Section 5. Since then public concern about ethical conduct in government has markedly increased, and, in response, there have been many developments in the area of codes of conduct and disclosure requirements for government officials in Hawaii and across the nation. Your Committee on Ethics notes this public concern, draws upon the past decade of experience with ethics reform, and puts forth a proposal which it believes will strengthen, broaden and protect the system of ethics regulation in government in Hawaii.

After consideration of Proposal Nos. 183, 418, 523, 734 and 823, your Committee has added a new first sentence to paragraph one of the proposal as a policy statement to set a tone for the section, put forth an intent for the section, and to aid in the liberal interpretation of the codes which are promulgated pursuant to this section. By including this statement, your Committee intends to convey that high standards of ethical conduct are to be expected from public officers and employees, and that ethics codes are mandated to promote such standards.

After consideration of Proposal Nos. 31, 94, 106, 109, 116 and 404, your Committee has amended the second sentence of paragraph one of the proposed section to mandate that constitutional conventions enact their own ethics codes just as the State and its political subdivisions do. Your Committee believes that the integrity of future constitutional conventions will be more assured through this provision, and that by making a code of ethics an automatic requirement for such conventions, they will be spared the delay that the 1978 Constitutional Convention experienced after it decided to enact a code on an ad hoc basis.

Besides extension to constitutional conventions, the applicability of codes of ethics is also extended beyond current practice by paragraph three of the proposed section:

1. Candidates for elective offices will come under the disclosure requirements of this section. Your Committee believes that by making such information a matter of public record, the openness and honesty in which elections are conducted will be enhanced, and the public's electoral decision-making will be aided.
2. Lobbyist registration and restriction become a part of ethics codes. The effect of this revision on the state level is to move the administration of lobbyist regulation laws from the legislative auditor's office to the State Ethics Commission. Your Committee feels that it is more appropriate to have an independent commission, rather than a legislative agency, enforcing such laws. Both the State Ethics Commission and the legislative auditor have concurred with this revision. This revision will also cause county government to establish lobbyist registration and restriction statutes. Overall, your Committee believes that this revision will strengthen lobbyist regulation in state and county governments and curb unethical kinds of special interest influence.

The preceding two proposed revisions were made pursuant to consideration of Proposal Nos. 523, 539 and 734.

With respect to Proposal Nos. 492, 500, 523 and 734, your Committee has deliberated at length on the question of extending codes of ethics' applicability to judges and justices. During committee hearings, Mr. Daniel Case of the Hawaii State Bar Association and Mr. Gary Slovin of the State Ethics Commission testified against the specific inclusion of judges under this section, on the grounds that judges and justices have their own code of ethics, and therefore this would be an unnecessary restriction on the independence of the judiciary.

Your Committee concurs with their opinion. However, your Committee also rejects the amendment which would specifically exclude judges and justices under this section. Instead, your Committee concurs with the view expressed in Standing Committee Report No. 44 of the 1968 Constitutional Convention which states in part:

"It was the decision of your Committee that the judiciary should not be given specific exemption in the Constitution. However, this does not preclude the legislature from recognizing the sufficiency of the judicial canons of ethics."

The committee believes that the legislature's residual powers in the area of ethics provisions for judges should be maintained as a precautionary measure while at the same time concurring with the current statutory exemption of judges and justices.

Members of your Committee expressed concern that the present judicial canons of

ethics do not include disclosure requirements. However, your Committee concurs with the chief justice in the belief that, in deference to separation of powers, specific disclosure requirements for judges should not be included as a part of this section. Instead, this concern will be transmitted to the Judiciary Committee of this Convention.

Your Committee believes that statutory ethics codes have little meaning if they are not administered through independent bodies. After consideration of Proposal Nos. 418, 523, 539 and 823, your Committee has added a new paragraph two to the proposed section to:

1. mandate that ethics codes be administered through ethics commissions;
2. mandate that the members of these commissions do not violate their impartiality through political activities; and
3. insure that the independence of these commissions is maintained in the selection process for ethics commissioners.

Your Committee notes that sentence one of paragraph two of the proposed section not only mandates that ethics commissions administer ethics codes, but that it also maintains the present separation of jurisdiction between state and county ethics commissions. Your Committee rejects the proposition contained in Proposal No. 641 that the State Ethics Commission should be given power over the counties. Both Mr. Gary Slovin of the State Ethics Commission and Reverend William Smith of the Honolulu City and County Ethics Commission opposed such a provision in testimony before your Committee. Your Committee also notes that the second clause of sentence one of paragraph two of the proposed section excepts the constitutional convention code of ethics from being administered by a separate ethics commission, and instead provides that the State Ethics Commission, in addition to its other responsibilities, will also administer the convention code.

It is the intent of your Committee that the present selection process for state ethics commissioners is in conformance with the kind of selection process mandated by sentence three of paragraph two of this proposed section.

In order to strengthen, protect and make more consistent the codes of ethics enacted pursuant to this section, your Committee has sought ways to define what ethics codes mean and to specify the minimum components that ethics codes must include. Your Committee has deliberated at length on this issue, and considered the relevant sections of Proposal Nos. 116, 318, 404, 418, 500, 523, 551, 734 and 823. In acting upon this issue, your Committee has sought to strike a balance between the need for further constitutional guidelines in this area and the need to maintain nonspecificity, flexibility and brevity in constitutional language. Your Committee proposes that a new paragraph three be added to Section 5 which:

1. specifies that codes of ethics must include provisions on gifts, confidential information, the use of position, contracts with government agencies, post-employment, financial disclosure, and lobbyist regulation; and
2. specifies that elected officials, candidates for elective office, and high-ranking appointed officials make public financial disclosure, and that other officers and employees with significant discretionary powers make confidential financial disclosure. Further, guidelines are set forth to insure that such disclosure has meaning.

This paragraph specifies important guidelines or boundaries that must be maintained in Hawaii's statutory ethics codes. At the same time, it is general enough so that it does not mandate exactly how the respective legislative bodies should meet the responsibility that the section will place upon them. The language of this section is taken from suggestions for constitutional revision put forth by the State Ethics Commission. Your Committee recommends that these constitutional guidelines for ethics codes become a part of Section 5 of Article XIV of the Hawaii Constitution.

Your Committee also considered, and rejected, other suggested constitutional ethics code requirements or guidelines under the new paragraph three.

With reference to Proposal Nos. 116 and 404, it was suggested to your Committee that ethics codes specifically include prohibitions on nepotism in hiring, especially with regard to future constitutional conventions. It was argued that the hiring of family members involves an unethical use of public funds and a damaging appearance of impropriety. It is the consensus of your Committee, however, that the Constitution should not include a specific prohibition on family hiring. Various reasons have been cited:

1. Within the context of the cultural milieu of Hawaii, family hiring per se is not unethical, and a strict prohibition on such hiring runs counter to the spirit of 'ohana.
2. The "use of position" provision of your Committee's proposal covers blatant cases where family hiring results in incompetence and misuse of public funds.
3. The financial disclosure provision of your Committee's proposal will make cases of in-family hiring a matter of public record, so that the public can judge one way or another on such hiring.

It was also argued before your Committee that the Constitution should specifically ban outside compensation for delegates of constitutional conventions and, possibly, for legislators as well. The rationale for this proposed revision was that such outside income unduly influences such delegate's or legislator's official actions. It is the consensus of your Committee, however, that such a constitutional provision is unwarranted, in that such restrictions on income are unrealistic for these part-time bodies and would only skew the representation therein towards the wealthy, the retired and the unemployed.

After consideration of Proposal No. 183, your Committee has rejected the concept of a "fiduciary duty" as a general "umbrella" over codes of ethics. It was argued before your Committee that by holding public officials to a fiduciary obligation, the public would have a strong deterrent against unethical action in government, because such action would be subject to suit by citizens. It is the consensus of your Committee, however, that the concept of a public fiduciary duty is not well understood or clearly defined, and that the implications of such constitutional language are too uncertain to warrant inclusion here.

With reference to Proposal No. 500, your Committee considered the matter of tightening state legislators' conflict-of-interest restrictions through the Constitution. Your Committee rejected this suggestion on the grounds that such restrictions should be a statutory matter. Conflict-of-interest restrictions on state legislators are complex and difficult issues, because of the legislators' position as part-time employees with other outside interests, and because of the need to protect the legislators' representational function. Overly broad language in the Constitution would cause many legislators to be disqualified from voting and acting in their legislative capacity.

Your Committee recommends (1) that the above-numbered proposals referred to your Committee be filed; and (2) that Section 5 of Article XIV as amended in the form shown as Committee Proposal No. 1* pass first reading.

Signed by all members of the Committee. Delegate Chun did not concur and Delegate Cabral did not concur in part.

*For the complete text of this proposal, see Committee Proposal No. 1, page 784.

STANDING COMMITTEE REPORT NO. 27

Your Committee on Budget, Accounts and Printing begs leave to report that Stand. Com. Rep. No. 28 and Res. No. 7, RD. 1, have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 28

Your Committee on Legislature to which was referred Resolution No. 7, entitled: "RELATING TO A BICAMERAL LEGISLATURE," begs leave to report as follows:

The purpose of the resolution is to provide a useful guideline to the standing committees of the Constitutional Convention of 1978 in their deliberations of their respective subject matters, by determining whether or not the bicameral form of legislature shall be retained for Hawaii by the Constitutional Convention.

Section 1 of Article III of the State Constitution provides for a bicameral legislature. Several proposals seeking to amend Section 1 to provide for a unicameral legislature have been referred to your Committee, and hearings thereon were duly held. Although your Committee intends to duly file a committee report on the subject, together with other subjects within Article III, your Committee finds that a decision on unicameralism or bicameralism is a necessary threshold consideration requiring early determination as it affects the answers and approach to many problems to be wrestled with by several standing committees of the Convention.

The unicameral-bicameral concept affects seven articles in the Constitution: Article III, the legislature; Article IV, the executive; Article V, the judiciary; Article VI, taxation and finance; Article IX, education; Article XV, revision and amendment; and Article XVI, schedule. The unicameral-bicameral concept also affects 5 of the Convention's 16 standing committees besides your Committee.

If unicameralism is to be considered, the committees affected must consider the following:

1. The Committee on Legislature must consider:
 - A. How many members should be in the one-chamber legislature.
 - B. How the members of the reapportionment committee are to be appointed and by whom.
 - C. How a one-house legislature will affect the reapportionment criteria in the Constitution and whether the Convention should reapportion the legislature itself or direct the reapportionment commission to perform such reapportionment. A further question is whether the reapportionment commission should perform such reapportionment before its regular meeting date of 1981, which of course depends on the date of changeover from two houses to one house.
 - D. The terms of the members of a unicameral legislature may need to be changed.
 - E. Questions may also arise concerning the qualifications of legislators to run for office, the disqualifications of office, the salary and allowances of a legislator, the length and convening of legislative sessions and the procedures of a one-house legislature.

2. The Committee on Executive must concern itself with the advice and consent of gubernatorial appointments and the continuing performance thereof by a one-house legislature.

3. The Committee on Judiciary must also consider the advice and consent of judicial appointments by the governor.

4. The Committee on Taxation and Finance must consider whether a two-thirds approval vote for bond issuance will be necessary under a one-house legislature or whether a higher or lower vote is adequate. The same consideration must be given to the two-thirds vote required for the appointment of the legislative auditor.

5. The Committee on Education must also consider the advice and consent of gubernatorial appointments to the board of regents and the continuing performance thereof by a one-house legislature.

6. The Committee on Revision, Amendment and Other Provisions must consider the requirement of continuing the two-thirds vote in one session necessary for proposing amendments to the Constitution. In addition, either this committee or both it and the Committee on Legislature must consider whether or not to stagger the terms of the members of a one-house legislature and how to mandate this stagger.

The above set forth the minimum considerations required in changing to a one-house legislature. In addition, many of the above problems will be under consideration in continuing the present two-house system, although from a different viewpoint since two houses are involved. Consideration must also be given to the problems that may exist in the present two-house system, such as the conference committee and its actions.

None of the above matters may be considered in their proper perspective unless the Convention first determines whether the legislature is to be unicameral or bicameral. As stated earlier, this is a threshold consideration since it affects the answers and the approach to all of the above problems. Further, the initial determination will either raise further unicameral problems which must be resolved and obviate some of the bicameral problems which have been presented to the Convention; or it will set at rest the unicameral question so that the bicameral questions with which the Convention has been presented can be determined and heard at length. It must be noted that there is no other question before the Convention which affects the work of so many of the committees of the Convention as this question of unicameral versus bicameral legislature.

Without an early indication on unicameralism or bicameralism, the standing committees affected would be proceeding with uncertainty. Action by the Convention on the resolution would provide a useful indicator and guideline for the committees to act and decide on their respective matters affected by the unicameralism-bicameralism concept with a degree of certainty and resolution.

It should be noted that your Committee intends that any action taken by the Convention on the resolution in no way precludes your Committee from raising, discussing and deciding upon the unicameralism-bicameralism issue in the course of its deliberations of the subjects within Article III of the State Constitution. Moreover, the Committee of the Whole and the Convention, in their eventual review of your Committee's proposal on the subjects of said Article III, shall be additional forums before which the unicameralism-bicameralism issue may properly be aired and debated pursuant to the rules of the Convention. Thus, action on the resolution is not a foreclosure of the unicameralism-bicameralism issue but a reflection of a consensus on the matter. It is hoped that the consensus will aid the committees affected by giving them an indication of the probable direction of the Convention, upon which the committees may rely for decision-making on the subjects related to the unicameralism-bicameralism concept.

Your Committee has amended the resolution by substituting the article "a" in lieu of the article "the" appearing immediately before the word "bicameral" in the whereas clause and in the first resolve clause. This amendment was effected to avoid the possible narrow construction that the resolution intends to retain the bicameral form of legislature as it exists under the State Constitution without deviation. As your Committee intends, by this resolution, to seek a consensus on the concept of bicameralism and not necessarily on the bicameral form of legislature as it exists today, your Committee believes the amendment will more accurately reflect your Committee's intention.

Your Committee on Legislature is in accord with the intent and purpose of this resolution, as amended, and recommends its adoption in the form attached hereto as Resolution No. 7, RD. 1.

Signed by all members of the Committee except Delegates Hanaike and Takitani. Delegates Blean, Cabral, Kimball, Liu, O'Toole and Shon did not concur.

RESOLUTION NO. 7, RD. 1

RELATING TO A BICAMERAL LEGISLATURE.

WHEREAS, it will serve as a useful guideline to the standing committees of the Constitutional Convention of 1978 to have a determination whether or not a bicameral form of legislature shall be retained for Hawaii by this Constitutional Convention; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that a bicameral form of legislature be retained; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution be transmitted to each of the chairpersons of the standing committees of the Constitutional Convention of 1978.

STANDING COMMITTEE REPORT NO. 29

Your Committee on Budget, Accounts and Printing begs leave to report that Stand. Com. Rep. No. 30 and Com. P. No. 2 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 30

Your Committee on Revision, Amendment and Other Provisions to which were referred proposals numbered 8, 211, 531, 594 and 661, relating to boundaries; 314, relating to plain language; 399, relating to the State flag; and 422, relating to the State motto, begs leave to report as follows:

This report covers Article XIII of the Constitution of the State of Hawaii.

All committee meetings were open to the public, and representatives of organizations and individual citizens interested in the above-mentioned proposals were invited to present their views on the subjects covered by the proposals at public hearings.

The following citizens presented their views: John P. Craven, State Marine Affairs Coordinator; Robert Schmitt, State Statistician, Department of Planning and Economic Development; Delegate Leon Sterling; Delegate Larry Uyehara; Lee Motteler, representing the Bernice Pauahi Bishop Museum; Bette Tatum; and Delegate Floyd Pulham.

Your Committee, after public hearings and due consideration of the subjects covered by the proposals, recommends the following amendments to Article XIII:

Amend Section 1 of Article XIII to read:

"BOUNDARIES

"Section 1. The State of Hawaii shall consist of all the islands, together with their appurtenant reefs and territorial and archipelagic waters, included in the Territory of Hawaii on the date of enactment of this Act; except the atoll known as Palmyra Island, together with its appurtenant reefs and territorial waters, but said State shall not be deemed to include the Midway Islands, Johnston Island, Sand Island (offshore from Johnston Island), or Kingman Reef, together with their appurtenant reefs and territorial waters."

Your Committee recognizes that the State cannot unilaterally change its boundaries by amending its Constitution. The intent of the proposed amendment to Article XIII, Section 1, is not to alter such boundaries but to set forth the State's understanding of its boundaries. Although the Admissions Act, a compact between the federal government and the State, purportedly defined the State's boundaries, your Committee understands that ambiguity and uncertainty exist with respect to such boundaries and, in particular, its waters.

The Kingdom of Hawaii regarded its waters as archipelagic. For example, the Second Act of Kamehameha III, issued in 1846, forbid foreign ships from entering the Kingdom's interisland channel waters. Such a declaration indicated that the Kingdom considered its channel waters inland rather than merely territorial waters. The Privy

Council Resolution of 1850 was another instance where the Kingdom asserted jurisdiction over the interisland channel waters.

Your Committee agrees that the archipelagic concept applies to the State. Because of Hawaii's continuing need to protect and regulate its commerce and trade and to conserve and utilize its ocean resources, your Committee recommends that this Constitutional Convention affirm the State's archipelagic status by adopting the proposed amendment to Article XIII, Section 1.

Your Committee further recommends amending Article XIII by adding a new title and a new section to be numbered Section 4. The new title and Section 4 are to read:

"ARTICLE XIII

"STATE BOUNDARIES, CAPITAL, FLAG, MOTTO"

"MOTTO

"Section 4. The motto of the State shall be 'Ua mau ke ea o ka aina i ka pono'."

Your Committee recommends that the State's motto, "Ua mau ke ea o ka aina i ka pono" (The life of the land is preserved in righteousness), be included in the State Constitution. King Kamehameha III is said to have spoken those words when the Hawaiian monarchy was restored in 1843. Your Committee selected this motto for its beauty, simplicity and historical significance. Your Committee agrees that it is appropriate that the motto be expressed in the Hawaiian language, thus reflecting the State's special Hawaiian heritage and perspective.

Your Committee on Revision, Amendment and Other Provisions recommends (1) that the above-numbered proposals referred to your Committee be filed, (2) that Sections 2 and 3 of Article XIII be retained without amendment, and (3) that Committee Proposal No. 2* pass first reading in the form shown.

Signed by all members of the Committee.

*For the complete text of this proposal, see Committee Proposal No. 2, page 785.

STANDING COMMITTEE REPORT NO. 31

Your Committee on Budget, Accounts and Printing begs leave to report that Stand. Com. Rep. No. 32 and Com. P. No. 3 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson and Hale, member.

STANDING COMMITTEE REPORT NO. 32

Your Committee on Executive was referred proposals numbered 41, 42, 104, 115, 119, 235, 238, 562 and 765, all relating to the number of terms a governor may serve; 42, 115, 238 and 562, all relating to the number of terms a lieutenant governor may serve; 54, 157, 249 and 419, all relating to the method of electing the lieutenant governor; 65, 241, 374, 419 and 468, all relating to the duties and powers of the lieutenant governor; 223, 319, 345, 533 and 563, all relating to abolishing the office of lieutenant governor; and 26, 56, 62, 114, 127, 154, 577, 596, 635 and 713, all relating to the method of selecting the attorney general. Your Committee on Executive begs leave to report as follows:

The proposals covered the several subject matters relating to Sections 1 and 2 of Article IV. Several proposals sought to include a new section within Article IV relating to selection of the attorney general. As a result of your Committee's deliberations, the terms of office of the governor and lieutenant governor have been limited to two consecutive full terms. In addition, Article XVI has been amended to provide for an effective date for these changes.

All committee meetings were open to the public. Individual citizens, government officials, groups and organizations were invited to present their views on the subjects covered by the proposals at public hearings conducted on Oahu and the islands of Kauai, Maui and Hawaii.

Among those presenting their views, were the following persons: Mr. Susumu Ono, Administrative Director, State of Hawaii; Delegate H. Jean Goodenow; Delegate Tom Okamura; Mr. Dennis Callan; Lt. Governor Nelson K. Doi; Delegate Alan Kimball; Delegate Joseph Souki; Mr. Kenneth Nisonger; Delegate Floyd W. Pulham; Attorney General Ronald Y. Amemiya; Mr. George Mason, Chamber of Commerce of Hawaii; Delegate Thomas H. Hamilton; Mr. Joe Wildman; Ms Susan Irvine, League of Women Voters; Hawaii County Councilman Muneo Sameshima; Mr. William Haines, Chamber of Commerce of Hawaii.

The committee, having conducted public hearings and deliberated upon the subjects covered by the proposals, presents for your consideration Sections 1 and 2 of Article IV of the Hawaii State Constitution, amended as follows.

Section 1, Article IV relating to establishment of the executive is amended to read as follows:

"ESTABLISHMENT OF THE EXECUTIVE

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

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

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

"No person shall be elected to the office of governor for more than two consecutive full terms.

"No person shall be eligible for the office of governor unless he shall be a qualified voter, have attained the age of thirty years, and have been a resident of this State for five years immediately preceding his election.

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

Your Committee recommends that there be a limit to the number of consecutive terms a governor can serve. Your Committee recognizes that Hawaii has a strong, highly centralized executive branch. Moreover, our chief executive has a leading role, not only within the executive branch but also within our whole government structure. Your Committee believes that Hawaii's present centralized system has produced an effective and responsible government and that, as a general principle, a strong executive office should be retained as part of our Constitution. However, members of your Committee expressed concern that, without a limitation on the number of terms, an incumbent would have the opportunity to build a political machine to perpetuate reelection. Since it is often difficult to defeat, regardless of qualifications, an incumbent governor who is seeking reelection, limiting the office to two terms would give new candidates a better chance of being elected.

Several proposals with variations to the two-term limit were received by your Committee. However, your Committee believes that the recommendation of a two-consecutive, full-term limit adequately protects against the perpetual reelection of a less qualified incumbent and yet does not preclude a qualified incumbent from running again after an intervening term. It is intended that anyone succeeding to the governor's office for the remainder of a term would still be eligible to be elected to an additional two consecutive full terms.

Section 2 of Article IV relating to the lieutenant governor is amended as follows:

"LIEUTENANT GOVERNOR

"Section 2. There shall be a lieutenant governor, who shall have the same qualifications as the governor. He shall be elected at the same time, for the same term, and in the same manner, as the governor; provided that the votes cast in the general election for the nominee for governor shall be deemed cast for the nominee for lieutenant governor of the same political party. No person shall be elected to the office of lieutenant governor for more than two consecutive full terms. [He] The lieutenant governor shall perform such duties as may be prescribed by law."

Your Committee deliberated at length on the question of abolishing or retaining the office of lieutenant governor. It was argued that the relationship between the governor and lieutenant governor has often been an adversarial one. As a result the governor fails to delegate any meaningful responsibilities to the lieutenant governor and the position becomes relegated to the performance of mostly ministerial tasks.

Your Committee was concerned with the necessity of assuring the continuous exercise of the vital functions of the governor, if the governor had to be immediately replaced. Presently the primary role of the lieutenant governor is to replace the governor when and if the need arises. The disruption that could be caused by the absence of such a replacement is difficult to measure, but every state in the nation presently has a provision for immediate replacement of the governor. Opponents to the office of the lieutenant governor state that the office thus becomes a very expensive fifth wheel. However, your Committee has received testimony that the cost of a special election to replace a governor if the lieutenant governor's office was abolished would be approximately \$1,000,000. Thus the annual salary for the lieutenant governor's office along with the confidence of knowing that there would be an automatic replacement for the governor, if necessary, does not amount to a significant monetary cost. Your Committee believes that the lieutenant governor's office is a necessity and recommends that the office be retained.

Members of your Committee argued that by abolishing the office of the lieutenant governor, the State would be saving considerable sums of money. However, although the tasks performed by the lieutenant governor may be absorbed by other departments, the staff of the lieutenant governor would have to be maintained to continue to assist in the performance of those functions. Therefore the monetary savings achieved by abolishing the office may amount to no more than the lieutenant governor's annual salary.

Your Committee also believes that the office of lieutenant governor is necessary because it provides a means by which a relative newcomer can be elected to a statewide office before seeking election to the chief executive's office. We presently have only two statewide elected offices, the governor and the lieutenant governor, and your Committee does not believe that this number should be reduced.

Your Committee considered the issue of expanding the office of lieutenant governor by constitutionally prescribing additional duties, including the supervision of the enforcement of laws regarding licensing, operation, conduct of trades, businesses, and professions and coordinating volunteer programs. Your Committee believes, however, that the duties of the lieutenant governor should not be constitutionally expanded, but should continue to be prescribed by statute. It was noted that this would continue to give flexibility to the legislature in prescribing duties to the lieutenant governor that take advantage of the individual lieutenant governor's area of expertise.

The method of selection of the lieutenant governor was considered. Alternatives to the present practice of electing the lieutenant governor from the same political party as the governor were suggested, including having the lieutenant governor elected independently from the governor with the possibility that the successful candidate for lieutenant governor would come from a different party than the governor. However, your Committee recognizes the need for a harmonious relationship between the governor and the lieutenant governor and believes that party unity can provide some of that harmony. Moreover, if it became necessary for the lieutenant governor to replace the governor, the people of the State would be assured the policies and programs of the governor would be continued by his successor.

Another alternative method of selection of the lieutenant governor came from the suggestion of having the governor appoint or select a running mate. The committee be-

lieves, however, that the election of a lieutenant governor is very important for purposes of succession. Our present system insures that the governor's replacement is also elected on a statewide basis. Such would not be the case if a legislative officer, such as the speaker of the house or the president of the senate, were to succeed to the office. Your Committee, therefore, recommends that the present system for the election of the lieutenant governor be retained.

Your Committee recommends that the term for lieutenant governor be limited to two consecutive full terms, based on the same reasoning that your Committee recommends the term limitation for governor.

Article XVI is amended to add a new section as follows:

"EFFECTIVE DATE FOR TERM LIMITATIONS FOR
GOVERNOR AND LIEUTENANT GOVERNOR

"Section . The amendments to Sections 1 and 2 of Article IV shall limit the term of any person elected to the office of governor or lieutenant governor in the 1978 general election to two consecutive full terms commencing from noon on the first Monday in December, 1978."

Your Committee intends that the effective date for the limitation of terms for the governor and lieutenant governor take effect immediately and that the change be implemented in Article XVI.

Your Committee received a number of proposals which would have changed the method of selecting the attorney general by adding a new section to Article IV providing for an elected attorney general. Other selection methods considered by your Committee included the establishment of a nomination commission to compile a list of qualified candidates from which the governor would be required to select an appointee, and the creation of a similar commission to draw up a list of names with final selection at random. After weighing the advantages and disadvantages of each alternative with the present system, your Committee recommends that gubernatorial appointment with advice and consent of the senate be retained as the method of selecting Hawaii's attorney general.

Your Committee believes that the power of selecting an attorney general properly lies with the executive. The executive acts from the broadest political base and his actions are subject to rigorous public scrutiny. Our present Constitution establishes a strong executive with administrative responsibility lodged in a single chief executive. In order to effectively perform his executive functions, the governor must be able to choose advisors and staff members in whom he has complete trust and confidence. Your Committee feels that this element of trust is particularly critical in the selection of an attorney general since the governor, being charged with the responsibility of faithfully executing the laws, must look to the attorney general to discharge that responsibility.

Although greater public accountability was often mentioned as a reason for changing the selection method, your Committee believes that our present appointive system insures both independence of action and public accountability. The executive is directly accountable to the electorate for appointment of the State's chief legal officer and poor judgment in selection will have adverse political effects on the executive. Further, the committee believes that the requirement of senate confirmation also provides assurance of public accountability. Your Committee notes that Section 6 of Article IV of our present Constitution requires senate approval for removal of the attorney general. This provision gives the attorney general the ability to act independently of the executive when need arises.

Although some members of your Committee advocated election of the attorney general, your Committee recommends against adoption of the elective method. It is the committee's belief that an elective system would lead to political conflict and hostility between the governor and the attorney general. Your Committee is aware that in those states in which the attorney general is an elected position, the office is often used as a stepping-stone to higher office. In testimony before this committee, Hawaii's present attorney general, Ronald Amemiya, noted that 17 attorneys general in the approximately 21 states which will be holding elections this year are seeking higher office. Of these, 14 are running for the office of governor and 3 are seeking seats in the United States Senate. Although the committee feels that there is nothing intrinsically wrong with an elected attorney general

seeking higher office, it is concerned that an elected attorney general may use his office for political purposes disruptive to an incumbent administration's policies and activities. The committee also feels that an elected attorney general might be unduly influenced by those persons contributing to his campaign. Similarly, the committee believes that an elected attorney general would find it difficult to act in a controversial situation without considering how his actions would affect his chances of reelection. Your Committee feels that the attorney general's primary concern should be the administration of justice and that personal political ambition could cloud the judgment of an elected attorney general and distract him from the duties of his office.

Your Committee recommends against any of the various nominating commission plans proposed to your Committee for the selection of the attorney general. The committee notes that no testimony before your Committee indicated that any nominating commission plan exists in any other state. Your Committee believes that a nominating commission, especially without a requirement of senate confirmation, would remove the selection process from public scrutiny and place control of the attorney general selection process in the hands of a limited number of people. Your Committee believes that appointment of the attorney general by the governor with the advice and consent of the senate results in a productive working relationship and promotes harmony and efficiency in the executive branch as a whole.

Some members of your Committee argued that an appointed attorney general was unable to act as an independent watchdog on the executive. Your Committee notes, however, that in Hawaii the attorney general's traditional function has been that of a legal advisor to the executive department, legislature and state agencies as well as a representative of the State in civil suits. Your Committee believes that the people, having placed their faith in the executive, will hold him ultimately responsible for the functioning of government and any possible abuses in the executive office should be addressed by the people.

It is noted that this committee report covers only those proposals relating to Sections 1 and 2 of Article IV, and the subjects of the implementation date of the proposed amendments and the method of selection of the attorney general. Your Committee intends to submit a separate committee report to address other matters referred to this committee.

Therefore, your Committee recommends: (1) that the above-numbered proposals referred to your Committee be filed; and (2) that Committee Proposal No. 3* pass first reading in the form shown.

Signed by all members of the Committee. Delegates Barnes, Chu, Chun, DiBianco, Eastvold, Dennis Ihara, O'Toole, Takitani and Wurdeman did not concur and Delegates Funakoshi and Marumoto did not concur in part.

*For the complete text of this proposal, see Committee Proposal No. 3, page 786.

STANDING COMMITTEE REPORT NO. 33

Your Committee on Budget, Accounts and Printing begs leave to report that Stand. Com. Rep. No. 34, Com. P. No. 4 and Res. No. 11 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 34

Your Committee on Revision, Amendment and Other Provisions, to which were referred proposals numbered 6, 10, 29, 93, 102, 103, 112, 173, 174, 175, 185, 218, 225, 251, 269, 300, 322, 325, 330, 337, 349, 359, 362, 363, 383, 407, 423, 434, 438, 439, 444, 447, 456, 471, 481, 486, 487, 494, 521, 525, 553, 604, 607, 629, 634, 648, 702, 722, 736, 738, 759, 773, 774, 776, 778, 781, 802, 803, 815 and 817, begs leave to report as follows:

This report covers the Preamble, Article XIV, titled "General and Miscellaneous Provisions," and Article XV, titled "Revision and Amendment," of the Constitution of the State of Hawaii.

All committee meetings were open to the public, and representatives of organizations and individual citizens interested in the above-mentioned proposals were invited to present their views on the subjects covered by the proposals at public hearings.

The following citizens presented their views: Delegate Leon Sterling; Donald Botelho, State Director of Personnel Services; Delegate Helene Hale; Delegate Marion Lee; Sandi Ebesu, of the Hawaii Government Employees' Association; Delegate Ginger Wurdeman; Melvin Goto, of the United Public Workers; Joshua Aagsalud, State Director of Labor and Industrial Relations; Delegate Akira Sakima; Mary F. Gray, United Nations Association of Hawaii; Delegate Marcelliano Villaverde; Sister Grace Dorothy Lim, Kalihi-Palama Interagency Council for Immigrant Services; Gary Omori, Kalihi-Palama Immigrant Service Center; Major General Valentine A. Siefertmann, State Director of Civil Defense; Lee K. Toole, of Hawaiian Telephone Co.; Wallace Miyahara, Honolulu City and County Public Works Division; R. Higashionna, State Director of Transportation; Robert J. Speck; Richard Botti, Legislative Information Services of Hawaii; Ronald Amemiya, State Attorney General; Delegate Elayne Funakoshi; Delegate Franklin Hayashida; Delegate Thomas H. Hamilton; Delegate Alan Kimball; Delegate Anne Takemoto; Delegate Richard Sasaki; Dr. Norman Meller; and Jean Snodgrass.

Your Committee, after public hearings and due consideration of the subjects covered by the proposals, recommends the following amendments to Articles XIV and XV.

Amend Article XIV, Section 3, to read:

"DISQUALIFICATIONS FROM PUBLIC
OFFICE OR EMPLOYMENT

"Section 3. No person shall hold any public office or employment who[, knowingly and intentionally, does] has been convicted of any act to overthrow, or [attempts] attempt to overthrow, or [conspires] conspiracy with any person to overthrow the government of this State or of the United States by force or violence."

The proposed amendment to Article XIV, Section 3, provides that a person cannot be disqualified from holding public office or employment unless he has been convicted of the subversive activities specified in Section 3. In its present form, Section 3 may not require a conviction or even an indictment to disqualify a person from holding any public office or employment. Such ambiguity raises the possibility that a person could be barred from holding public office or employment based on vague standards of determining loyalty, procedures which do not meet due process requirements, or inadequate evidence. In the past, both in the State and elsewhere, some procedures employed in disloyalty proceedings before nonjudicial or quasi-judicial bodies have been ruled constitutionally defective. This proposed amendment is intended to clarify this section and to assure that no person will be prevented from holding public office or employment unless he has been convicted of the disqualifying acts stated in Section 3.

Also, with regard to Article XIV, Section 2, your Committee reviewed testimony relating to the employees' retirement system and, in particular, disproportionate retirement benefits paid to certain classes of employees or officers. After due consideration of retirement benefits paid to general employees, police officers and firefighters, and elected officials and judges, your Committee agrees that retirement benefits should be considered one element of a total compensation plan. Your Committee further agrees that differential retirement benefits paid to different classes of employees and officers are a matter of genuine concern. Your Committee recommends that the next legislative salary commission or judicial salary commission carefully study the matter of retirement contributions and benefits in the context of basic compensation plans. Because of the complicated nature of the retirement system structure, your Committee further agrees that the legislature is the appropriate body to make any changes to such system.

Your Committee further recommends amending Article XV, Section 2, to read:

"CONSTITUTIONAL CONVENTION

"Section 2. The legislature may submit to the electorate at any general or special election the question, 'Shall there be a convention to propose a revision of or amendments to the Constitution?' If any ten-year period shall elapse, or if it would elapse if ten days were added to any period less than 10 years, during which the question shall not have been submitted, the lieutenant governor shall certify the question, to be voted on at the

first general election following the expiration of or within 10 days of the expiration of such period.

"ELECTION OF DELEGATES

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

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

"[Unless the] The legislature shall [otherwise] provide[, there shall be] the [same] number of delegates to the convention, [who shall be elected from] the [same] areas from which they shall be elected, and [the convention shall be convened in] the [same] manner [and] in which the convention shall convene. The legislature shall also provide for the necessary facilities and equipment for the convention. The convention shall have the same powers and privileges, as nearly as practicable, as provided for the convention of [1968] 1978.

"MEETING

"The constitutional convention shall convene not less than five months prior to the next regularly scheduled general election.

"ORGANIZATION; PROCEDURE

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

"RATIFICATION; APPROPRIATIONS

"The convention shall provide for the time and manner in which the proposed constitutional revision or amendments shall be submitted to a vote of the electorate. The revision or amendments shall be effective only if approved at a general election by a majority of all the votes tallied upon the question, this majority constituting at least thirty-five percent of the total vote cast at the election, or at a special election by a majority of all the votes tallied upon the question, this majority constituting at least thirty percent of the total number of registered voters.

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

This amendment to the first paragraph of Section 2, Article XV, is intended to assure that the question of whether a convention to propose revision of or amendments to the State Constitution should be held, will be submitted to the electorate every ten years, even if the period since the last submission is a few days short of ten years.

This proposed amendment is recommended as a response to a problem which arose with respect to the question of calling this constitutional convention. If any ten-year period shall elapse during which the question of whether there shall be a constitutional convention has not been submitted to the voters, the State Constitution charges the lieutenant governor with the responsibility of submitting the question to the electorate. In 1975, the lieutenant governor requested that the attorney general render an opinion with respect to whether such question should be placed on the ballot of the general election of November 2, 1976. The attorney general ruled that the question need not be placed on the ballot on that date because the date of November 2, 1976 fell a few days short of the requisite ten-year period. But the legislature, in accordance with its powers under the Constitution, submitted the question to the voters at the general election of November 2, 1976. Your Committee determined that under the terms of Article II, Section 5, of our State Constitution, the earliest date on which a general election could be held is November 2, and the latest date is November 8. Therefore, the additional ten days is more than adequate to avert the problem faced by the lieutenant governor in 1975.

The recommended amendment to the third paragraph of the subsection of Section 2 titled "Election of Delegates" would require that the legislature provide the number of delegates to the constitutional convention, the areas from which the delegates shall be elected, and the manner in which the convention shall convene.

Your Committee considered merely amending the date "1968" to "1978" in the third paragraph of the "Election of Delegates" subsection of Section 2. However, your Committee decided against such an amendment because of a problem encountered in the election of this Convention's delegates. Due to a bureaucratic oversight, Niihau was aligned with the voting district which included the north shore of Kauai. However, Niihau has closer geographic and economic ties with the west side of Kauai, which includes the town of Waimea. Your Committee did note that, due to its small population, Niihau is unlikely to disrupt Kauai's historical and natural political boundaries in the future.

Your Committee also agrees that conditions change significantly between the convening of constitutional conventions, and that previous conventions may not serve as good models with respect to election districts. Hence, your Committee believed that it was appropriate to allow the legislature to determine, among other items, election districts for constitutional conventions. Your Committee did, however, agree that the powers and privileges of conventions should remain substantially the same from convention to convention.

Your Committee also discussed the problems encountered and the time spent by this Convention in arranging for facilities and equipment. The proposed amendment requires the legislature to provide such necessities for the convention.

This Convention, as well as previous ones, has worked under difficult time constraints because of the short period between the convening of the convention and the next general election. To remedy such a problem, the new subsection to Section 2 of Article XV, titled "Meeting," would require that a constitutional convention convene not less than five months prior to the next regularly scheduled general election.

Your Committee also considered the difficulties faced by this Convention because of the uncertainty concerning who was to convene the delegates and disburse any moneys or incur any expenses for the Convention. Although your Committee discussed the possibility of specifying one public official, such as the state elections administrator, to fulfill such duties, it was agreed that such a matter should be resolved statutorily.

Your Committee heard testimony concerning, and considered establishing, an appointed constitutional revision commission. Alternatives included establishing a commission which would submit constitutional amendments directly to the electorate or would merely advise the legislature and subsequent constitutional conventions. Your Committee agreed that such an appointed body should not have the authority to submit proposals directly to the electorate. Therefore, such a commission need not have constitutional status but could be established by statute, as is done by states such as New Hampshire, South Dakota, Ohio and Texas. Your Committee urges the legislature to consider the establishment of such a commission to provide for continuous study of Hawaii's Constitution.

Your Committee on Revision, Amendment and Other Provisions recommends (1) that the above-numbered proposals referred to your Committee be filed, (2) that the Preamble, Sections 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 of Article XIV, and Sections 1, 3, 4 and 5 of Article XV be retained without amendment, and (3) that Committee Proposal No. 4* pass first reading in the form shown.

Signed by all members of the Committee except Delegates Fernandes Salling and Ontai.

*For the complete text of this proposal, see Committee Proposal No. 4, page 787.

STANDING COMMITTEE REPORT NO. 35

Your Committee on Budget, Accounts and Printing begs leave to report that Stand. Com. Rep. No. 36, Com. P. Nos. 5 and 1, RD. 1, Res. No. 12 and Com. Whole Rep. No. 1 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 36

Your Committee on Public Health and Welfare; Labor and Industry was referred proposals numbered 15, 258, 347, 554, 555, 638, 761 and 818, all relating to public health and welfare; 150, 628, 633, 726 and 729, all relating to the care of handicapped; 38, 205, 637, 814 and 820, all relating to public assistance; 213, relating to low-income housing; 7, 273, 482, 544, 559, 704, 706, 707 and 825, all relating to public sightliness and good order; 33, 34, 144, 214, 401, 410, 453, 464, 466, 584, 625, 642, 651, 772, 811, 812 and 824, all relating to the creation of a new section to Article VIII; 131, 191, 216, 333, 334, 384, 443, 448 and 449, all relating to public employees; and 436, 448, 508, 512, 590, 733, 756, 803 and 821, all relating to the creation of a new section to Article XII. Your Committee on Public Health and Welfare; Labor and Industry begs leave to report as follows:

This report covers Article VIII, titled "Public Health and Welfare," and Article XII, titled "Organization; Collective Bargaining," of the Constitution of the State of Hawaii.

All committee meetings were open to the public, and representatives of organizations and individual citizens interested in the above-mentioned proposals were invited to present their views on the subjects covered by the proposals at public hearings.

The following citizens presented their views: Donald Botelho, State Director of Personnel Services; John Radcliffe, Executive Director of the Hawaii State Teachers Association; Takeshi Uyesugi, of the Hawaii Building and Construction Trades Council, AFL-CIO; Melvin Goto, of the United Public Workers, AFSCME Local 646, AFSCME Local 152; John Witeck; Rachel Saiki, Hawaii Union of Socialists; Joseph Garcia, Vice-Chairman, Hawaii County Council; State Representative Kathleen G. Stanley, Chairman of the Committee on Public Employment and Government Operations; Edwin Taylor; Charlie Correa, People Against Chinatown Eviction; Kyle Coffman, Hawaii Committee to Overturn the Bakke Decision; Adolph Samuels; Rags Scanlan, State of Hawaii Organization of Police Officers; Sandi Ebesu, Hawaii Government Employees' Association; George Yuen, Director of the State Department of Health; Andrew Chang, Director of the State Department of Social Services and Housing; Richard Paglinawan, Deputy Director of Public Welfare and Vocational Rehabilitation; Ah Quon McElrath, ILWU Local 142; Joan Hayes, Founder and Chairman of the Board of Citizens Against Noise; Alfred Preis, Executive Director, State Foundation on Culture and the Arts; Patricia Hartwell, Executive Director, Arts Council of Hawaii; Renji Goto, Executive Office on Aging; Francis DeMello; Dr. Robert Gibson; Ed Jones; Kuhio Mahaulu; Buddy Ako; Ethel Mori; MaMa Loa, Kua Hiwa Nui, Hawaiian Sovereignty; Beatrice L. Ranis; Raymond Ako, Honolulu Community Action Program; Evelyn Moku; Eusibia Parau; Dennis Y. Hiura; Kana Shimabuku; Alipio Robinios; Lunapas Hemogenes; Carnela Janus; Gladys Young; Sotero Catubac; Wai Inn Lau; Dick Chun, Office of Elderly Affairs; Tin C. Young; Helen Young; Roy Nishida, Executive Director, Kauai Economic Opportunity, Inc.; Katherine Young Hanohano; Margaret Gibbs, Sierra Club; Delegate Patricia Pang Nozaki; Margaret Kimmerer, University of Hawaii Environmental Center; Bertrand Y. Kobayashi; Hawaii County Councilman Muneo Sameshima, Chairman of the Concerned Taxpayers of Hawaii; James Ohashi; Jared Jossem, attorney, Chamber of Commerce of Hawaii; Brian Tamamoto, COPE Director, Hawaii State Federation of Labor, AFL-CIO; Bill W. Ogoshi, Business Representative of International Association of Mechanics and Aerospace Workers; Ludwig E. Armerding, National Federation of Independent Business; Shoji Okazaki, ILWU Local 142; Norman Samson, Acting Business Manager, Secretary-Treasurer, Laborers Union; Salvador Ambrosio, President, Local 368 AFL-CIO, Laborers Union; Bob Alconcel, Executive Board Member and Business Agent, Local 368, Laborers Union; Wallace Wong, Business Agent, Local 368, Laborers Union; Pedro Pacleb; Ralph Vicini; Lawrence Wise; Eugene Gomes; Kenneth Tamanaha; Toatasi Paulo; William Makanani; Masaru Teruya; Joeray O'Green; Artemio Calderon; David Van Treese; Rodney Tihano; David Cross; Martha Daniels; Jim Hall; Judy Sobin, Office of Professional Employees International Union; Helen Kronlein, University of Hawaii Professional Assembly; Kenneth Lau, University of Hawaii; Dorothy G. Hubbard, Manager/Owner, Job Finders; Lex Brodie, Small Business Association of Hawaii; Judy Parish; Margaret Ushijima, Hawaii State Commission on the Status of Women; Genevieve Okinaga, Director, Office of Children and Youth; Dr. Leora Blurton; Jerilyn Lai, Project Coordinator for Union Sponsored Child Care Center; Major General Valentine A. Siefertmann, Adjutant General, Director of Civil Defense; Ollie Burkett, Hospital Association of Hawaii; Peggy Stern, University of Hawaii Faculty; Ken

Harper; Eleanor Lloyd, County Executive on Aging; Delegate Dennis K.S. Chun; Delegate Paul L. Lacy; Delegate Helene Hale; Delegate Robert Ellis; Delegate Walter Cabral; Walter Tufford; Mateo Caguiat; Charles Heulen; Donald Leong; Dennis Martinez; Norman Taira; Leland Matsuda; Raymond W. Norris, Director of Community Relations, Hawaii Medical Service Association.

Section 1 of Article VIII relating to public health is amended to read as follows:

"Section 1. The State shall have power to provide for the protection and promotion of the public health."

Your Committee changed the language in Section 1 of Article VIII in order to grant the legislature full discretion in allocating the State's fiscal resources. The amended section will no longer mandate the legislature to fund public health.

All funding and programs for public health require legislative appropriations. Consequently, your Committee decided that the legislature will be best suited to determine what proportion of state revenues should go to public health. Your Committee determined that the legislature should be free of the threat of lawsuits while allocating the limited fiscal resources of the State. Presumably there could still be lawsuits, but the cause of action would have to be based on legislation and the language of the Constitution could not be used to sustain any legal argument for recovery against the State.

Finally, your Committee decided that the amended language of Section 1 of Article VIII will conform the intent and purpose of this section to the other existing sections of Article VIII.

Your Committee did consider adding language to Section 1 of Article VIII that would grant specific power to the State to act in the field of preventive health. Some members of the committee projected that someday the State may want to outlaw air pollution or smoking if it is conclusively shown to cause cancer, or encourage jogging and other physical activities as methods of preventing illness and disease. Your Committee concluded that such language would be redundant since these and similar subject matters are already being implemented and are included within the terminology "protection and promotion of the public health."

Section 2 of Article VIII relating to care of the handicapped is amended to read as follows:

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

Your Committee decided that it was important to eliminate specific categories of handicaps so that the legislature would not be constrained in its actions. Your Committee did not intend to remove any type of handicapped persons from consideration under this section, but rather your Committee intended to broaden the philosophical statement of this section to include all categories of handicaps, such as emotionally or socially handicapped. Furthermore, your Committee decided to delete the phrase "domiciliary care" because the phrase was already included under the definition of treatment and rehabilitation. Finally, your Committee felt that these two changes would appropriately streamline Section 2 of Article VIII.

Section 3 of Article VIII relating to public assistance is amended to read as follows:

"Section 3. The State shall have power to provide financial assistance, [for persons unable to maintain a standard of living compatible with decency and health.] medical assistance, and social services for persons who are found to be in need of, and are eligible for such assistance and services as provided by law."

Your Committee added the following types of assistance that the State shall have the power to provide: financial assistance, medical assistance and social services. This language is modeled after the present breakdown followed by the Department of Social Services and Housing. All representatives of the department spoke in favor of it. At the time that Section 3 was originally adopted in 1950, assistance meant financial assistance. Thus your Committee determined that this change would update the Constitution. The committee anticipated that this new language would be more flexible and thus be amenable to including new programs and services found needed in the future.

Your Committee decided to change the language describing those who shall receive financial assistance, medical assistance and social services. The committee changed it to "who are found to be in need of, and are eligible for such assistance and services as provided by law." As a practical matter, the legislature or the federal government now sets the qualifications for all types of assistance. It was clear to the committee that this procedure was appropriate and should continue. The committee concluded that the present language qualifying persons who are "unable to maintain a standard of living compatible with decency and health" might someday be construed to permit lawsuits against the State. Moreover, the committee felt that this language was too vague and that the new language would permit the legislature to develop precise definitions of who shall qualify.

Your Committee also considered limiting the amount of welfare benefits to the taxed value of 40 hours a week of employment at minimum wage. Some members of the committee were in agreement with the sentiment of this proposal; however, the committee determined that it would be too difficult to administer, especially since some people work 32 rather than 40 hours. In addition, the committee relied on the testimony of the Department of Social Services and Housing, which was strongly against this concept.

Section 5 of Article VIII relating to public sightliness and good order is amended to read as follows:

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

Your Committee changed the language of this section referring to "natural beauty" in order to prevent the overlap that now exists between Article VIII and Article X. Your Committee incorporated the language of this section referring to "objects and places of historic or cultural interest" in another proposal which is to be included in Article VIII as a new section, as reported below, and is entitled "Cultural Resources." Your Committee decided that these changes would make Section 5 a self-contained section and would eliminate surplusage in the Constitution.

Article VIII is amended to add a new section, relating to preservation of a healthful environment, to read as follows:

"PRESERVATION OF A HEALTHFUL ENVIRONMENT

"Section . The State shall have the power to promote and maintain a healthful environment and to prevent any excessive demands upon the environment and the State's resources."

The proposed new section to Article VIII provides the State with the power to promote and maintain a healthful environment and to prevent any excessive demands upon the State's resources. In its present form, Article VIII does not mention the promotion of a healthful environment. Thus, your Committee recommends the inclusion of this new section in Article VIII because a healthful environment is directly related to the public health and welfare.

Some members of your Committee argued that the term "public health" might include the concept of the proposed new section and that the concerns addressed are included in Article X. Moreover, the State is already addressing the concerns through the Land Use Commission and the various county zoning boards. Discussions were conducted with the chairman of the Committee on Environment, Agriculture, Conservation and Land, and after due consideration your Committee decided to act because the term "healthful environment" encompasses more than the concerns which are addressed by the Committee on Environment, Agriculture, Conservation and Land. Your Committee determined that although the preservation and maintenance of a healthful environment can be accomplished through existing State and county bodies, inclusion of this new section in Article VIII would give the State explicit power for the promotion and maintenance of a healthful environment and, as a matter of policy, would grant special and important recognition to the concepts encompassed within. It should be noted that inclusion of this new section in Article VIII is not intended to reduce, in any way, the present functions and powers of the State Land Use Commission and the various county zoning boards. Standing to sue

was denied because the committee members wanted to allow the legislature discretion in formulating programs. Due to the limited resources and the need for fiscal restraints, your Committee felt that standing to sue should be denied so as to prevent the possible loss of State funds in litigation that could arise.

Article VIII is amended to add a new section, relating to management of State population growth, to read as follows:

"MANAGEMENT OF STATE POPULATION GROWTH

"Section . The State shall plan and manage the growth of its population to protect and preserve the public health and welfare."

Your Committee decided to add this new section to Article VIII in order to mandate the State to plan and manage the growth of its population. Your Committee is aware of the concern that all residents feel over the rapidly increasing population of the State. The committee determined that planning and managing this growth should be a top priority in the State's activities. Your Committee strongly recommends inclusion of this new section in Article VIII because the size of the population is directly related to the public health and welfare and the enjoyment thereof.

Members of your Committee expressed concern that the proposal might be subject to constitutional attack. Committee members were aware that some specific methods of implementing population control have been struck down by the courts as being unconstitutional under the U.S. Constitution. For instance, a residency bill recently enacted by the legislature, which was to serve as a mechanism for limiting the number of people moving to Hawaii by limiting access to public employment, was declared unconstitutional. However, other methods have been upheld. Regulations affecting the use of land and availability of housing and water meters have been upheld. Moreover, there are other indirect controls that can reduce the impact of population growth and deter growth by controlling expansion. Your Committee concluded that the legislature had many options available for implementation of this mandate.

Other members of the committee were concerned that such a broad mandate to the State might prohibit the counties from taking action through ordinances and zoning to control growth. But the committee decided that it was not necessary to amend the proposal to include the political subdivisions because they would actually be able to continue to act in this area in the absence of superseding State regulations.

Article VIII is further amended to add a new section relating to public safety, to read as follows:

"PUBLIC SAFETY

"Section . The Law of the Splintered Paddle, Kanawai Mamala-Hoe, decreed by Kamehameha I, 'Let every elderly person, woman and child, lie on the road in safety,' shall be a unique and living symbol of the State's concern for public safety."

"The State shall have power to provide for the safety of the people from crimes against persons and property."

This proposed new section is recommended as a policy statement addressing the growing concern of the citizenry that the crime rate is increasing at an alarming rate. It would be unique in its reference to the native Hawaiian heritage of this State, and unequalled in the United States. Such a policy statement would contribute to a better environment in our community. Some members argued that existing law enforcement statutes are adequate. Your Committee concluded that the existing statutes and enforcement bodies are ineffectual in coping with the growing crime rate. It was your Committee's intention to show this concern for public safety, on the constitutional level, to serve as a guide for the legislature.

Your Committee recommends inclusion of this new section in Article VIII because public safety is an integral part of the term "public health and welfare." It was singled out and placed in a new section to show that this is an area that deserves special and increased recognition. Standing to sue was denied because your Committee recognized the dilemma that the legislature is in. On the one hand, special areas are targeted to

be acted upon. On the other hand, there has been an increased desire to limit spending. Thus, your Committee felt that standing to sue should be denied so as to allow the legislature discretion in formulating specific programs and preventing the loss of State funds in litigation that may arise.

Article VIII is further amended to add a new section relating to cultural resources, to read as follows:

"CULTURAL RESOURCES

"Section . The State shall have the power to preserve and develop the cultural and traditional arts, and historical places and objects of its various ethnic groups."

This proposed new section to Article VIII provides the State with the power to preserve and develop the cultural and traditional arts, and historical places and objects of its various ethnic groups. In its present form, Section 5 of Article VIII does include the power of the State to conserve and develop its objects and places of historic or cultural interest. Your Committee determined that this new section incorporating the cultural and traditional arts of the State's ethnic groups would be a more appropriate section in which to include the objects and places of historic or cultural interest. (See discussion of Section 5 of Article VIII, above.) Furthermore, this new section links all these attributes to the ethnic groups of the State, making explicit the committee's intent that all ethnic groups be given their due respect and consideration.

Article VIII is additionally amended to add a new section relating to the economic security of the elderly, to read as follows:

"ECONOMIC SECURITY OF THE ELDERLY

"Section . The State shall have the power to provide for the economic security of the elderly to assure retirement in health, honor and dignity."

This proposed new section to Article VIII provides the State with the power to provide for the economic security of the elderly to assure retirement in health, honor and dignity. Your Committee recommends passage of this proposal because such a policy statement will demonstrate the importance of this area and will encourage the legislature to grant a higher priority in the allocation of the State's fiscal resources to services to the elderly.

Your Committee feels that the elderly have almost been forgotten in our society. Everyone will become old someday, so the committee felt that it was incumbent on all members of society to grant the elderly special consideration. The committee recognized that the elderly have, as a group, contributed substantially to our State and society and that therefore these are people who deserve more than what they are presently receiving. Moreover, your Committee expressed concern over the high rate of inflation, which has for the past several years reached double-digit figures, and its effect on the elderly, who are usually on fixed incomes.

The committee reviewed certain testimony that revealed the fact that although the Department of Social Services and Housing now has some funding for the elderly, the great proportion of the funding comes from the federal government. At the present time, the elderly are not earmarked as a group for State funding. Instead they are merely included with all other appropriations for the Department of Social Services and Housing. Thus, absent a strong policy statement, the elderly may continue to receive a low priority for funding.

However, your Committee was concerned that the limited resources of the State might not provide sufficient revenue for everything that we might like to do for the elderly. Thus, your Committee found that it would be better to leave the final decision regarding allocation of money to the discretion of the legislature. Finally, your Committee did not intend by including this section to prohibit the State from spending money in other important areas, such as in the youth of the State.

Your Committee, after public hearings and due consideration of the subjects covered by the proposals, recommends that Article XII be left as it is presently worded. Since no delegate proposals seeking to amend Section 1 were received, discussion will be limited to those proposals that sought to amend Section 2 and to those proposals that sought to

create a new section to Article XII. Discussion centered on three proposals: Proposal Nos. 131, 216 and 333.

Proposal 131 would have provided for open collective bargaining negotiations. Some members of your Committee argued that open collective bargaining negotiations between public employee unions and the State were necessary to ensure that public funds would be prudently spent. Furthermore, the same members argued that certain conditions in the private sector justify secrecy and that these conditions do not occur in the public sector. Your Committee, after due consideration to these arguments, concludes that closed negotiations are necessary to ensure the productivity of the negotiations and that legislative approval or disapproval of the final outcome of the bargaining process would prevent corruption from entering into the negotiation sessions. Your Committee agreed that there might be differences between the public and private sectors. However, these differences are negligible and do not in themselves justify open public collective bargaining negotiations.

Proposal 216 sought to give the legislature or county councils the primary responsibility for conducting collective bargaining negotiations, rather than the executive. It was argued that this change is necessary because it is the legislature and city council which have to balance the public employee's interests with the interests of the rest of the system. Your Committee, after due consideration to these arguments, concluded that the legislature does balance the interests involved because it ultimately approves or disapproves the final outcome of the negotiation sessions. Your Committee agrees that there is a partial delegation by the legislature. This delegation, however, is not total, since the legislature has the ultimate power to strike down the settlement if it is unsatisfactory. Your Committee further concluded that this partial delegation is wise because the particular legislators who might be chosen to do the negotiations may lack the needed expertise to conduct the actual negotiations.

Proposal 333 sought to create an inviolable right of the people to receive public services. It was contended that your Committee on Public Health and Welfare; Labor and Industry should not discuss this proposal because it specifically refers to Article I of the Constitution. Nevertheless, the committee did hear arguments from the members on this issue.

Your Committee concluded that the right to strike by public employees will be restricted, if needed in the future, in such manner as will be determined by the legislature. At the present time there is no reason to limit the right to strike by public employees and, if need should arise, the legislature could appropriately determine which bargaining units if any such a restriction should be placed on. Your Committee heard numerous testimonies on the success of the present system and agreed with that position.

Your Committee on Public Health and Welfare; Labor and Industry submits the related committee proposal and recommends (1) that the above-mentioned proposals referred to your Committee be filed; (2) that Section 4 of Article VIII and Sections 1 and 2 of Article XII be retained without amendment; and (3) that Sections 1, 2, 3 and 5 of Article VIII as amended and the five new sections to Article VIII as proposed in the form shown as Committee Proposal No. 5* pass first reading.

Signed by all members of the Committee. Delegate Cabral did not concur in part.

*For the complete text of this proposal, see Committee Proposal No. 5, page 789.

STANDING COMMITTEE REPORT NO. 37

Your Committee on Budget, Accounts and Printing begs leave to report that Minority Rep. Nos. 1 and 2 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 38

Your Committee on Budget, Accounts and Printing begs leave to report that Res. No.

13, Stand. Com. Rep. No. 39 and Com. P. No. 6 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 39

Your Committee on Education--to which were referred proposals numbered 75, 184, 188, 257, 433 and 717, all relating to discrimination in education; proposals numbered 134, 155, 208 and 451, all relating to educational opportunity; proposals numbered 287, 304, 480, 530 and 568, all relating to funding of private education; proposals numbered 61 and 835, both relating to public libraries; proposal numbered 18, relating to public education coordination; proposal numbered 200, relating to free choice of public schools; proposals numbered 201 and 332, both relating to citizen participation in education; proposal numbered 202, relating to alternative education programs; proposal numbered 579, relating to community utilization of public school facilities; proposal numbered 775, relating to goals and priorities of public education; proposals numbered 121, 231, 284, 328, 331 and 645, all relating to Hawaiian Affairs; proposals numbered 298 and 616, both relating to the abolishment of the present board of education; proposal numbered 311, relating to an appointed board of education; proposals numbered 132 and 477, both relating to an appointed and elected board of education; proposal numbered 291, relating to a nonpartisan board of education; proposals numbered 69, 153, 156, 210, 217, 237, 256, 329, 386, 432, 527, 538, 580 and 718, all relating to the residency requirements for the board of education; proposals numbered 32, 55, 162, 265, 375, 488, 507, 593, 680 and 752, all relating to the composition of the board of education; proposals numbered 282, 541 and 656, all relating to the addition of other boards; proposals numbered 3, 133, 561, 688 and 795, all relating to the policy powers of the board of education; proposals numbered 219, 227, 364, 431, 509, 535 and 719, all relating to the fiscal powers of the board of education; proposals numbered 152, 172, 476 and 754, all relating to the powers of the board of education over the superintendent of education; proposals numbered 3, 5, 58, 135, 179, 219, 589 and 753, all relating to the powers of the board of regents; and proposals numbered 16, 279, 296, 528 and 764, all relating to separate boards of higher education--begs leave to report as follows:

All committee hearings and meetings were open to the public. Many citizens, groups and organizations representing a cross section of the community presented their views on the subjects covered by the proposals. The following presented their views: State Representative Neil Abercrombie; Mr. Herman Adalist; the Reverend Darrow Aiona, Chairman, Board of Education; Ms Pauline Apuna; Dr. Charles Araki, Associate Professor, Department of Educational Administration, University of Hawaii; Ms Lorraine Borden, Library Assistant III, Hawaii State Library; Mr. Dante Carpenter; Mrs. Oi Yung Chow, Head, Hawaii State Library; Mr. Charles G. Clark, Superintendent, Department of Education; Dr. Floyd Commack, President, Hawaii Librarians Association; Ms Jan Dapitain; the Reverend Daniel Dever, Superintendent of Catholic Schools; Delegate Adelaide (Frenchy) De Soto; Mr. Barrett W. Francis, student body president, Chaminade University; Mr. Raymond Fujii, librarian; Ms Elizabeth Fujiwara; Ms Sue Gardner; Delegate H. Jean Goodenow; Ms Masae Gotanda, Legislative Chairman, Hawaii Librarians Association; Ms Claire Grossman; Ms Constance Hagiwara, Reference Librarian, Hawaii State Library; Delegate Helene Hale; Ms Donna Howard, Director of Institutional Relations, Hawaii Loa College; Ms Susan Irvine, President, League of Women Voters; Mrs. Caroline Ingersoll, Chairman of Schools Committee, League of Women Voters; Mrs. Patricia Kalima, staff of Delegate Helene Hale; Mr. Peter Kawahara; Dr. Dan Kinoshita, Vocational Education Program Specialist, Manpower Commission; Mr. Steve Kuna, aide to Delegate Adelaide De Soto; Delegate Masako Ledward; Mrs. Marsha Linville, librarian; Mr. Solomon Loo, University of Hawaii Professional Assembly; Dr. Fujio Matsuda, President, University of Hawaii; Mr. Ernest Mazey, Acting Executive Director, American Civil Liberties Union; Mrs. Ah Quon McElrath, ILWU; State Representative Norman Mizuguchi, Chairman, House Education Committee; Dr. Verlieann Malina-Wright, Chairperson, State Advisory Commission on Manpower and Full Employment; Ms Mary Maluyo; Mr. Charles Maxwell; Ms Shirley Mesher; Ms Barbara Nagaue, Hawaii State Teachers Association; Ms Christine Namau, Associated Students of the University of Hawaii and Representative of Community Colleges; Dr. Lawrence H. Nitz, Associate Professor, University of Hawaii; Mr. Dennis E. W. O'Connor, Chairman, Board of Trustees of St. Louis High School and Chaminade University; Ms Judy Parrish, Hawaii State Commission on the Status of Women; Mrs. Rose Pfund, President,

Parent Teachers Association; Ms Natasha Poust; Mr. Alf Pratte; Mr. John Radcliffe, Executive Director, Hawaii State Teachers Association; Mr. Walter Ritte; Mr. Ambrose Rosehill, Chairman, Legislative Committee, Board of Regents, University of Hawaii; Mrs. Marion Saunders, member, Board of Education; Ms Gertrude Serata, Secretary, Hawaii Librarians Association; Dr. Sam Shigetomi, State Director Vocational Education; Mr. William Jarvis Sollver; Mr. Al Southard, President, Hawaii Federation of Teachers; Mr. Brian Suzuki, Chairman, Faculty Senate Con/Con Lobbying Committee, University of Hawaii at Manoa; Mr. David Thompson, Educational Director, ILWU; Mr. Donn Thompson, Legislative Chairman, Leeward Community College Faculty Senate; Dr. John Thompson, Chairman, Department of Educational Administration, University of Hawaii; Mrs. Ruth Tabrah, member, Board of Education; Ms Lorraine M. Teniya, Director of Student Financial Aid, Chaminade University; Mrs. Rita Miller Thorpe; Mr. Vincent Van Broklin, librarian, Hawaii State Library; Mrs. Marion Vaught, librarian; Mr. John C. White; Mr. Joe Wildman; Mr. Jim Wong; Delegate Ginger Wurdeman; Delegate Bruce Yamashita; Ms Barbara Yuen, member, Honolulu District School Advisory Council.

Your Committee conducted public hearings and deliberated upon the subjects covered by the proposals. It presents for your consideration recommendations affecting Article IX of the Hawaii Constitution as follows:

Amend Article IX, Section 1, to read as follows:

"PUBLIC EDUCATION

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

Your Committee believes that the use of the word "discrimination" rather than "segregation" in Section 1 of Article IX broadens the scope of the guarantees provided therein. It is not the intent of your Committee to diminish the protection against the classification of persons in public educational institutions on the basis of race, religion or ancestry conferred by the present provision in Article IX. Based on modern usage and recent court construction of the term "discrimination," your Committee understands that the prohibition against segregation is implicit in the ban against discrimination. This amendment will also conform the language of Section 1 of Article IX to its counterpart in Section 4 of Article I of the Hawaii Constitution.

Omission of the entire provision, "There shall be no segregation in public educational institutions because of race, religion or ancestry," was considered. Such a prohibition in the education article of the Hawaii Constitution is unnecessary because such protection is provided by the 14th Amendment of the U.S. Constitution as well as Section 4 of Article I of the Hawaii Constitution, which includes the equal protection clause and a prohibition against discrimination because of race, religion, sex or ancestry. Despite its redundancy, your Committee believes that the antidiscrimination provision should be retained in the education article as a reaffirmation of such guarantees in Hawaii's public school system.

The addition of the term "sex" to the list of suspect classifications in Section 1, Article IX, reflects your Committee's concern that public schools be barred from discriminating between persons on the basis of sex. Your Committee believes that this proposal is in harmony with the intent of the people of Hawaii as expressed in Article I, Section 21, "Equality of Rights," which provides that equality of rights under the law shall not be denied or abridged by the State on account of sex. The language of Section 1, Article IX, would also correspond to that included in Section 4 of Article I of Hawaii's Constitution.

In addition to considering statewide educational policies, your Committee focused on the State's libraries, which constitute the Office of Libraries within the Department of Education. Your Committee heard testimony regarding the inequitable distribution of both funds and staff positions for the Office of Library Services, as well as the consistently low priority accorded to libraries by the Department of Education. Further testimony indicated that the problems faced by the libraries are internal. Proposals relating to

a separate department for libraries were considered by your Committee, but it was concluded that a department of libraries should not be given constitutional status. Rather, your Committee urges the legislature to review and redress this problem.

In addition, your Committee considered several proposals to delete or weaken the provision in Article IX, Section 1, which prohibits the use of public funds for the support or benefit of any sectarian or private educational institution. The application of the federal constitution's prohibition against entanglement of the church and state to the issue was also discussed. Much of the debate focused on the merits of authorizing the use of State funds to match federal funds available for post-secondary student loan programs. It was argued that, if approved, such State funds would benefit students rather than private educational institutions. It was also noted that private educational institutions provide valuable competition and alternatives to State post-secondary educational institutions.

After much deliberation, your Committee decided against adopting any of the proposals. It was feared that sanctioning such State distributions would decrease the funds available to public schools and would set an undesirable precedent.

Your Committee also deliberated at length about the election, apportionment and tenure of members of the board of education. The following is your Committee's suggested amendment to Section 2 of Article IX:

"BOARD OF EDUCATION

"Section 2. There shall be a board of education composed of members who shall be elected in a nonpartisan manner by qualified voters in accordance with law from two at-large units. [At least part of the membership of the board shall represent geographic subdivisions of the State.] The first unit shall be comprised of the island of Oahu and all other islands not specifically enumerated. The second unit shall be comprised of the islands of Hawaii, Maui, Lanai, Molokai, Kahoolawe, Kauai and Niihau. Each at-large unit shall be divided into school districts, as may be provided by law. There shall be at least one member residing in each school district. No member shall serve more than two consecutive terms of four years each.

"Members elected in the 1978 general election shall serve for two-year terms."

The members of your Committee agree that members of the board of education should be elected on a nonpartisan basis. The maintenance of a quality educational system is so critical to the future of the State, and particularly its young people, that the system should not be subject to partisan politics. Rather, members of the board should be elected on the basis of their stances on educational issues.

One of the most important issues facing your Committee was the apportionment of the board. It was universally agreed that the present apportionment of the board with two members from the neighbor islands and seven from Oahu was unsatisfactory. Strong opposition to the present composition of the board, which has no member residing in the County of Maui or the County of Kauai, was heard from both members of the public and your Committee. The current language in Section 2 with respect to geographic subdivisions of the State would perpetuate the present situation and was accordingly rejected.

Your Committee desired to establish a framework for the board which would provide for the election of members who were aware of the local needs of particular school districts and accessible to their constituents. In addition, the need for a relatively small board which would be able to act quickly and decisively was cited.

It is the belief of your Committee that the proposed apportionment plan meets the concerns of your Committee. The two at-large units recognize geographical as well as traditional political boundaries in the State. The reference to the islands by name repeats the language of Article III, Section 4, which relates to legislative apportionment among the basic island units.

Under your Committee's proposal, the legislature is permitted to define school districts. It is anticipated, for example, that Oahu will continue to have a number of school districts. But the recommended provision allows the legislature some flexibility in responding to population shifts among the islands.

The requirement that there be at least one member residing in each school district reflects the serious concern of your Committee that members of the board be cognizant of and responsive to the needs of students within their respective school districts. On the other hand, it is hoped that at-large elections will result in members who will have a more comprehensive view of the educational needs of the students of Hawaii.

After much discussion and research on the question, your Committee decided to leave the precise number of board members to the legislature. However, there was discussion among the committee members that this board consist of between 13 and 19 members. A board which is any larger than 20 would be unwieldy and prevent the effective operation and management of the public school system. It is, however, the intent of your Committee that there be at least one member residing in the school districts of Hawaii, Maui and Kauai.

The purpose of the two-term limitation for board members is to guarantee that new perspectives and ideas will be periodically introduced to the board. Your Committee also believes that there are many qualified people in Hawaii who should be given the opportunity to serve on the board if they so desire. It was felt that four-year terms would allow board members to gain some expertise in the educational field but would not lead to complacency on the part of members.

Your Committee also was concerned that its apportionment plan be implemented as soon as possible. It, therefore, included a requirement that members elected in the 1978 general election be limited to two-year terms. The present apportionment plan is court-decreed, while the length of term of the board members is prescribed by statute. Your Committee believes that the members to be elected in the November 1978 elections are subject to constitutional amendments proposed by this Convention and ratified by the electorate.

As an alternative to the direct method of electing board members proposed above, your Committee considered a two-tiered school board system. Under such a system, local board members would be elected from school districts. Each school district board would then appoint one or more of its members to sit on a State board of education. While this system had some appealing features, your Committee prefers the direct and more visible method of election suggested above.

With respect to more substantive matters, it was agreed that the legislature and governor should continue to exercise general budgetary controls over the public school system. A number of methods of giving the board more effective control over the public school system were discussed. It is the intent of your Committee that the board of education be directly responsible and accountable to the people. Your Committee finds that, under the present situation, the governor can veto any rules or regulations promulgated by the board of education. The proposed amendment will allow the board, with a two-thirds vote, to override the veto power of the governor on educational rules and regulations, which will provide the board with some power to be more responsive to the wishes and needs of the electorate. Your Committee feels that the board, entrusted with the unique function of determining the course of education in the State and elected by the people, should have a certain degree of autonomy. However, it was felt that the requirement of a two-thirds vote of the board will avert the creation of capricious or ill-advised rules and regulations.

The following amendment to Article IX, Section 5, is proposed:

"BOARD OF REGENTS; POWERS

"Section 5. There shall be a board of regents of the University of Hawaii, the members of which shall be nominated and, by and with the advice and consent of the senate, appointed by the governor. At least part of the membership of the board shall represent geographic subdivisions of the State. The board shall have power, in accordance with law, to formulate policy, and to exercise control over the university through its executive officer, the president of the university, who shall be appointed by the board. Notwithstanding any law relating to the power to formulate policy and to exercise control over the university, the board shall have exclusive jurisdiction over the internal organization and management of the university."

Many people testified before your Committee concerning the governance problems of the University of Hawaii. Some of these problems apparently stem from the conflict between the University of Hawaii's position as a "body corporate," with a separate legal status, which is also subject to general budgetary and other controls of the governor and legislature. It is the intent of your Committee that the board of regents have flexibility in the internal organization and management of the university. The suggested proposal is an attempt to delineate the area within which the university, through its president, may operate.

The proposed amendment would not affect the governor's authority over the university in the major areas of policy formulation affecting the public in the budget-preparation process. In the budget-making process, the governor would continue to review the university's budget requests before submission to the legislature. Nor would the budget-making process of the legislature be altered. The university would continue to comply with laws passed by the legislature.

The import of the proposed amendment is to make clear that, with respect to matters of internal organization and management, the authority of the board of regents is complete. Its direction and control may be exercised through its president, exclusive of other agencies of the State government. Matters of internal organization and management refer essentially to those matters which directors of a corporation normally would consider to be internal corporate management matters. Such matters include those bearing on the mission of the enterprise, which is education in the case of the university, but which would have only minimal impact, if any, upon others outside the enterprise.

Among examples of matters which would fall under the exclusive purview of the board of regents, under the proposed amendment, would be the authority to establish or abolish an administrative or program unit, to establish or abolish subordinate offices or positions, and to transfer officers and employees between positions, subject only to the limitations of available appropriations and the provisions of such laws of general application as the civil service and collective bargaining laws.

Some members of your Committee expressed concern over the lack of articulation of the needs and adequate representation of community colleges in the present governance structure of the university system. Several proposals referred to your Committee call for a provision in Article IX which would allow the creation of separate governing boards for community colleges and other educational institutions. However, such a provision is unnecessary since the power to create such additional boards is implicit in Article IX. It was also noted that the addition of separate boards to govern community colleges and other educational institutions would add another layer of bureaucracy as well as create a possible need for a board to coordinate these separate boards.

Your Committee also considered including a provision in the Hawaii Constitution for student and faculty membership on the board of regents. However, your Committee believes that such a matter should not be given constitutional stature because present statutory language provides for such possible representation, and lauds the informal policy of the governor in appointing a student or young person to the board of regents. Your Committee urges the continuance of that practice.

Your Committee voted to add the following section to Article IX:

"HAWAIIAN STUDIES

"Section 6. The State shall promote the study of Hawaiian culture, history and language."

This proposal is indicative of your Committee's belief that the study of Hawaiian culture, history and language should be vigorously promoted and encouraged. After years of neglect, the Hawaiian culture has experienced a renaissance in the last few years. Hawaii enjoys a special status as the only state which was formerly a kingdom and which has its own Polynesian heritage and customs. The inclusion of this provision in the State Constitution will facilitate the preservation and growth of the Hawaiian culture.

Accordingly, your Committee on Education submits the attached committee proposal and recommends (1) that the above-numbered proposals referred to your Committee be

filed; (2) that Section 4 of Article IX be retained without amendment; and (3) that Committee Proposal No. 6 pass first reading in the form attached hereto.

Signed by all members of the Committee except Delegate Wurdeman. Delegate Nozaki did not concur.

COMMITTEE PROPOSAL NO. 6

RELATING TO EDUCATION.

RESOLVED, that the following be agreed upon as amending Article IX of the State Constitution.

1. Article IX, Section 1, is amended to read:

PUBLIC EDUCATION

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

2. Article IX, Section 2, is amended to read:

BOARD OF EDUCATION

Section 2. There shall be a board of education composed of members who shall be elected in a nonpartisan manner by qualified voters in accordance with law from two at-large units. [At least part of the membership of the board shall represent geographic subdivisions of the State.] The first unit shall be comprised of the island of Oahu and all other islands not specifically enumerated. The second unit shall be comprised of the islands of Hawaii, Maui, Lanai, Molokai, Kahoolawe, Kauai and Niihau. Each at-large unit shall be divided into school districts, as may be provided by law. There shall be at least one member residing in each school district. No member shall serve more than two consecutive terms of four years each.

Members elected in the 1978 general election shall serve for two-year terms.

3. Article IX, Section 3, is amended to read:

POWER OF THE BOARD OF EDUCATION

Section 3. The board of education shall have power, in accordance with law, to formulate policy, and to exercise control over the public school system through its executive officer, the superintendent of education, who shall be appointed by the board [and shall serve as secretary to the board].

The board may adopt, amend or repeal rules as provided by law to implement its policy and to exercise control over the public school system. If the adoption, amendment or repeal of a rule promulgated by the board is prescribed by law to be subject to the approval of a designated authority who disapproves, the board may proceed to reconsider the adoption, amendment or repeal of the rule so disapproved. If after such reconsideration, the adoption, amendment or repeal of the rule shall be approved by a two-thirds vote of all the members of the board, the same shall be deemed approved by the designated authority.

4. Article IX, Section 5, is amended to read:

BOARD OF REGENTS; POWERS

Section 5. There shall be a board of regents of the University of Hawaii, the members of which shall be nominated and, by and with the advice and consent of the senate, appointed by the governor. At least part of the membership of the board shall represent geographic

subdivisions of the State. The board shall have power, in accordance with law, to formulate policy, and to exercise control over the university through its executive officer, the president of the university, who shall be appointed by the board. Notwithstanding any law relating to the power to formulate policy and to exercise control over the university, the board shall have exclusive jurisdiction over the internal organization and management of the university.

5. Article IX is amended by adding a new section to read:

HAWAIIAN STUDIES

Section 6. The State shall promote the study of Hawaiian culture, history and language.

STANDING COMMITTEE REPORT NO. 40

Your Committee on Budget, Accounts and Printing begs leave to report that Com. Whole Rep. Nos. 2 and 3 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 41

Your Committee on Budget, Accounts and Printing begs leave to report that Stand. Com. Rep. Nos. 42 through 44; Com. Whole Rep. No. 4; Com. P. Nos. 1, RD. 1, S. 1; 2, S. 1; 4, RD. 1; and 7; and Minority Rep. Nos. 3 and 4 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 42

Your Committee on Local Government was referred proposals numbered 1, 2, 17, 352, 366, 372, 475, 484, 485, 537, 578, 620, 653, 654, 692 and 727, all relating to local government; 42, 62, 115, 118, 124 and 176, all relating to local elected officials; 277, 307, 369, 457, 514, 655, 780 and 782, all relating to local government taxation and finance; 203, 215 and 246, all relating to local and special laws; and 194, 264, 293, 442, 606, 687 and 744, all relating to the designation of counties. Your Committee on Local Government begs leave to report as follows:

This report covers Article VII, titled "Local Government," of the Constitution of the State of Hawaii.

All committee meetings were open to the public, and State and county officials, representatives of organizations and individual citizens interested in the above-mentioned proposals were invited to present their views on the subjects covered by the proposals at public hearings.

The following citizens presented their views: Steve Yamashiro, Hawaii State Association of Counties; Richard Sharpless, of the City and County of Honolulu; Hiroshi Oshiro, Hawaii State Association of Counties; Gordon Wong, State Director of Taxation; Hiromu Suzawa, Deputy Attorney, Office of the State Attorney General; Delegate Barbara Marumoto; Delegate Floyd Pulham; Karen Bond; Dennis Callen; Eileen P. Anderson, State Director of Budget and Finance; Honolulu Councilman George Koga; Fred Bennion, Director of the Tax Foundation of Hawaii; Myron Thompson, Chairperson of the Commission on Organization of Government; Peter Leong, Office of Council Services, City and County of Honolulu; Jack Suwa; Robert Yotsuda, Hawaii State Association of Counties; Jensen Hee, Deputy Director, State Department of Budget and Finance; Richard Swanson, State Department of Taxation; Gordon Furutani, Land Use Commission; William Hoag, of the County of Kauai; Kazu Hayashida, Director of Transportation Services, City and County of Honolulu; Honolulu Councilman Dan Clement; Harold DeCosta, Hawaii Sightseeing Association; Delegate Lehua Fernandes Salling; Jack Schweigert; Bernard Punikaia; Francis Okita;

Jim Hall; James Davey, Honolulu Airlines Committee; Clement Judd, Hawaii Hotel Association; John Simpson, Hawaii Visitors Bureau; Delegate C. Randall Peterson; Delegate Helene Hale; Delegate Lawrence Kono; Ronald Amemiya, Attorney General of Hawaii; Albert Jeremiah, Jr., Office of Council Services, City and County of Honolulu; Robert Fukuda, Director, Department of Parks and Recreation, City and County of Honolulu; Dr. Ryokichi Higashionna, Director, State Department of Transportation; and Delegate Ginger Wurdeman.

Your Committee, having conducted public hearings and deliberated upon the subjects covered by the proposals, presents for your consideration Article VII of the Hawaii State Constitution as amended by the Committee on Local Government.

Your Committee recommends that Sections 1 and 2 of Article VII be retained in their present form.

Your Committee finds that many of the local government issues attempt to define the relationship between county and State and the division of powers between the two. Presently, the State Constitution vests the State legislature with complete authority to determine what powers counties may have and exercise. The heart of the question raised by proposals to grant counties more authority is whether the grant of powers to local government through the Constitution best promotes effective service to the people, which is the common goal of State and local governments. The four major counties expressed a desire for more powers and responsibility. They advocated the position that all powers not specifically granted to the State remain in the counties, as distinguished from the present practice whereby the legislature, through general laws, grants powers to the counties.

Your Committee examined Proposal No. 366, Sections 2 and 3, introduced at the request of the Hawaii State Association of Counties, which would accomplish the above goal by: (1) establishing the counties by Constitution; and (2) granting to counties, except Kalawao, all powers of government not denied by Constitution, law or charter.

Your Committee finds that the language provided for in Proposal No. 366, Section 2, is identical to that of the Hawaii Revised Statutes, Section 61-1. The Hawaii State Association of Counties acknowledges that the placement of the counties in the Constitution is no different from what is already offered by state law. As such, the committee felt that unless the benefits of including the statutory provisions regarding the counties in the Constitution were clearly established, Section 1 should remain the same. Thus, your Committee recommends retention of Section 1, which reads:

"POLITICAL SUBDIVISIONS; CREATION, POWERS

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

Your Committee finds that Section 2 of the Constitution provides for the adoption of charters by each political subdivision and specifically provides that the charter provisions regarding structure and organization shall be superior to statutory provisions, subject to the allocation of powers and functions through the enactment of general laws.

Thus the Constitution permits local government powers by the allocation method, rather than by the shared residual powers method. Under the allocated powers method, powers are granted by the State to local governments. Under the residual powers method, all powers not granted to the State by Constitution, charter or other law belong to the local governments.

Representatives from the counties felt that powers allocated by the state legislature to local government usually have been narrowly construed by the courts, thus preventing the localities from assuming their proper responsibilities.

With shared residual powers, local government would have full legislative authority, subject to control by the state legislature through enactments which restrict local legislative actions or which deny power to act in certain areas. The local government would possess all power not denied by statute, charter or Constitution.

Your Committee finds that the existing allocation of powers method has not given rise to any major problems. Moreover, Hawaii's approach to the allocation of power to local governments appears to be in line with that of a majority of states. In addition, it is clear that charter provisions on governmental structure and organization are superior to conflicting statutory provisions.

By requiring the state legislature to distribute power among the different governmental levels, function can be shifted without invoking constitutional amendment procedures. Your Committee believes that the record demonstrates the legislature's responsiveness to the need of the counties. Although your Committee recognizes that there are some merits in providing "home rule" to the counties, this issue raises many complicated questions. The committee felt that proceeding without knowing all the facts and ramifications might adversely affect the public's welfare.

Your Committee finds that there is no necessity to revise the State Constitution to give residual powers to the counties, as opposed to the present method of granting powers to counties by general laws. Thus, your Committee recommends retention of Section 2:

"LOCAL SELF-GOVERNMENT; CHARTER

"Section 2. Each political subdivision shall have power to frame and adopt a charter for its own self-government within such limits and under such procedures as may be prescribed by general law. The prescribed procedures, however, shall not require the approval of a charter by a legislative body.

"Charter provisions with respect to a political subdivision's executive, legislative and administrative structure and organization shall be superior to statutory provisions, subject to the authority of the legislature to enact general laws allocating and reallocating powers and functions.

"A law may qualify as a general law even though it is inapplicable to one or more counties by reason of the provisions of this section."

Your Committee, after lengthy deliberation, presents for your consideration Section 3 of Article VII of the Hawaii State Constitution, amended as follows:

"TAXATION AND FINANCE

"Section 3. The taxing power shall be reserved to the State except so much thereof as may be delegated by the legislature to the political subdivisions, [and the] provided, that the power to levy a tax on real property shall be exercised exclusively by the counties. The legislature shall have the power to apportion state revenues among the several political subdivisions."

Your Committee finds that the question of a centralized real property tax program versus a decentralized system has been discussed many times over the past several years. Advocates of decentralization of the taxing power argue that it enhances the "home rule" concept, whereby the counties would be more directly involved in decisions affecting the real property tax, which is their major source of revenue.

Traditionally, much of the revenue for local government is derived from the real property tax. This is especially true in Hawaii, where the real property tax provides 85% of the City and County of Honolulu's local tax revenues, 87% of Hawaii county's, 85% of Maui county's and 82% of Kauai county's.

Presently, under the Hawaii Revised Statutes, the State is responsible for assessing all real property in the State that is subject to the payment of real property taxes, and for levying and collecting all such taxes, and adjudicating taxpayer appeals. Basic policies defining real property, setting the basis of assessment, determining the manner in which rates are set, setting exemptions and describing the appeals process are the responsibility of state lawmakers. The various county councils, on the other hand, establish the specific tax rate to be applied, expressed in terms of dollars per \$1,000 of assessed value of property in each county. All revenues derived from the tax, less costs incurred by the State in administering property assessments and collections, are remitted by the State to the counties for their use.

In recent years, county officials have advocated the transfer of real property functions from the State to the counties. Such a move, it is felt, would permit counties to use the power to tax real property in a more effective manner. A general grant of taxing powers to the counties would include: a) assessments of property, b) adjudications of appeals, c) levying of tax rates, d) collections of taxes and e) formulation of basic policies.

Your Committee finds that the two major considerations against transferring real property functions are: (1) that the administrative function of real property taxing would create a duplication of services with resulting added costs to the taxpayer, and (2) that the State now may utilize the real property tax as an instrument of land use and economic policy. For instance, land more heavily taxed than buildings in certain classes of property encourages construction and full utilization of the land in these classes. The potency of the real property tax as a policy tool, although not directly measureable, is undeniable.

Your Committee concludes that the power to levy a tax on real property should be granted to the counties for the following reasons:

- (1) County governments are completely responsible and accountable for the administration of their local affairs. It is felt that in order to have complete authority over their county finances the real property tax function should be given to the counties.
- (2) By placing total responsibility for the real property tax program with the counties, public confusion as to who or which level of government is responsible for the real property tax bite would be eliminated.
- (3) County administration of the real property tax is consistent with home rule.
- (4) There are certain program elements which do not invoke issues of statewide concern and/or which do not lend themselves to single, statewide solutions. In other words, there are different economic bases and needs of the counties which cannot be addressed by statewide real property provisions.

Your Committee also considered granting to the counties the power to levy a general excise tax of up to 25% of that levied by the State. No county would be required to levy such an additional tax. But each county would be able to do so should that county council decide an additional tax source was needed. General excise taxes are a large source of revenue--the largest revenue source for the State. It appears that an increase in the general excise tax might be more acceptable to the taxpayers, although not necessarily fairer to them.

Your Committee acknowledges the desire of the counties for greater autonomy, self-reliance and financial independence. Although the general excise tax looks like an attractive way for the counties to raise revenues, your Committee finds that one should keep in mind the issue of fairness to taxpayers. Your Committee finds that if we continue to rely on the general excise tax, it should be not only as a means of generating revenues but as a partial or complete replacement of other burdensome taxes.

Your Committee is in accord with the conclusion reached by Mr. Fred Bennion of the Tax Foundation of Hawaii who states:

" . . . The counties, should they desire additional revenues, have the power to raise the added revenue through the real property tax by increasing the rates. While this avenue may be politically unappealing to local government officials, it does preserve the fiscal accountability of these elected officials. If increased spending is desired at the county level, which would necessitate an increase in the property tax rate, the added costs would have to be justified to the taxpayer."

Your Committee also considered various proposals providing for different formulas to determine the allocation to the counties of the state general excise and use taxes.

Your Committee finds that the magnitude of the loss of general revenue funds suggested in these proposals would work a severe hardship on the State and would result either in a drastic cutback or elimination of state government service from its present level, or in a move to increase the tax burden or to shift it to another tax source. These proposals assume that the counties are in need of additional sources of funds and conversely that the State government has under its control funds in excess of its requirements. Even if this were true at times, a formula set by the Constitution would not be responsive to changes in these circumstances. Moreover, strict formulas do not allow for differences in fiscal capabilities within the counties themselves over varying periods of time.

Your Committee recommends retention of Section 4 of Article VII of the State Constitution, which states:

"MANDATES; ACCRUED CLAIMS

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

Your Committee finds that the delegates to the Constitutional Conventions of 1950 and 1968 included Section 4 in the Constitution "...to curb some legislative practices found obnoxious by local units. One of these practices is compelling county government to pay accrued claims. This form of legislation, it was urged, usurped the judgment of courts and interfered unnecessarily with local affairs and finances...." (Proceedings of the Constitutional Convention of Hawaii of 1968, Vol. 1, pages 231-232). Your Committee finds no reason for a change and therefore recommends its retention.

Your Committee also recommends the retention of Section 5 of the State Constitution, which states:

"STATE-WIDE LAWS

"Section 5. This article shall not limit the power of the legislature to enact laws of state-wide concern."

Your Committee considered the matter of reimbursing the counties for any state-mandated programs and activities which involve local expenditures.

Presently a growing number of states are handling this issue legislatively. However, the Hawaii State Association of Counties believes that where there is strong legislative resistance or a lack of legislative initiative to embark upon such reimbursement programs, one alternative would be to approach the problem constitutionally.

In recommending retention of this section, your Committee recognizes the merits of this provision but believes that careful consideration should be given before including it in the State Constitution. There may be instances where initial costs of a program or activity may increase the expenditures of the county government but where the counties may, in the long run, realize a cost saving. In the same respect, there may be a change of responsibilities or activities which would no longer necessitate state funding.

Your Committee recommends a new section to Article VII governing land use, to read:

"LAND USE: STATE AND COUNTY

"Section . Reclassification of land to urban use shall be subject to approval by the county in which the land exists."

Some members of your Committee questioned whether or not other members expressed concern over the ramifications involved. However, your Committee found that the counties exercise land-use and zoning controls pursuant to a grant of authority from the State. The State exercises general control through the Land Use Commission. Increasingly, the State is becoming more involved in control of all types of land.

Your Committee finds that the counties have expressed concern over land-use planning, especially when it conflicts with county objectives. As a result of this county concern, your Committee considered a proposed amendment submitted by the Hawaii State Association

of Counties which would require the State to designate all lands in Hawaii as urban or nonurban. However, once lands were so designated, the counties would have the exclusive power to control and regulate all land uses and development and further any law changing such land-use designations from urban to nonurban or vice versa would not become effective until approved by the affected county.

Your Committee also considered the question of limited terms of office for elected county officials. The committee felt that, rather than dealing with the issue on a constitutional level, the county charters should expressly provide for the terms for their elected county officials.

Finally, your Committee presents for your further consideration an amendment to Article XVI which adds a new section, as follows:

"EFFECTIVE DATE AND APPLICATION OF
ARTICLE VII, SECTION 3

"Section . The amendments to Section 3 of Article VII shall take effect on the first day of January after three full calendar years have elapsed following such ratification. Upon the taking effect of the amendments Article VII as amended shall apply to all county charters irrespective of whether adopted before or after the admission of the State."

This transitional provision will defer the effective date of the amendment regarding the power to levy real property taxes for three years. The counties requested the three-year period as a compromise position among them in light of their different administrative problems in implementing the section.

Your Committee submits the related committee proposal and recommends (1) that the above-numbered proposals referred to your Committee be filed; (2) that Sections 1, 2, 4 and 5 of Article VII be retained without amendment; and (3) that Section 3 of Article VII be amended, that a new section relating to land use be added to Article VII, and that a new section relating to the effective date of the amendments to Article VII, Section 3, be added to Article XVI in the form shown as Committee Proposal No. 7* and pass first reading.

Signed by all members of the Committee except Delegates Cabral, Haunani Ching, Ellis, Hagino, Souki and Wurdeman.

*For the complete text of this proposal, see Committee Proposal No. 7, page 792.

STANDING COMMITTEE REPORT NO. 43

Your Committee on Style, to which was referred Committee Proposal No. 1, RD. 1, begs leave to report as follows:

The proposal, which the Convention has adopted on second reading, covers Article XIV, Section 5, of the State Constitution, Code of Ethics. The Convention has proposed amendments to Section 5.

Your Committee proposes several style changes which are indicated by brackets [for deletions] and underscoring for additions as shown in the committee report and in the committee proposal.

"[Section 5.] The people of Hawaii believe that public officers and employees must exhibit the highest standards of ethical conduct, and that [such] these standards [derive] come from the personal integrity of each individual in government. [In keeping] To keep faith with this belief, the legislature, each political subdivision, and the constitutional convention shall adopt a code of ethics, which shall apply to appointed and elected officers and employees of the State or the political subdivision, respectively, including members of boards, commissions and other bodies.

"Each code of ethics shall be administered by a separate ethics commission, except [that] the code of ethics adopted by the constitutional convention which shall be administered by the [State Ethics Commission.] state ethics commission. The members of ethics commissions shall be prohibited from taking an active part in political management or

in political campaigns. Ethics commissioners shall be selected in a manner which assures their independence and impartiality.

"Each code of ethics shall include, but not be limited to, provisions on gifts, confidential information, [the] use of position, contracts with government agencies, post-employment, financial disclosure, and lobbyist registration and restriction. The financial disclosure [provision] provisions shall require all elected officers, all candidates for elective office, and such appointed officers and employees as [shall be] provided by law to make public financial [disclosure.] disclosures. Other public officials [with] having significant discretionary or fiscal powers as provided by law shall make confidential financial [disclosure.] disclosures. All financial disclosure statements shall include [at least the following areas:], but not be limited to, sources and amounts of income, [ownership and officership interests in businesses,] business ownership, officer and director positions, ownership of real property, debts, creditor interests in insolvent businesses and the names of persons represented before government agencies."

The changes recommended are merely for the purposes of style and clarification and have no further implications.

Changes of particular interest recommended by the committee:

1. Paragraph 2. Changing "the State Ethics Commission" to "the state ethics commission."

Legally, the Constitution itself does not establish or address an ethics commission.

From a stylistic point of view, designations of state and county government officers and agencies are not generally capitalized.

Therefore, the committee voted to remove the capitalization.

Some committee members expressed concern that the ethics committee's intent was that no additional commissions should be created to review ethics of constitutional convention members. This intent was confirmed by the ethics committee chairperson, Delegate Okamura. Thus an additional suggestion to change "the" before "state ethics commission" was defeated.

2. Paragraph 3. Financial disclosures.

A suggestion of style was made to move "as provided by law" (in the second sentence) to the end of the sentence. This was agreed to be a substantive change, as the clause does specifically relate to provisions which legally determine which appointed officials and employees file public or confidential financial disclosures.

3. Paragraph 3. Replacing "at least the following areas" with "but not be limited to" so as to be consistent with the rest of the paragraph.

4. Paragraph 3. "...officership..."

Even though possibly a word, this is not of common usage and familiarity to the public. Thus, with input from the director of the state ethics commission and the ethics committee chairperson, the committee further defined it as meaning "business ownership, officer and director positions."

Style Committee Recommendations

1. Your Committee on Style recommends that Section 5 entitled "Codes of Ethics" be deleted from Article XIV and that a new article entitled "Code of Ethics" be added.

The members of the Committee on Style debated at length the wisdom of including the first paragraph of this proposal, which obviously is a preamble. Should such a practice become universal, the Constitution would be substantially lengthened. However, the committee finally agreed with the chairperson of the ethics committee that the subject was sufficiently elevated to justify elevating language. However, the Committee on Style recommends, such being the case, that the section become a separate article.

2. Your Committee on Style recommends the adoption of Standing Committee Report No. 43 and consideration of the passage of Committee Proposal No. 1, RD. 1, S. 1* on third reading.

Signed by all members of the Committee except Delegates Odanaka, Stone, Burgess, Eastvold, Ellis, Teruo Ihara and Tamayori.

*For the complete text of this proposal, see Committee Proposal No. 1, page 784.

STANDING COMMITTEE REPORT NO. 44

Your Committee on Style, to which was referred Committee Proposal No. 2, begs leave to report as follows:

The proposal, which the Convention has adopted on second reading, covers Article XIII of the State Constitution, State Boundaries, Capital, Flag. The Convention has proposed amendments to the title and Section 1, as well as the addition of a new section, "MOTTO."

Your Committee proposes several style changes which are indicated by brackets [for deletions] and underscoring for additions, as shown in the committee proposal.

Title. Your Committee considered the new wording of the title and recommends the addition of the word "AND" before "MOTTO."

Section 1 ("BOUNDARIES"). Your Committee considered the wording of Section 1 but decided not to recommend any further changes.

Section 4 ("MOTTO"). Following is the version of Section 4 that the Convention adopted on second reading:

"MOTTO

"Section 4. The motto of the State shall be 'Ua mau ke ea o ka aina i ka pono'."

The change recommended by your Committee is as follows:

Moving the period inside the quotation marks at the end of the sentence.

Your Committee feels the change is in order, as all periods and commas are included inside quotation marks as a common rule.

The changes recommended are merely for the purpose of style improvement and have no further implications.

Your Committee submits the related proposal, Committee Proposal No. 2, S. 1* and recommends its passage on third reading.

Signed by all members of the Committee except Delegates Odanaka, Burgess, Ellis and Tamayori.

*For the complete text of this proposal, see Committee Proposal No. 2, page 785.

STANDING COMMITTEE REPORT NO. 45

Your Committee on Budget, Accounts and Printing begs leave to report that Stand. Com. Rep. No. 46 and Minority Rep. No. 5 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 46

Your Committee on Legislature, to which were referred proposals numbered 22, 25, 27, 28, 42, 60, 63, 68, 69, 70, 71, 79, 91, 115, 130, 136, 146, 147, 158, 161, 177, 181,

186, 190, 193, 195, 196, 206, 212, 223, 226, 236, 243, 252, 263, 266, 267, 271, 275, 280, 285, 288, 292, 297, 305, 306, 320, 321, 323, 340, 346, 350, 373, 382, 390, 395, 396, 406, 408, 412, 417, 419, 437, 445, 446, 455, 459, 472, 499, 503, 511, 513, 532, 533, 542, 558, 562, 565, 574, 591, 592, 619, 621, 622, 623, 624, 631, 643, 711, 715, 716, 720, 728, 730, 737, 760, 788, 792, 794, 796, 797, 801 and 830, relating to the legislature and concerning Article III of the Constitution of the State of Hawaii, begs leave to report as follows:

All hearings and meetings of your Committee were open to the public, and many citizens, groups and organizations representing the community and representatives of the government were invited to present their views on the subjects covered by the proposals at the public hearings.

The following citizens presented their views:

Sam Caldwell, of the Chamber of Commerce; Vance Cannon, Office Things; Norbert Cordeiro; Roy Crocker; Floyd Focht; Jerry Hess, League of Women Voters; Stephen Kealoha, ILWU Local 142; George Mason, Chamber of Commerce; Rhoda Miller, League of Women Voters; Reinhard Mohr, American Civil Liberties Union; Pearl Nishimura; Marie Riley, Common Cause; Edwin Taylor; Takeshi Uyesugi, AFL-CIO Hawaii (Building and Construction Trades Council); Joe Wildman; Lt. Governor Nelson Doi; State Representative Russell Blair; State Senator John Leopold; Frank Fasi, Mayor, City and County of Honolulu; Eileen Anderson, Director, State Department of Budget and Finance; Morris Takushi, State Elections Office; Delegate Naomi Campbell; Delegate Laura Ching; Delegate Helene Hale; Delegate Peter Lewis; Delegate Barbara Marumoto; Delegate Randall Peterson; Delegate Floyd Pulham; Delegate Richard Sasaki; Delegate John Stone; and Delegate Larry Uyehara.

Your Committee, having conducted public hearings and deliberated upon the subjects covered by the proposals, presents for your consideration recommendations affecting Article III of the Constitution of the State of Hawaii, as follows:

Section I of Article III, relating to legislative power, was not amended. This section vests the legislative power of the State in a legislature which shall consist of two houses, a senate and a house of representatives. By passing upon this section without amendment, your Committee recommends that the bicameral form of legislature be retained for the State of Hawaii.

The Legislative Reference Bureau manual, Hawaii Constitutional Convention Studies 1978, Article III, The Legislature, (Volume I, pages 28 to 42, inclusive), outlines and discusses the pros and cons of the unicameral-bicameral issue. Arguments presented by the witnesses testifying before your Committee on the matter generally raised the same arguments set forth in the Legislative Reference Bureau manual, with some variations in approach and application.

From the testimony presented by witnesses and after deliberations on this matter of unicameralism versus bicameralism, your Committee is not convinced that unicameralism is a more effective legislative structure than bicameralism in the context of today's political development in Hawaii.

The 1978 arguments for unicameralism heard by your Committee are no different from those advanced at the 1968 Constitutional Convention. The 1968 convention deliberated the matter of legislative structure at great length, particularly focusing upon the subjects of cost and efficiency, accountability and responsiveness of legislators, checks to assure proper deliberative function of the legislature and such other collateral matters, and concluded that the two-house legislature should be continued. Your Committee agrees with the reasoning of the 1968 convention on the matter and finds it to be as valid today as then.

There have been no dramatic changes of circumstances since 1968 that would now warrant aborting the long-standing tradition of the two-house legislature, which has worked well and even at an improved level since 1968. Indeed, an evaluation by the Conference of State Legislatures reported that Hawaii's legislature, among the 50 state legislatures, is the most openly accessible, the most comprehensible and least complex legislative system in our nation, and though not the smallest legislature in size, its 51-member house and 25-member senate make thoughtful deliberation and rational organization possible

and operative. Overall, Hawaii was ranked seventh among the 50 states in the evaluation. It should be noted that Nebraska, a one-house legislative state, was ranked ninth.

It should be plain that matters of accountability and responsiveness by legislators and openness and accessibility of the legislature can be achieved in many ways. Hawaii has, since 1968, made great strides in this respect.

The 1968 convention amended the Constitution to provide that no bill shall pass third or final reading in either house unless printed copies of the bill in the form to be passed shall have been made available to the members of that house for at least twenty-four hours. This 24-hour rule provides both legislators and the public an opportunity to take informed action on bills facing imminent passage. The code of ethics which applies to legislators also helps to avoid conflicts of interest by requiring financial disclosures, and helps the public to assess the accountability of the legislators. In recent years, the rules of the house and senate have been structured so that there is more openness and accessibility. Conference committee deliberations which were closed for many years are now open to the public, and all legislative committee meetings for decision-making are also open to the public. Only organizational meetings, party caucuses and certain legislative committee hearings which might involve invasion of privacy if made public, are not open to the public.

For reasons aforesaid, your Committee feels that the proponents of unicameralism bear the burden of the proof--to show that bicameralism should not be retained--and that they have fallen short of that burden.

Sections 2 and 3 of Article III relating to the composition of the senate and the house were amended to read as follows:

"SENATE; COMPOSITION

"Section 2. The senate shall be composed of twenty-five members, who shall be elected by the qualified voters of the respective senatorial districts. [Until the next reapportionment the] The senatorial districts and the number of senators to be elected from each shall be as set forth in the [Schedule] reapportionment plan as established by the reapportionment commission.

"HOUSE OF REPRESENTATIVES; COMPOSITION

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

The Schedule referred to in Sections 2 and 3 was deleted. This Schedule, which covered state senatorial and representative apportionment, is now obsolete, and your Committee has based the districting for the senatorial and representative districts on the apportionment plan as established by the reapportionment commission. The reapportionment commission of 1973 established a new apportionment scheme which is in effect until the next reapportionment. Thus, it is intended that until the next reapportionment by the reapportionment commission, the senatorial and representative districts shall be as set forth in the reapportionment plan established by the commission in 1973, and thereafter as set forth in the reapportionment plan established by the commission in reapportionment years.

Section 4 of Article III, relating to reapportionment and reapportionment years, the reapportionment commission and other related subjects, has been removed from Article III and placed within a new article.

Section 4 was removed from Article III because your Committee amended the section to empower the reapportionment commission to redraw congressional districts in addition to the reapportionment of the state legislature. The scope of Section 4 was thereby expanded to include the subject of congressional districting as well as the state legislature; thus your Committee believes that Section 4, as amended, is no longer appropriate within Article III.

Section 10 of Article III has been amended to read as follows:

"SALARY; ALLOWANCES; COMMISSION ON
LEGISLATIVE SALARY

"Section [10] ____ . The members of the legislature shall receive allowances reasonably related to expenses [and a salary,] as prescribed by law, and a salary prescribed pursuant to this section. [Any change in salary shall not apply to the legislature that enacted the same.]

"There shall be a commission on legislative salary, which shall be appointed by the governor on or before [June 1, 1971, and every four years after the first commission is appointed. Within sixty days after its appointment,] November 30, 1978, and every eight years thereafter. Not later than the fortieth legislative day of the 1979 regular legislative session and every eight years thereafter, the commission shall submit to the legislature and the governor recommendations for a salary plan for members of the legislature, and then dissolve. The salary plan submitted shall become effective as provided in the plan unless the legislature disapproves the plan by adoption of a concurrent resolution prior to adjournment sine die of the legislative session in which the plan is submitted or the governor disapproves the plan by a message of the disapproval transmitted to the legislature prior to the said adjournment. Any change in salary which becomes effective shall not apply to the legislature to which the recommendation for the change in salary was submitted."

As it exists today, Section 10 of Article III empowers the legislature to prescribe the salary for its members. There is also a commission on legislative salary which submits recommendation to the legislature every four years. While this mechanism for salary changes appears reasonable and useful in theory, it has not been of value in practice. The purpose of the provision is obvious. The legislators are deserving of their due compensation and adjustments thereto. In 1968, the Constitutional Convention established a salary of \$12,000 per year for a legislator and the mechanism for a periodic review for salary adjustment. There has been no change in salary since 1968, and in the context of inflationary times this means a continuing reduction in the worth of the salary of \$12,000 per year. Under Section 10 experience has clearly demonstrated that legislators are reluctant to prescribe their own salaries, even though they may be based on the recommendations of an independent commission to insulate the legislators from color of self-interest. Taxpayers are often critical of pay increases for legislators, and legislators run the risk of voting themselves out of office when they approve their own pay raises. Where the context dictates that emotion rather than rational thought govern, it is unrealistic to expect the legislators to prescribe their own salaries.

Your Committee recognizes that if legislative salaries are too low for many people to afford to serve, it will deny the public the services of many competent people, and the legislature may not be representative of a good cross section of the community. It would tend to attract only the very rich who need not depend on the salary and the very poor who can fare no better otherwise. Your Committee also notes that the cost of living has risen markedly, and the time legislators must devote to their elected duties has increased in the state legislature.

For the reasons aforesaid, your Committee has amended Section 10 to remove the burden from the legislators to prescribe their salaries by an overt act. Your Committee has provided that the recommendations of the legislative salary commission will become effective unless the legislature or the governor shall disapprove the recommendations. Thus the legislature's tacit acquiescence is enough unless the legislators or the governor disapprove. The governor's disapproval power was injected to serve as a check over the legislature and the legislative salary commission. Any change in salary shall not apply to the legislature to which the salary plan is submitted. The term "legislature" as used herein shall mean the state legislature which exists from the date of one general election to the date of the next general election.

Your Committee has also amended the salary adjustment review by the legislative salary commission, to be conducted every 8 years instead of every 4 years.

While your Committee is concerned with providing due and adequate salary for legislators, it is also very concerned that the legislators do not unduly enrich themselves

of the public treasure. Your Committee is well aware that the salary is only part of the total compensation to which a legislator is entitled. In this respect, your Committee urges and expects the legislative salary commission to hold public hearings in its deliberation on the salary plan and to consider the other benefits, direct or indirect, made to legislators by way of allowance, per diem, reimbursement, health benefits and retirement benefits in the evaluation of a legislator's basic salary.

Section 11 of Article III, relating to legislative sessions, has been amended to provide for a mandatory recess of not less than 5 days at some period between the 20th and 40th days of the regular session. Both houses shall agree on the dates of recess, which shall be excluded in computing the number of days in any session.

The purpose of this amendment is to provide both legislators and the public an opportunity to review during the recess all bills that have been introduced in both houses, and an opportunity for legislators and constituents to communicate on matters before the legislature at about the midpoint of the session. The practice of the legislature has been to impose a bill-introduction deadline at or about the 20th session day. Your Committee believes that the recess will also afford the public an opportunity to become acquainted with and follow the bills through the legislature more intelligently.

Section 13 of Article III has been amended by adding thereto the following:

"Every meeting of a committee in either house or of a committee comprised of member or members from both houses held for the purpose of making decision on matters referred to the committee shall be open to the public."

"Each house shall provide by rule of its proceedings for a date, applicable to both houses but no sooner than the twentieth day of the session, by which date all bills to be considered in a regular session shall be introduced; provided that such date shall precede the commencement of the mandatory recess of not less than five days under Section ."

The amendment to Section 13 requires that all decision-making meetings of a legislative committee shall be open to the public. While your Committee is informed that such is the current practice of both houses of the state legislature by their respective rules, it finds that the public's right to know what their legislators are deciding is deserving of constitutional protection. This amendment, however, is not intended to require that certain kinds of meetings, including organizational meetings, partisan caucuses and certain hearings involving the invasion of a person's right to privacy if made public, shall be open to the public.

The amendment to Section 13 also requires both houses of the legislature to establish by rules a cutoff date for introduction of bills, which shall precede the commencement of the mandatory recess by not less than 5 days. This is to allow the public the use of the mandatory 5-day recess to review every bill that will ever be introduced in that legislative session.

Section 16 of Article III relating to passage of bills has been amended in only one respect. The sentence containing the twenty-four hour rule has been amended to read:

"No bill shall pass third or final reading in either house unless printed copies of the bill in the form to be passed shall have been made available to the members of that house for at least [twenty-four] forty-eight hours."

In view of the increasing numbers of bills being introduced in the legislature and the public concern expressed on the difficulty of following the many bills through the legislature in the closing days of the session, your Committee believes that the enlargement of time from 24 hours to 48 hours, during which a legislator or a constituent could review a bill before third or final reading, would help both legislator and constituent to avoid hasty decisions and surprises regarding the bill.

Because of the removal of Section 4 from Article III, the sections numbered 5 to 20, inclusive, of Article III are renumbered to read sections 4 to 19 inclusive, respectively.

As stated earlier, your Committee has removed Section 4 of Article III relating to

reapportionment from said Article III because the duties of the reapportionment commission were expanded to cover congressional districting in addition to apportionment of the state legislature. Your Committee recommends that the subject relating to reapportionment be contained in a separate article. The substance of Section 4 of Article III was retained in the new article except that the following amendments were made thereto:

1. The reapportionment commission was empowered to reapportion congressional districts in addition to its duty to reapportion the state legislature. Your Committee finds that the task of congressional districting is appropriately within the duties of the reapportionment commission and does not present an undue burden. Congressional districting involving only two districts is relatively easy compared with redistricting for the state legislature. Moreover, the short and recent history of congressional districting in Hawaii has already shown that the state legislature has attempted and failed to redistrict to conclusion. Your Committee feels that congressional districting by the state legislature would tend to be suspect as manipulation designed to serve personal or partisan goals. Congressional districting by a reapportionment commission, whose members are precluded from becoming candidates for election in either of the first two elections under the redistricting plan, will be received with public confidence.
2. The time within which the reapportionment commission must complete its work has been amended by increasing it from 120 days to 150 days. This was the recommendation of the 1973 reapportionment commission in its report to the governor. The lieutenant governor's office, which worked closely with the 1973 reapportionment commission, also recommended the increase. The added task of congressional districting also justifies an increase over the 120 days.
3. The provision in said Section 4 relating to minimum representation for a basic island unit of 2 senators and 3 representatives, even if that island unit was entitled to a lesser allocation, has been deleted because that provision was declared unconstitutional by the U.S. District Court (Hawaii), as it did not comport with the command of the equal protection clause of the U.S. Constitution.
4. Other nonsubstantive style changes were effected to accommodate the substantive changes.

In reviewing the redistricting criteria for apportionment within basic island units, your Committee focused on criterion number 7, which reads as follows: "Not more than four members shall be elected from any district." Under existing districting, four of the eight senatorial districts contain four senators each, and the remaining four districts each have three or less. While it is recognized that there is some purpose in having larger multimember senatorial districts to provide differing constituencies as compared with two-member representative districts, your Committee believes that a four-member senatorial district tends to be too large considering the 25-member size of the senate. Your Committee considered reducing the limit of multimember districts but realized that the reapportionment commission needs some flexibility to fashion an overall plan which may require the inclusion of a four-member district to accommodate an unusual situation. For this reason, criterion number 7 was not amended; however, your Committee urges the reapportionment commission to consider smaller multimember districts and to consider the four-member district only when it is impracticable to do otherwise.

Section 1 of Article XVI relating to districting and apportionment is now obsolete and superseded by the 1973 reapportionment plan, which is the current law on districting and apportionment for the state legislature. The amendment to Section 1 proposed by your Committee expressly acknowledges the 1973 reapportionment plan as effective until the next reapportionment.

Section 2 of Article XVI relating to the 1978 senatorial elections has been amended to read:

"[1968] 1978 SENATORIAL ELECTIONS

"Section 2. [Senators elected in the 1968 general election shall serve for two-year terms.] Article III, Section 5, to the contrary notwithstanding, the terms of office of the members of the senate elected in the 1978 general election shall be as follows: members of the senate shall be divided into two classes. The first class shall consist of the following

number elected with the highest number of votes from their respective senatorial districts: first district, one; second district, one; third district, one; fourth district, two; fifth district, two; sixth district, two; seventh district, two; eighth district, one. Members of the first class shall hold office for a term of four years beginning with their election and ending on the day of the second general election held thereafter. The remaining members elected shall constitute the second class and shall hold office for a term of two years beginning with their election and ending on the day of the next general election held thereafter."

The effect of this amendment is to initiate the staggering of terms of members of the senate, by having the 12 senators with the highest number of votes from their respective districts serve 4-year terms commencing with the 1978 general election and the remaining 13 senators serve 2-year terms commencing with the 1978 general election. Presently all senators run concurrently for 4-year terms. The experience in the last 10 years has generated a feeling that such a system of concurrent terms for all senators enables the senate to wield an inordinate amount of power in dealing with the members of the house of representatives, who must run every 2 years and are under more election pressures to produce. All the senators can stand fast on certain issues in disputes between the senate and the house and do less compromising. With staggered terms, at least half the senate would be held accountable to the voters in every general election. Your Committee believes staggered terms would provide the public with a senate which will be more frequently accountable and thereby more responsive.

All other sections of Article III, not proposed for amendment by your Committee have been retained without amendment.

Your Committee recommends: (1) that the above-mentioned proposals referred to your Committee be filed; and (2) that Committee Proposal No. 8 pass first reading in the form attached hereto.

Signed by all members of the Committee except Delegates Cabral, Hanaike and Kaapu. Delegates Barr, Blean, Goodenow and Miller did not concur and Delegate Kimball did not concur in part.

COMMITTEE PROPOSAL NO. 8

RELATING TO THE LEGISLATURE.

RESOLVED, that the following be agreed upon as amending Articles III and XVI of the State Constitution.

1. Article III, Section 2, is amended to read:

SENATE; COMPOSITION

Section 2. The senate shall be composed of twenty-five members, who shall be elected by the qualified voters of the respective senatorial districts. [Until the next reapportionment the] The senatorial districts and the number of senators to be elected from each shall be as set forth in the [Schedule] reapportionment plan as established by the reapportionment commission.

2. Article III, Section 3, is amended to read:

HOUSE OF REPRESENTATIVES; COMPOSITION

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

3. Article III, Section 4, relating to reapportionment is deleted in its entirety.*

*The substance of Section 4 has been retained in a new article (see page 797 of this proposal); changes therein are indicated by brackets for deleted material, and underscoring for new.

4. Article III, Section 10, is amended to read:

SALARY; ALLOWANCES; COMMISSION ON
LEGISLATIVE SALARY

Section [10] _____. The members of the legislature shall receive allowances reasonably related to expenses [and a salary,] as prescribed by law, and a salary prescribed pursuant to this section. [Any change in salary shall not apply to the legislature that enacted the same.]

There shall be a commission on legislative salary, which shall be appointed by the governor on or before [June 1, 1971, and every four years after the first commission is appointed. Within sixty days after its appointment,] November 30, 1978, and every eight years thereafter. Not later than the fortieth legislative day of the 1979 regular session and every eight years thereafter, the commission shall submit to the legislature and the governor recommendations for a salary plan for members of the legislature, and then dissolve. The salary plan submitted shall become effective as provided in the plan unless the legislature disapproves the plan by adoption of a concurrent resolution prior to adjournment sine die of the legislative session in which the plan is submitted or the governor disapproves the plan by a message of the disapproval transmitted to the legislature prior to the said adjournment. Any change in salary which becomes effective shall not apply to the legislature to which the recommendation for the change in salary was submitted.

5. Article III, Section 11, is amended to read:

SESSIONS

Section [11] _____. The legislature shall convene annually in regular session at 10:00 o'clock a.m. on the third Wednesday in January.

At the written request of two-thirds of the members to which each house is entitled, the presiding officers of both houses shall convene the legislature in special session. The governor may convene both houses or the senate alone in special session.

Regular sessions shall be limited to a period of sixty days, and special sessions shall be limited to a period of thirty days. Any session may be extended a total of not more than fifteen days. Such extension shall be granted by the presiding officers of both houses at the written request of two-thirds of the members to which each house is entitled or may be granted by the governor.

Each regular session shall be recessed for not less than five days at some period between the twentieth and fortieth days of the regular session. The legislature shall determine the dates of the mandatory recess by concurrent resolution. Any session may be recessed by concurrent resolution adopted by a majority of the members to which each house is entitled. Saturdays, Sundays, holidays, the days in mandatory recess and any days in recess pursuant to a concurrent resolution shall be excluded in computing the number of days of any session.

All sessions shall be held in the capital of the State. In case the capital shall be unsafe, the governor may direct that any session be held at some other place.

6. Article III, Section 13, is amended to read:

ORGANIZATION; DISCIPLINE; RULES; PROCEDURE

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

Twenty days after a bill has been referred to a committee in either house, the same

may be recalled from such committee by the affirmative vote of one-third of the members to which such house is entitled.

Every meeting of a committee in either house or of a committee comprised of member or members from both houses held for the purpose of making decision on matters referred to the committee shall be open to the public.

Each house shall provide by rule of its proceedings for a date, applicable to both houses but no sooner than the twentieth day of the session, by which date all bills to be considered in a regular session shall be introduced; provided that such date shall precede the commencement of the mandatory recess of not less than five days under Section _____.

7. Article III, Section 16, is amended to read:

PASSAGE OF BILLS

Section [16] _____. No bill shall become law unless it shall pass three readings in each house on separate days. No bill shall pass third or final reading in either house unless printed copies of the bill in the form to be passed shall have been made available to the members of that house for at least [twenty-four] forty-eight hours.

Every bill when passed by the house in which it originated, or in which amendments thereto shall have originated, shall immediately be certified by the presiding officer and clerk and sent to the other house for consideration.

Any bill pending at the final adjournment of a regular session in an odd-numbered year shall carry over with the same status to the next regular session. Before the carried-over bill is enacted, it shall pass at least one reading in the house in which the bill originated.

8. Sections numbered 5 to 20, inclusive, of Article III are renumbered to read sections 4 to 19 inclusive, respectively.

9. A new article*, to be appropriately numbered, is added to the State Constitution and shall read:

ARTICLE

REAPPORTIONMENT

REAPPORTIONMENT YEARS

Section [4] 1. The year 1973, the year 1981, and every [eighth] tenth year thereafter shall be reapportionment years.

REAPPORTIONMENT COMMISSION

A [legislative] reapportionment commission shall be constituted on or before March 1 of each reapportionment year and whenever reapportionment is required by court order. The commission shall consist of nine members. The president of the senate and the speaker of the house of representatives shall each select two members. Members of each house belonging to the party or parties different from that of the president or the speaker shall designate one of their number for each house and the two so designated shall each select two members of the commission. The eight members so selected shall, promptly after selection, be certified by the selecting authorities to the chief election officer and shall within thirty days thereafter select, by a vote of six members, and promptly certify to the chief election officer the ninth member who shall serve as chairman of the commission.

Each of the four officials designated above as selecting authorities for the eight members of the commission shall, at the time of the commission selections, also select one person from each basic island unit to an apportionment advisory council for that island unit. The councils shall remain in existence during the life of the commission and each shall serve in an advisory capacity to the commission for matters affecting its island unit.

*This reflects the substance of Section 4 of Article III; changes to Section 4 are indicated by brackets for deleted material, and underscoring for new.

A vacancy in the commission or a council shall be filled by the initial selecting authority within fifteen days after the vacancy occurs. Commission and council positions and vacancies not filled within the times specified shall be filled promptly thereafter by the supreme court.

The commission shall act by majority vote of its membership and shall establish its own procedures except as may be provided by law.

Not more than one hundred [twenty] fifty days from the date on which its members are certified the commission shall file with the chief election officer a reapportionment plan for the state legislature and a reapportionment plan for the United States congressional districts[,] which shall become law after publication as provided by law. Members of the commission shall hold office until [the] each reapportionment plan becomes effective or until such time as may be provided by law.

No member of the reapportionment commission or an apportionment advisory council shall be eligible to become a candidate for election to either house of the legislature or to the United States House of Representatives in either of the first two elections under any such reapportionment plan.

Commission and apportionment advisory council members shall be compensated and reimbursed for their necessary expenses as provided by law.

The chief election officer shall be secretary of the commission without vote and, under the direction of the commission, shall furnish all necessary technical services. The legislature shall appropriate funds to enable the commission to carry out its duties.

CHIEF ELECTION OFFICER

The legislature shall provide for a chief election officer of the State, whose responsibilities shall be as prescribed by law and shall include the supervision of state elections, the maximization of registration of eligible voters throughout the State and the maintenance of data concerning registered voters, elections, apportionment and districting.

APPORTIONMENT AMONG BASIC ISLAND UNITS

The commission shall allocate the total number of members of each house of the state legislature being reapportioned among the four basic island units, namely (1) the island of Hawaii, (2) the islands of Maui, Lanai, Molokai and Kahoolawe, (3) the island of Oahu and all other islands not specifically enumerated, and (4) the islands of Kauai and Niihau, on the basis of the number of voters registered in the last preceding general election in each of the basic island units and computed by the method known as the method of equal proportions, except that no basic island unit shall receive less than one member in each house.

APPORTIONMENT WITHIN BASIC ISLAND UNITS

Upon the determination of the total number of members of each house of the state legislature to which each basic island unit is entitled, the commission shall apportion the members among the districts therein and shall redraw district lines where necessary in such manner that for each house the average number of registered voters per member in each district is as nearly equal to the average for the basic island unit as practicable.

In effecting such redistricting, the commission shall be guided by the following criteria:

1. No district shall extend beyond the boundaries of any basic island unit.
2. No district shall be so drawn as to unduly favor a person or political faction.
3. Except in the case of districts encompassing more than one island, districts shall be contiguous.
4. Insofar as practicable, districts shall be compact.
5. Where possible, district lines shall follow permanent and easily recognized

features, such as streets, streams and clear geographical features, and when practicable shall coincide with census tract boundaries.

6. Where practicable, representative districts shall be wholly included within senatorial districts.
7. Not more than four members shall be elected from any district.
8. Where practicable, submergence of an area in a larger district wherein substantially different socio-economic interests predominate shall be avoided.

CONGRESSIONAL REDISTRICTING FOR
UNITED STATES HOUSE OF REPRESENTATIVES

The commission shall, at such times as may be required by this section and as may be required by law of the United States, redraw congressional district lines for the districts from which the members of the United States House of Representatives allocated to this State by Congress are elected.

MANDAMUS AND JUDICIAL REVIEW

Original jurisdiction is vested in the supreme court of the State to be exercised on the petition of any registered voter whereby it may compel, by mandamus or otherwise, the appropriate person or persons to perform their duty or to correct any error made in a reapportionment plan, or it may take such other action to effectuate the purposes of this section as it may deem appropriate. Any such petition must be filed within forty-five days of the date specified for any duty or within forty-five days after the filing of a reapportionment plan.

10. Article XVI, Section 1, relating to districting and apportionment, is deleted in its entirety and a new Section 1 is inserted in lieu thereof, to read:

DISTRICTING AND APPORTIONMENT

Section 1. Until the next reapportionment the senatorial districts and the number of senators to be elected from each shall be set forth in the 1973 reapportionment plan. Until the next reapportionment the representative districts and the number of representatives to be elected from each shall be as set forth in the 1973 reapportionment plan.

11. Article XVI, Section 2, is amended to read:

[1968] 1978 SENATORIAL ELECTIONS

Section 2. [Senators elected in the 1968 general election shall serve for two-year terms.] Article III, Section 5, to the contrary notwithstanding, the terms of office of the members of the senate elected in the 1978 general election shall be as follows: members of the senate shall be divided into two classes. The first class shall consist of the following number elected with the highest number of votes from their respective senatorial districts: first district, one; second district, one; third district, one; fourth district, two; fifth district, two; sixth district, two; seventh district, two; eighth district, one. Members of the first class shall hold office for a term of four years beginning with their election and ending on the day of the second general election held thereafter. The remaining members elected shall constitute the second class and shall hold office for a term of two years beginning with their election and ending on the day of the next general election held thereafter.

STANDING COMMITTEE REPORT NO. 47

Your Committee on Budget, Accounts and Printing begs leave to report that Stand. Com. Rep. Nos. 48 and 49; Com. Whole Rep. No. 5; Com. P. Nos. 4, RD. 2, S. 1, and 5, RD. 1; and Res. No. 14 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy members.

STANDING COMMITTEE REPORT NO. 48

Your Committee on Style, to which was referred Committee Proposal No. 4, RD. 2, begs leave to report as follows:

The proposal which the Convention has adopted on second reading covers the Preamble and Articles XIV and XV.

The Convention proposed and adopted amendments to the Preamble and Section 3 of Article XIV, as well as the addition of a new Section 16. Amendments to Article XV, Section 2, were also proposed and adopted.

Your Committee proposes several style changes, which are indicated by brackets [for deletions] and underscoring for additions as shown in the committee report and in the committee proposal.

"PREAMBLE

"We, the people of Hawaii, grateful for Divine Guidance [,] and mindful of our Hawaiian heritage and uniqueness as an island State, dedicate our efforts to fulfill the philosophy decreed by the [Hawaiian] Hawaii State motto, 'Ua mau ke ea o ka aina i ka pono ['.]'

"We reserve the right to control our destiny [;], to nurture the integrity of our people and culture [;], and to preserve the quality of life that we desire.

"We reaffirm our belief in a government of the people, by the people and for the people, and with an understanding and compassionate heart toward all the peoples of the earth, do hereby ordain and establish this constitution for the State of Hawaii."

Article XIV, Section 3. DISQUALIFICATIONS FROM PUBLIC OFFICE OR EMPLOYMENT:

Your Committee discussed Section 3 and feels no changes are necessary.

Article XIV, Section 16. PLAIN LANGUAGE:

Your Committee discussed the new section and feels no changes are necessary.

Article XV, Section 2, paragraph 1. CONSTITUTIONAL CONVENTION:

Your Committee discussed paragraph 1 and feels no changes are necessary.

Article XV, Section 2, paragraphs 2-4:

"ELECTION OF DELEGATES

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

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

"The legislature shall provide for the number of delegates to the convention, the areas from which they shall be elected [,] and the manner in which the convention shall convene. The legislature shall also provide for the necessary facilities and equipment for the convention. The convention shall have the same powers and privileges, as nearly as practicable, as provided for the convention of 1978."

Article XV, Section 2, paragraphs 5-8:

MEETING
ORGANIZATION; PROCEDURE
RATIFICATION; APPROPRIATIONS

Your Committee discussed the abovementioned paragraphs, and feels no changes are necessary.

The changes recommended are merely for the purposes of style and clarification and have no further implications.

Changes of particular interest recommended by your Committee:

1. In order to be consistent with the rest of the Constitution, except where emphasis or clarity is deemed necessary, in a series of three or more items the comma before the conjunction and the final item is deleted.

2. Preamble. "'Hawaii State' motto" replaces "'Hawaiian' motto."

3. Preamble. Striking of semicolons in paragraph 2. This is a stylistic change, to improve the flow of the sentence and to conform to general usage throughout the Constitution.

4. Article XV, Section 2. ELECTION OF DELEGATES:

"...The legislature shall provide for the number of delegates to ..."

Without the addition of "for" the sentence as cast might be interpreted such that delegates would be provided directly from the members of the legislature.

Style Committee Recommendations

Your Committee on Style recommends the adoption of Standing Committee Report No. 48 and consideration of the passage of Committee Proposal No. 4, RD. 2, S. 1,* on third reading.

Signed by all members of the Committee.

*For the complete text of this proposal, see Committee Proposal No. 4, page 787.

STANDING COMMITTEE REPORT NO. 49

Your Standing Committee on Style, to which was referred Resolution No. 13, entitled "PROVIDING FOR THE USE OF NON-DISCRIMINATORY NOUNS, PRONOUNS AND ADJECTIVES IN THE STATE CONSTITUTION," begs leave to report as follows:

Resolution No. 13 recommends that the Committee on Style adopt a policy of using nondiscriminating nouns, pronouns and adjectives in the State Constitution and requests the Committee on Style to effectuate this policy during its review of all committee proposals.

If the Committee on Style performed its role in this manner, the 1978 version of the Constitution would emerge speckled, with part of it being nondiscriminatory and the balance as the Constitution now is, for under the present rules of the Convention it is not clear whether the Committee on Style is able to change parts of the Constitution not brought before it by the usual proposal route.

Furthermore, it is unclear whether the Committee on Style can bring forth a proposal of its own on those parts of the Constitution containing objectionable words not contained in the committee proposals of other standing committees.

In order to solve this problem and to carry out the wishes of the Convention, the Committee on Style has amended Resolution No. 13 to provide that, the rules of the Convention to the contrary notwithstanding, the Committee on Style is instructed to implement the constitutional convention policy of using nondiscriminatory nouns, pronouns and adjectives in the State Constitution not only in the proposals which come before it but in all of the present Constitution.

The problem concerning presentation to the voters of changes to the Constitution under this policy has also been raised. Your Committee notes that in 1968, Question 23 on the ballot presented to the voters read:

"23. TECHNICAL, TRANSITIONAL, STYLE AND OTHER CHANGES.

"Deletions and rewording of various sections of the Constitution where the subject matters have been found to be no longer necessary or unconstitutional under the provisions of the Constitution of the United States; Style changes; and all changes not specifically mentioned which are incidental to and reasonably connected to the main purposes of the amendments proposed by the Constitutional Convention of the State of Hawaii of 1968."

The Committee on Submission and Information could submit a similar question in 1978, it could amend the question to include mention that all pronouns of male gender in the Constitution have been deleted, or it could present this particular style change as a separate question.

Finally, a question was raised concerning the advisability of not amending Article XIV, Section 13, paragraph two, which states, "Whenever any personal pronoun appears in this constitution, it shall be construed to mean either sex."

Your Committee finds that if the policy changes regarding nondiscriminatory nouns, pronouns and adjectives are made to the Constitution, the above paragraph two becomes an unnecessary appendage to the Constitution and should be deleted. In order to clarify the ability of the Committee on Style to delete this material, Resolution No. 13 has been further amended to direct the Committee on Style to submit the committee proposal conforming the Constitution to this policy and deleting as no longer necessary the second paragraph of Article XIV, Section 13.

Your Committee on Style concurs with the resolution as amended and recommends that it be adopted in the form attached hereto as Resolution No. 13, RD. 1.

Signed by all members of the Committee except Delegates Penebacker, Pulham, Takehara and Yoshimura.

RESOLUTION NO. 13, RD. 1

PROVIDING FOR THE USE OF NON-DISCRIMINATORY NOUNS, PRONOUNS AND ADJECTIVES IN THE STATE CONSTITUTION.

WHEREAS, the State of Hawaii is firmly committed to a public policy of non-discrimination and equal opportunity for all of its citizens; and

WHEREAS, the written language in our laws can be used either to fight discrimination or to perpetuate it; and

WHEREAS, the use of masculine nouns, pronouns and adjectives throughout the Constitution, though grammatically correct, might give an impression that the responsibilities, rights, and elected as well as appointed government positions are open only to men; and

WHEREAS, the State of Hawaii should actively encourage and afford the opportunity for both men and women to participate in all levels of government; and

WHEREAS, a change in the language of the State Constitution would affirmatively indicate to all people of Hawaii that they are an important part of society and expected to participate in government, regardless of their gender; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that this body hereby adopt a policy of using non-discriminatory nouns, pronouns and adjectives in the State Constitution and request the Committee on Style to effectuate this policy during its review of all committee proposals; and

BE IT FURTHER RESOLVED that, other rules of this Convention notwithstanding, the Committee on Style is instructed to implement this policy not only in the proposals which come before it but in all of the present Constitution; and

BE IT FURTHER RESOLVED that in carrying out the policy expressed in this Resolution the Constitutional Convention finds it necessary and directs the Committee on Style to submit a committee proposal conforming the Constitution to this policy where necessary and deleting as no longer necessary the second paragraph of Article XIV, Section 13,

which reads: "Whenever any personal pronoun appears in this constitution, it shall be construed to mean either sex"; and

BE IT FURTHER RESOLVED that duly authenticated copies of this Resolution be transmitted to the Committee on Style.

STANDING COMMITTEE REPORT NO. 50

Your Committee on Budget, Accounts and Printing begs leave to report that Stand. Com. Rep. Nos. 51 and 52 and Com. P. Nos. 9 and 10 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 51

Your Committee on Executive, to which were referred proposals numbered 617 and 683, relating to qualifications of the governor; 389, 575 and 659, relating to reducing the number of executive departments; 575 and 659, relating to the division of duties and powers among executive departments; 428 and 495, relating to residency requirements for gubernatorial appointees; 165, relating to gubernatorial appointees as representative of the population; 710, relating to selection procedures for gubernatorial appointees to boards and commissions; 467, relating to a merit nomination commission for gubernatorial appointees to boards and commissions dealing with natural resources; 473, relating to termination of the terms of gubernatorial appointees; 192, relating to the establishment of a department of human rights; 317, relating to publications by the chief legal officer of the State; 338, relating to the establishment of a public contracts review board; 510, relating to the election of a state fiscal officer; 703, relating to substantive changes in existing laws by administrative offices and departments; 708, relating to the office of the ombudsman; 727, relating to the establishment of a government organization and operations commission; 728, relating to the establishment of a government salaries and benefits commission; 737, relating to the legislature's power to establish special public authorities; 766, relating to establishment of the governor's cabinet; 830, relating to the unification of executive and legislative functions; 84, 224 and 394, all relating to a council on revenues estimates; 789, relating to revenue estimates; 316 and 751, both relating to expenditure controls; 393, relating to federal funds; 353, relating to a fiscal impact statement; 750, relating to legislative appropriations procedures; 791, relating to restriction of funds; 67 and 567, relating to the governor's item veto power. Your Committee begs leave to report as follows:

The proposals covered the several subject matters relating to Sections 1, 2, 3 and 6 of Article IV. Your Committee also received proposals relating to the governor's item veto power and the executive's fiscal authority. As a result of your Committee's deliberations, Sections 3, 4 and 5 of Article IV have been retained without amendment. Section 6 of Article IV has been amended to clarify the fact that principal departments of the executive branch should be organized according to common purposes and related functions. In addition, your Committee considered a proposal relating to the creation of a council on revenues and recommends the creation of such a council to the Committee on Taxation and Finance as hereinafter set forth. However, your Committee reserves the right to introduce such a proposal should the Committee on Taxation and Finance fail to act favorably on the recommendation.

All committee meetings were open to the public. Individual citizens, government officials, groups and organizations were invited to present their views on the subjects covered by the proposals at public hearings held on Oahu and the Islands of Kauai, Maui and Hawaii.

Among those presenting their views were the following persons: Mr. Myron B. Thompson, former chairperson of the Commission on Organization of Government; State Representative Kathleen Stanley; Delegate James Shon; Mr. Sheridan Ing; Delegate Mary Ann Barnard; Delegate H. Jean Goodenow; Delegate Ginger Wurdeman; the University of Hawaii Board of Regents; Ms Virginia Teipel; Ms Eileen Anderson, Director of Budget and Finance, State of Hawaii; Delegate Steve O'Toole; Mr. Dennis Callan; State Representative Jack Suwa; Ms Jan Geiger; and Mr. Dante Carpenter.

After receiving testimony from the public and after considerable thought and discussion, your Committee recommends the following amendment to the first paragraph of Article IV, Section 6:

"EXECUTIVE AND ADMINISTRATIVE OFFICES AND DEPARTMENTS

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

Your Committee recognizes the need for clarification of the basis upon which principal departments of the executive branch are organized. Your Committee is aware that an extensive study of the organizational structure of the executive branch was done by the Commission on Organization of Government. Your Committee agrees with the commission that a realignment of the executive branch should be considered to address the problem of duplication of functions and purposes between departments. However, your Committee believes that the proper role of the Constitution is to establish the parameters of the organization of the executive branch, while leaving the details of implementation to the legislature and the executive. The legislature and the executive both set policy and should share in the responsibility for executive departmental organization. Accordingly, your Committee believes that the recommended change in language will mandate the executive and the legislature to examine and reassess existing departmental structure. The purpose of your Committee's proposal is to provide constitutional impetus for a functional approach in making such examination and assessment.

Your Committee's intent in requiring that offices, departments and instrumentalities of the state government and their respective powers and duties be grouped according to common purposes and related functions is to indicate that function, along with purpose, should form a basis for departmental organization. The two prerequisites should be read together.

Your Committee expressed concern that the present language of the Constitution had allowed for assignment of some offices and agencies to principal departments without sufficient consideration of commonality of purpose and/or function. Additionally, departments or their subgroupings possessing both "common purposes" and "related functions" have not been grouped together. Accordingly, your Committee also decided to delete the qualifying phrase "so far as practicable." Your Committee feels that deletion of the phrase will require a closer examination of the basis upon which various departmental groupings are made. Your Committee believes that using both purpose and function as a basis for departmental organization and deleting the phrase "so far as practicable" will lead to more efficient executive management without sacrificing comprehensive delivery of services.

The Constitution presently sets the maximum number of principal departments at twenty. Your Committee considered proposals which would have reduced that maximum, noting that currently only 17 principal executive departments exist. However, your Committee decided to retain the twenty department maximum because it feels such a maximum provides sufficient flexibility to either expand or contract the existing number of principal departments as the needs of the State change.

With regard to the executive's fiscal authority, your Committee deliberated upon the establishment of a council on revenues. Your Committee is informed that the matter of a council on revenues has also been referred to the Committee on Taxation and Finance. In the spirit of comity between committees, your Committee on Executive has deferred the introduction of a committee proposal creating the council until the Committee on Taxation and Finance shall have had an opportunity to complete its deliberations. To this end, your Committee recommends to the Committee on Taxation and Finance that a council on revenues be established by adding a new section to Article VI, to read:

"COUNCIL ON REVENUES

"There shall be established by law a council on revenues which shall prepare

revenue estimates of the State government and shall report the estimates to the governor and the legislature at times prescribed by law. The estimates shall be considered by the governor in preparing the budget, recommending appropriations and revenues and controlling expenditures and by the legislature in appropriating funds and enacting revenue measures. All revenue estimates submitted by the council and the reasons for any deviation in the application of the estimate shall be made public."

Hawaii's present Constitution assigns to the governor the responsibility for submitting to the legislature a complete plan of proposed expenditures and anticipated receipts. Thus, the governor currently has the sole responsibility for making revenue estimates. However, nothing in the Constitution requires that the legislature be bound by those estimates. Much conflict has arisen between the governor's budget, based on revenue estimates made at one period in the budgetary cycle, and the legislature's appropriations, based on revenue estimates made at a later period. Your Committee favors the establishment of a council on revenues to resolve these legislative and administrative differences on estimated revenues for budget-planning purposes. Your Committee believes that a council on revenues would improve the state budgetary process since both the executive and the legislative branches would work from a common revenue estimate base which could be revised from time to time.

After deliberating at length on whether revenue estimates of the council should be binding upon the governor and the legislature, your Committee recommends that the council's estimates not be made mandatory. Since members of the council would be appointed and not accountable to the electorate, your Committee feels that requiring the executive and the legislature to be bound by the council's revenue estimates would severely restrict executive and legislative authority in the budgetary process. However, although the revenue estimates of the council are not binding, they cannot be ignored by either the governor or the legislature. The language of the proposal requires that the estimates be considered by the governor and the legislature. The requirement that all estimates and the reasons for any deviation from them, be made public further assures that the governor and the legislature must give serious consideration to the estimates.

Although your Committee received proposals detailing the establishment and implementation of the council, your Committee feels that the legislature would be a more appropriate body to set out the organization and responsibilities of the council. Accordingly, your Committee has adopted a proposal which would leave such details as the composition of the council and the times at which revenue estimates must be submitted to be provided by law.

Your Committee reserves the right to introduce a proposal recommending the establishment of a council on revenues should the Committee on Taxation and Finance fail to act favorably on your Committee's recommendation.

Accordingly, your Committee on Executive submits the attached committee proposal and recommends (1) that the above-numbered proposals referred to your Committee be filed; and (2) that Committee Proposal No. 9 pass first reading in the form attached hereto.

Signed by all members of the Committee except Delegates DiBianco, Eastvold, Les Ihara and Nakamura.

COMMITTEE PROPOSAL NO. 9

RELATING TO EXECUTIVE AND ADMINISTRATIVE OFFICES AND DEPARTMENTS.

RESOLVED, that the following be agreed upon as amending Article IV of the State Constitution.

1. Article IV, Section 6, is amended to read:

EXECUTIVE AND ADMINISTRATIVE OFFICES AND DEPARTMENTS

Section 6. All executive and administrative offices, departments and instrumentalities of the state government and their respective [functions,] powers and duties shall be allocated by law among and within not more than twenty principal departments in such

manner as to group the same according to [major purposes so far as practicable.] common purposes and related functions. Temporary commissions or agencies for special purposes may be established by law and need not be allocated within a principal department.

Each principal department shall be under the supervision of the governor and, unless otherwise provided in this constitution or by law, shall be headed by a single executive. Such single executive shall be nominated and, by and with the advice and consent of the senate, appointed by the governor and he shall hold office for a term to expire at the end of the term for which the governor was elected, unless sooner removed by the governor; except that the removal of the chief legal officer of the State shall be subject to the advice and consent of the senate.

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

The governor shall nominate and, by and with the advice and consent of the senate, appoint all officers for whose election or appointment provision is not otherwise made by this constitution or by law. If the manner of removal of an officer is not prescribed in this constitution, his removal shall be in a manner prescribed by law.

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

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

Every officer appointed under the provisions of this section shall be a citizen of the United States and shall have been a resident of this State for at least one year immediately preceding his appointment; except that this residence requirement shall not apply to the president of the University of Hawaii.

STANDING COMMITTEE REPORT NO. 52

Your Committee on the Judiciary has received and considered the following proposals: 57, 66, 74, 80, 83, 98, 101, 105, 110, 125, 126, 128, 129, 139, 141, 143, 159, 180, 229, 234, 239, 240, 268, 286, 289, 290, 348, 424, 425, 440, 452, 496, 502, 545, 548, 576, 668, 669, 670, 689, 725, 728, 777 and 786. For purposes of clarity and organization, these proposals were grouped into common topic areas. This format was employed in the holding of public hearings and in the consideration of proposals referred to your Committee. The topics and the respective proposals which relate to them are as follows: proposals 66, 440 and 502, relating to the election of judges; proposals 57, 80, 98, 110, 128, 129, 139, 159, 180, 234, 239, 240, 290, 348, 545, 576, 689 and 725, relating to judicial selection commissions; proposals 66, 83, 110, 159, 180, 234, 239, 268, 425, 440, 452 and 786, relating to judicial qualifications; proposals 83, 105, 110, 126, 180, 286, 496, 669 and 777, relating to expansion of the supreme court and intermediate appellate court; proposals 66, 74, 80, 83, 98, 105, 110, 139, 141, 180, 234, 239, 240, 289, 440 and 576, relating to judicial discipline, removal and retirement; proposals 83, 105, 289, 496 and 728, relating to judicial compensation; proposals 66, 80, 83, 98, 101, 105, 110, 139, 180, 234, 239, 240, 289, 348, 440, 496, 502 and 576, relating to judicial tenure; proposals 110, 180 and 234, relating to the rule-making power of the supreme court; proposals 110, 180 and 234, relating to the administration power of the chief justice; proposals 125, 143, 229, 286, 424, 548, 668, 669, 670 and 777, relating to miscellaneous topics. Your Committee begs leave to report as follows:

The proposals referred to this committee for consideration covered all of the existing sections in Article V and also sought to add new sections to Article V.

All public and committee hearings were open to the general public. Hearings were held on the outer islands of Hawaii, Kauai, Maui and Molokai, as well as leeward and windward Oahu. No person or organization asking to testify at a public hearing was denied that opportunity. All interested persons and organizations were encouraged to testify and present all sides of issues under consideration. The following persons either testified or submitted written testimony to this committee: Lieutenant Governor Nelson K. Doi; Chief Justice William S. Richardson, Supreme Court of Hawaii; Judge Martin Pence, United States District Court, Hawaii; Judge Kei Hirano, Kauai County District Court; Judge Norito Kawakami, Interim Kauai County Circuit Court; Judge John C. Lanham, Oahu County Circuit Court; Mr. William J. Sollner; Mr. H. Adalist; Mr. Walter Ritte; Mrs. Christine Teruya; Mr. Peter Kawaha; Mrs. Ann Simpson, Chamber of Commerce; Mr. Mario Roberti, Chamber of Commerce; Daniel Case, Esq., President, Hawaii State Bar Association; Alan Ashman, Esq., American Judicature Society; Frank Damon, Esq.; William Flemming, Esq.; Clinton R. Ashford, Esq.; Peter Char, Esq.; Edmund Burke, Esq.; Harry Tanaka, Esq.; Larry Takumi, Esq.; Theodore Tsukiyama, Esq.; Thomas M. Waddoups, Esq.; Dennis E.W. O'Connor, Esq.; David Schutter, Esq.; Theodore Meeker, Esq.; Alan Okamoda, Esq.; Delegate Allen Barr; Delegate Naomi Campbell; Delegate Laura Ching; Delegate Thomas H. Hamilton; Delegate Gerald Hagino; Delegate Helene Hale; Delegate C. Randall Peterson; Delegate Marcelliano Villaverde; and Delegate Steve O'Toole.

This committee proposal has been prepared using the Ramseyer Method, which indicates constitutional material to be deleted by brackets and new material by underscoring. It is intended that the Committee on Style may exclude the brackets and bracketed material, or the underscoring.

Your Committee on the Judiciary recommends that Section 1 of Article V be amended to read as follows:

"JUDICIARY POWER

"Section 1. The judicial power of the State shall be vested in one supreme court, one intermediate appellate court, circuit courts, district courts, and in such [inferior] other courts as the legislature may from time to time establish. The several courts shall have original and appellate jurisdiction as provided by law [.] and shall establish time limits for disposition of cases in accordance with its rules."

Many of the proposals submitted called for provisions to amend Sections 1 and 2 of this article to either create an intermediate appellate court or expand the present supreme court and allow the justices to sit in panels. These proposals addressed the basic concern over the evergrowing congestion of cases at the appellate level of our judicial system and the concurrent increase in the length of time for both civil and criminal cases to reach a conclusion. Testimony was received from Chief Justice William S. Richardson as well as many distinguished members of the local bar as to these increases in delays and the detriment caused not only to individual members of the public but also to the overall effectiveness of the administration of justice in Hawaii.

Some of the factors contributing to this rapidly expanding caseload include the population growth of the State, the greater number of attorneys admitted to practice, easier access to the courts, expansion of the rights of criminal defendants, an increased tendency of litigants to exercise their right of appeal, the establishment of district courts as courts of record with rights of direct appeal to the supreme court, the creation of new administrative agencies and an increase in complex legislation requiring interpretation by the supreme court. As the only court of review, the five-member supreme court must presently review all appeals from the State's trial courts. Moreover, this trend toward a growing appellate case docket shows no sign of subsiding and appears to be part of a general nationwide trend.

The supreme court has implemented internal procedures to alleviate some of the appellate congestion. Although increasing the number of matters it terminates each year, the court has not been able to significantly reduce the pending caseload because of the increasing number of cases appealed. The present appellate structure in Hawaii can no longer provide a satisfactory appellate process that gives each case the attention and deliberation it needs and yet not unduly delay justice.

Your Committee, after careful consideration of all proposed solutions to the appellate

congestion, recommends the establishment of an intermediate appellate court as the best, most effective and permanent solution to the problem. It is intended that the major duty of the intermediate appellate court will be to handle the more routine appellate cases of reviewing trial court determinations for errors and then correcting such errors. This function is presently performed by the supreme court. By being relieved of this necessary but time-consuming function, the supreme court can devote more time to its principal duty of selective review and formulation of decisional law. It is intended, however, that both the supreme court and the intermediate appellate court have jurisdiction to hear all types of cases. A unitary filing system would be instituted, by which all cases on appeal would be filed with one clerk's office and would require only one filing fee regardless of which court, or if both appellate courts, review the case. The supreme court could use a bypass mechanism to immediately hear, in its discretion, special types of appeals. Although all double appeals would not be avoided, this mechanism would keep those to a minimum. It is intended, however, that in most instances, appellate review would be terminated at the intermediate appellate level. This two-tiered appellate system would preserve the vital law-shaping function of the supreme court and also insure a litigant's right to a meaningful appeal by affording a review on the merits without unnecessary delay.

Some members of your Committee expressed concern about the cost of establishing an intermediate appellate court. All testimony agreed that there is a growing volume of appellate cases on top of an already large backlog of cases. Most testimony agreed that the solution lay in either an enlarged supreme court or establishment of an intermediate appellate court. Your Committee believes that the difference in cost between either enlarging the supreme court or establishing an intermediate appellate court is small. The increased efficiency and permanence of an intermediate appellate court outweighs the small cost difference. Moreover, an enlarged supreme court would not preclude the possibility of needing an intermediate appellate court at a later date; in this case, any present cost savings would be lost and, further, greater future expense to the public could be required.

In general your Committee believes that, if an expanded supreme court were provided now, it would be difficult to reduce the size of the supreme court even though later an intermediate appellate court would be needed.

In addition to establishing an intermediate appellate court, your Committee recommends that each court directly address the problem of delays in disposing of cases by establishing time limitations to aid in the just disposition of its cases. Your Committee believes that, if an intermediate appellate court is authorized to cope with the delay in processing appeals, it would be fair to require courts to make their decisions within a reasonable time. Although your Committee does not believe it prudent to include time limits as a constitutional provision, it believes that the courts should establish them by rules.

The existing language in Section 1 of this article does not refer to district courts but only to "inferior courts." Your Committee recommends that the district courts be constitutionally mandated. District courts are presently created by statute; by giving them constitutional recognition, your Committee acknowledges their status as official courts of record. In order to give the legislature further flexibility in this area, your Committee also recommends the addition of the phrase "other courts" to allow the creation of other more limited forums for public redress if required in the future.

Your Committee therefore recommends that Section 1 be amended to include an intermediate appellate court and district courts as well as those courts of original and appellate jurisdiction now authorized in this article, and to mandate those courts to establish time limitations in the disposition of cases.

Your Committee on the Judiciary recommends that Section 2 of Article V be amended to read as follows:

"SUPREME COURT; APPELLATE COURT

"Section 2. The supreme court shall consist of a chief justice and four associate justices. [When necessary, the] The chief justice [shall] may assign a judge or judges of the intermediate appellate court or a circuit court to serve temporarily on the supreme court, a judge of the circuit court to serve temporarily on the intermediate appellate

court, and a judge of the district court to serve temporarily on the circuit court. As prescribed by law, retired justices of the supreme court also may serve temporarily on the supreme court at the request of the chief justice. In case of a vacancy in the office of chief justice or if he is ill, absent or otherwise unable to serve, an associate justice designated in accordance with the rules of the supreme court shall serve temporarily in his place."

Your Committee believes that the existing constitutional authorization for the assigning of a judge or judges from the court below to satisfy temporary needs on the supreme court is equally applicable to the intermediate appellate court and circuit courts. Moreover, the supreme court could now draw needed help from either the intermediate appellate court or the circuit courts in addition to retired justices. In this manner, any sudden change in workload or staffing at the supreme court, intermediate appellate court or circuit court level could temporarily be relieved without the necessity of legislative action. This would give the judiciary greater flexibility and the capacity to better serve the judicial needs of the public.

Your Committee received proposals recommending the size and structure of an intermediate appellate court. However, your Committee feels that the legislature is better able to structure the intermediate appellate court and makes no recommendation in that regard.

Your Committee therefore recommends that Section 2 be amended to include provisions for temporary service on the supreme court, intermediate appellate court and circuit courts.

Your Committee on the Judiciary recommends that paragraph 1, of Section 3, Article V, be amended to read as follows:

"APPOINTMENT OF JUSTICES AND JUDGES

"Section 3. The governor shall [nominate and, by and with the advice and consent of the senate, appoint the justices of the supreme court and the judges of the circuit courts. No nomination shall be sent to the senate, and no interim appointment shall be made when the senate is not in session, until after ten days' public notice by the governor.], with the consent of the senate, fill a vacancy in the office of the chief justice, supreme court, intermediate appellate court and circuit courts, by appointing a person from a list of not less than six nominees for the vacancy, presented to the governor by the judicial selection commission.

"If the governor should fail to make the appointment within thirty days of presentation, the appointment shall be made by the judicial selection commission from the list with the consent of the senate. If the senate should fail to consent to any appointment, whether by the governor or commission, the commission shall make the appointment from the list, without senate consent.

"The chief justice shall fill a vacancy in the district courts by appointing a person from a list of not less than six nominees for the vacancy presented by the judicial commission. If the chief justice fails to make the appointment within 30 days of presentation, the appointment shall be made by the judicial selection commission from the list. The chief justice shall appoint per diem district court judges in accordance with law."

Your Committee, after careful consideration, decided to change the present system of appointment of justices and judges. The issue of judicial selection elicited considerable interest among the public as well as the delegates. The bulk of the proposals submitted and testimony received by this committee touched on this particular subject. By far, the clear majority of those testifying strongly supported the concept of a nonpartisan judicial selection commission that could screen qualified candidates for judicial appointments. Among those supporting such a commission was the Hawaii State Bar Association, with membership composed of 80% of the bar. The major fear expressed by those testifying was that under the present appointive system the possibility of political influence, and the potential for abuse, is too great a risk to leave unaddressed. The public should not be deprived of having the most qualified candidate for a judicial appointment.

Although your Committee recognizes that politics or political influence over appointments even with a judicial selection commission may not be completely eliminated, it was

the near unanimous consensus of your Committee that a nonpartisan commission would be an improvement over the present selection process, by which one person selects a justice or judge without the benefit of input from others.

Presently, 29 states have adopted some form of judicial selection commission for all or some of the courts within those states. Such a selection process has been tried and proven successful. At the time of the 1968 convention, only 13 states had adopted such a plan. The present trend is clearly in the direction of judicial selection commissions as the best means of obtaining qualified justices and judges.

Your Committee received considerable testimony as to the benefits of such a plan. Your Committee believes the following summary of major reasons supports a commission:

1. It removes the selection of judges from the political consideration of one person and places it in the hands of a nonpartisan board of citizens;
2. The choice of nominees is made without consideration or influence of partisan politics;
3. It forms an independent panel of commissioners whose sole and exclusive function is to seek out, encourage and screen all candidates for judicial appointment;
4. It includes both lawyers and laypersons' views in the selection of judges; and
5. It permits consideration of many more qualified candidates who might otherwise be overlooked by one person.

During the course of public hearings and committee discussions, a number of proposals relating to how the selection process would function were presented for your Committee's consideration. Your Committee recommends the following process as being the fairest and best method, one that will provide input from all segments of the public, include a system of checks and balances and be nonpartisan.

This section envisions two separate but similar processes for the selection of justices and judges, depending upon which court has the vacancy. If a vacancy occurs in the office of the chief justice, the supreme court, the newly created intermediate appellate court or a circuit court, the governor as the appointing authority, must interact with the judicial selection commission. Once the governor selects a name from those submitted by the commission, the senate must then confirm the name. However, if a vacancy occurs in the district court, the chief justice of the supreme court, as the appointing authority, must interact with the judicial selection commission. Senate confirmation is not needed in this instance.

When a judicial vacancy occurs, the judicial selection commission presents to either the governor or the chief justice a list of not less than six candidates for the position. Your Committee recommends no time limitation before which the commission must present the list to either the governor or the chief justice. It is intended, however, that the commission act deliberately and carefully in preparing the list and yet also remember the needs of the public in having the position filled.

Your Committee deliberated about the number of nominees that the commission could submit for a vacancy and decided that not less than six would be best. It was felt that this number was large enough to give either the governor or chief justice ample choice yet at the same time small enough to insure that only the most qualified candidates would be on the list.

It is intended that every judicial vacancy be considered a statewide appointment. By having a list of not less than six, nominees from neighbor islands could be included. A smaller list might preclude broader consideration of otherwise qualified candidates. Your Committee recognizes that nominating a candidate from a neighbor island for a neighbor island vacancy might cause potential problems of conflict if that candidate were appointed. It may be difficult to find a neighbor island candidate who has not been involved to some degree in cases that may come before him or her as a judge on that island, thereby requiring disqualification from hearing those cases. However, your Committee suggests that all qualified candidates from every community be considered for any vacancy.

If more than one vacancy for justice or judge exists at any one time, the commission may submit a separate list of not less than six for each vacancy. Names on one list may be repeated on the second list. If one of the six nominees withdraws from consideration before the governor or chief justice has made the appointment, it is intended that the commission complete the list by adding another nominee before the appointment is made. In consideration of the methods by which names of qualified candidates would be submitted to the governor or chief justice, much thought and concern was expressed over the setting of definite limits within which the governor or chief justice would have to act. After much deliberation and vigorous discussion, your Committee decided that the governor and the chief justice would each have 30 days to act on the list of nominees from the time the list is presented. In the event the governor or the chief justice fails to act within the allotted time, then the commission would make the appointment from the list. Senate confirmation would still be required for any appointment except a district court vacancy. Where senate confirmation is required but is not received, the governor must make another selection from the original list of not less than six until the list has been exhausted. If that circumstance should ever arise, the commission may make the appointment from any nominee on the original list without senate confirmation. It is the intent of your Committee to ensure that timely action be taken on a pending judicial vacancy. The time limitations will prevent any of the bodies or offices involved from attempting to circumvent or frustrate the use of the selection commission in the appointment process and yet operate as a balance and check in the process.

Your Committee does not intend that the selection of per diem district court judges be made through the judicial selection commission process. These judges are part-time and serve on an as-needed basis depending on the district court workload and the availability of full-time district judges. Because per diem district judges are needed on short notice, your Committee believes that the chief justice should be left to appoint such judges. Therefore, your Committee provides that the chief justice will make per diem district court appointments in accordance with law.

Your Committee recognizes that the use of a judicial selection commission is a more complex means of selecting judges than the previous appointment process. Many questions are left unanswered as to how the commission and process may function in different instances. However, it is your Committee's firm belief that the judicial selection commission will provide a judiciary that will be better qualified in the long run to deal with increasing and increasingly complex litigation.

Your Committee also weighed proposals to elect judges as an alternative to the present appointment process. Testimony indicated that while the election method of selection does have a place in the legislative branch of government, the judiciary requires independence if it is to remain an effective check upon the other two branches of government. The financial and political burdens that would accompany an electoral method of selecting judges were among the major disadvantages pointed out. Your Committee feels strongly that judges should not be elected to office.

Your Committee therefore recommends that paragraph 1 of Section 3, Article V, be amended to require that the governor and chief justice select their nominees for judicial vacancies from lists of qualified candidates submitted by a judicial selection commission. It is also recommended that this section be further amended to require that any selection be confirmed by the senate where the appointment is made by the governor and that action by either the governor or chief justice be completed within thirty (30) days of presentation. In the event that this time limit expires or the senate rejects every name on the list, the commission would make the appointment. The chief justice will continue to appoint per diem judges.

Your Committee on the Judiciary recommends that paragraph 2 of Section 3, Article V, be amended to read as follows:

"QUALIFICATIONS FOR APPOINTMENT

"[No justice or judge shall hold any other office or position of profit under the State or the United States. No person shall be eligible for the office of justice or judge unless he shall have been admitted to practice law before the supreme court of this State for at least ten years. Any justice or judge who shall become a candidate for an elective office shall thereby forfeit his office.] Justices and judges shall be residents and citizens

of the State and of the United States, and licensed to practice law by the supreme court. A justice of the supreme court, a judge of the intermediate appellate court and a judge of the circuit court shall have been so licensed for a period of not less than ten years preceding his nomination. A judge of the district court shall have been so licensed for a period of not less than five years preceding his nomination.

"No justice or judge shall, during his term of office, engage in the practice of law, or run for or hold any other office or position of profit under the United States, the State, or its political subdivisions."

The existing paragraph in Section 3 of Article V does not specifically require justices and judges to be residents of this State and citizens of the United States. The reason for this apparent omission was that in 1968 the requirement that a justice or a judge be a licensed attorney in Hawaii included the requirement of citizenship and residence. Citizenship is no longer a requirement for license to practice law. The additions of residency and citizenship requirements serve two extremely important purposes. First, the residency requirement helps to ensure that a justice or judge would be a part of the community, aware of events in the community and sensitive to the values of the people over whom he or she would sit in judgment. Second, citizenship ensures that a judge, as an officer of the court, is sworn not only to uphold the laws and to implement the values implicit in those laws but also to carry out justice as it has been defined in this society.

The other major issue in the area of judicial qualifications is the requirement that justices and judges be attorneys and licensed for at least 10 years before being nominated for the bench. Although a few proposals and some testimony were received in support of allowing lay people to be judges, the large majority of the proposals supported retention of the requirement that judges be attorneys and that they have practiced for a specified length of time.

Your Committee recommends that the 10-year practice requirement should be kept for supreme court and circuit court judges and added for intermediate appellate court judges, and that a 5-year practice requirement, now provided for by statute, be constitutionally mandated for district court judges. Your Committee feels that the minimum practice requirement is necessary to ensure that justices and judges are sufficiently knowledgeable and experienced to carry out the laws of this State fairly and efficiently. It is also hoped that the 5-year requirement for district court judges would encourage younger attorneys to consider careers on the bench.

Finally, your Committee recommends the addition of prohibitions which would forbid a judge from engaging in the practice of law or holding any other office of profit under the United States, the State or any of its political subdivisions while in judicial service. It is the intent of your Committee to eliminate any possibility of conflict of interest that might arise through either the private or the public sector.

Your Committee on the Judiciary recommends that paragraph 3 of Section 3, Article V, be amended to read as follows:

"TENURE; COMPENSATION; RETIREMENT

"The term of office of [a justice of the supreme court and of a judge of a circuit court shall be ten years. They shall receive for their services such compensation as may be prescribed by law, but no less than twenty-eight thousand dollars for the chief justice, twenty-seven thousand dollars for associate justices and twenty-five thousand dollars for circuit court judges, a year.] justices and judges of the supreme court, intermediate appellate court and circuit courts shall be ten years. Judges of district courts shall hold office for the periods prescribed by law. At least six months prior to the expiration of his term of office, every justice and judge shall petition the judicial selection commission to be retained in office or shall inform the commission of his intention to retire. If the judicial selection commission determines that the justice or judge should be retained in office, the commission shall renew his term of office for the period prescribed by law.

"There shall be a salary commission to review and recommend salaries for justices and judges of all state courts. Justices and judges shall have salaries as prescribed by law. Their compensation shall not be decreased during their respective terms of office, unless by general law applying to all salaried officers of the State. They shall

be retired upon attaining the age of seventy years. They shall be included in any retirement law of the State."

Your Committee recommends the deletion of existing language which sets forth outdated minimum amounts of compensation for the various courts. While your Committee agrees with the findings of the 1968 judiciary committee that the legislature can adequately deal with this issue, your Committee feels that there is now greater justification for the creation of a salary commission to periodically review and recommend salaries to the legislature for all justices and judges in the State. Your Committee recognizes the need to attract more qualified people from the private sector to serve on the judiciary. This can only be done by the payment of salaries commensurate with the position. Testimony from Chief Justice William Richardson indicates that the judiciary would not be adverse to having their salaries reviewed and amounts recommended by a salary commission. It is the intent of your Committee that such a salary commission be set up to periodically review judicial salaries. In this way, fair salaries for the justices and judges can be ascertained. Your Committee does not, however, make specific recommendations as to how this commission is to be set up and if it is to be a separate judicial salary commission or if it can better be combined with other salary commissions or other judicial commissions. Your Committee feels that the legislature can more adequately define the commission.

The 10-year terms of tenure for supreme court and circuit court judges have been maintained and provision made for the same term for intermediate appellate court judges. It is felt that terms of this length give a judge job security and independence from the appointing authority. Furthermore, a term of this length would allow a new judge enough time to learn and mature in his role as an arbiter of the law. It is felt that all of these justifications in support of the 10-year term of tenure are equally applicable to the new intermediate appellate court. In regard to district courts, it is intended that their terms of office be set by law.

Finally, your Committee recommends that any justice or judge petition the judicial selection commission for retention in office, or inform them of his or her intent to retire. Your Committee is of the opinion that retention through review by a nonpartisan commission is more desirable than simple reappointment by either the governor or the chief justice. It is intended that the commission in its review and retention function again perform the same function of excluding or at least lessening partisan political actions and also ensure that capable judges are kept on the bench. This review and retention process, in tandem with the judicial selection commission is intended to provide an unbiased and effective method of maintaining the quality of our jurists.

Your Committee therefore recommends that paragraph 3 of Section 3, Article V, be amended to retain the 10-year term of tenure, and extend its application to the new appellate court, while allowing the legislature to set the tenure of district court judges. It is also recommended that salary commissions be created in order to provide periodic review of salaries. Finally, it is recommended that retention of justices and judges be addressed by the judicial selection commission.

Your Committee on the Judiciary recommends that Section 4 of Article V be amended to read as follows:

"RETIREMENT [FOR INCAPACITY AND]; REMOVAL; DISCIPLINE

"Section 4. [Whenever a commission or agency, authorized by law for such purpose, shall certify to the governor that any justice of the supreme court or judge of a circuit court appears to be so incapacitated as substantially to prevent him from performing his judicial duties or has acted in a manner that constitutes willful misconduct in office, willful and persistent failure to perform his duties, habitual intemperance, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute, the governor shall appoint a board of three persons, as provided by law, to inquire into the circumstances. If the board recommends that the justice or judge should not remain in office, the governor shall remove or retire him from office.] The supreme court shall have power to reprimand, discipline, suspend with or without salary, retire and remove from office, for misconduct or disability, any justice or judge, according to such rules governing exercise of this power as the supreme court shall adopt.

"The supreme court shall create a commission on judicial discipline which shall

have authority to investigate and conduct hearings concerning allegations of misconduct or disability and to make recommendations to the supreme court concerning reprimand, discipline, suspension, retirement or removal of any justice or judge."

Under the existing provision concerning judicial discipline, the governor is given not only the power to appoint a board of inquiry to investigate charges against judges but also the responsibility of removing a judge if that board so recommends. Testimony received indicated that this power over investigation of and action on disciplinary problems of judges is more appropriately placed within the judiciary. Your Committee recommends that this power should lie with the judiciary. It is intended that courts should be able to police their own ranks and in that way preserve their independence from the other branches of government. This power of the supreme court is further intended to extend over all levels of the judiciary.

The range of action now permitted under the constitutional provision is limited to either retirement or removal of a judicial officer. Your Committee received testimony from Chief Justice William Richardson and from the local bar association regarding the desirability not only of transferring to the supreme court the power to review the judicial ranks but more importantly of allowing the supreme court to use varying degrees of judicial discipline. It is intended that the disciplinary body should be able to apply less drastic disciplinary measures, such as reprimand, discipline and suspension with or without salary. This wide range of penalties would allow the courts to be policed for more than just grave breaches of discipline.

Finally, the new disciplinary authority would be required to create a judicial discipline commission designed to have investigatory powers to conduct hearings and to make recommendations as to appropriate punishment.

Your Committee recommends that the commission which is to be created by the supreme court to investigate any complaints should be completely separate from the body which is to adjudicate the recommendations concerning the charges. This separateness is important and must be recognized in order to preserve the integrity of that system.

Your Committee therefore recommends that Section 4 be amended to transfer disciplinary power to the supreme court along with the power to create a new and different judicial commission whose purpose is to investigate complaints and make recommendations. Further, it is recommended that Section 4 be amended to expand the scope of those punishments available to include reprimand, discipline and suspension.

Your Committee on the Judiciary recommends that a new section, to be appropriately designated, be included in Article V, to read as follows:

"THE JUDICIAL SELECTION COMMISSION

"Section . There shall be a judicial selection commission that shall consist of nine members. The governor shall appoint three members to the commission, the initial appointments to be for terms of two, four and six years respectively. The senate and the house of representatives shall each respectively elect one member to the commission, the initial appointments to be for a term of two years respectively. The supreme court shall elect two members to the commission, the initial appointment to be for terms of four and six years respectively. Members in good standing of the bar of the state shall elect two of their number to the commission in an election conducted by the supreme court or its delegate, the initial election to be for terms of four and six years respectively.

"The commission shall be selected and shall operate in a wholly nonpartisan manner. After the initial formation of the commission, elections and appointments to the commission shall be for staggered terms of six years each. No member of the commission shall serve for more than one full six year term on the commission. The legislature shall by statute provide for the time and manner of appointments and elections to conform with this section.

"Each member of the judicial selection commission shall be a resident of the State and a citizen of the United States. No member shall run for or hold any other elected office under the United States, the State, or its political subdivisions. No member shall be eligible for appointment to judicial office of the State so long as he is a member of the judicial commission, and for a period of three years thereafter.

"No act of the judicial selection commission shall be valid unless concurred in by a majority of its voting members."

"Any attorney member of the commission or his employer or firm representing any party before any nominee for justice or judge, shall disqualify himself in any judicial proceeding before the nominee for the period the nominee is being considered."

"The judicial selection commission shall select one of its members to serve as chairman. The commission shall promulgate rules which shall have the force and effect of law. The deliberations of the commission shall be confidential."

"The legislature shall provide for operation, staff and other expenses incidental to the performance of commission duties."

This new section establishes the judicial selection commission and addresses its makeup and operation. This topic was the subject of much debate by your Committee. Many proposals were submitted and many witnesses testified on this subject. All agreed that such a commission must be truly nonpartisan. However, the efficiency and workability of this body must not be hampered. Effective implementation of a judicial selection commission system is dependent upon the proper balance of these two values.

While your Committee received many proposals which offered a multitude of formulas for the size and composition of this commission, two basic concerns had to be addressed. The first concern was to make the body small enough to be efficient and large enough to be representative of a cross section of the community. The second concern was to have different interests represented on the commission, not only to represent a cross section of the community, but also to act as checks upon the other interests on the commission.

The proposals and testimony received by your Committee indicate that a commission composed of at least nine (9) but not more than eleven (11) members would be the proper range of size. Anything smaller would be burdensome on the individual members, while anything larger would be too cumbersome. Your Committee recognizes that the size must also be considered in relation to the makeup of the commission. Again, in this regard, the proposals and testimony received indicated a consensus as to which groups or bodies in the community should have input selecting members of the commission. Included were the governor, the supreme court, licensed attorneys in the State, the house of representatives and the senate. It was the decision of your Committee that the proper size of the commission would be nine (9) members and that each of the groups mentioned would be responsible for appointing or electing members to the commission. Your Committee believes that such a group would be able to provide the necessary divergence of interests and views to be truly representative of the public and ensure that the selection process be as nonpartisan as possible.

Your Committee believes that attorneys have a place on the commission. Attorney members not only would know what professional qualities would be required of a justice or judge but also would be aware of the backgrounds and reputations of the candidates for judicial vacancies. An attorney's input as a member on the commission would be more valuable than if simply called upon to testify about the capabilities of prospective candidates. The representatives of the house, senate and the governor would be responsible either directly or indirectly to the public and also subject to their input. Finally, it is believed that the representatives of the supreme court would also be able to provide valuable insight as to what would be required of future justices and judges.

It was decided that the commission should be composed as follows: 3 appointees by the governor, 2 by the supreme court, 2 elected by the Hawaii bar at large (not the Hawaii State Bar Association), 1 by the house of representatives and 1 by the senate. It is intended that there be no limitation on the total number of attorneys allowed to sit on the commission. While your Committee recognizes that there is no perfect makeup and size of any particular judicial selection commission, it is felt that the selection commission ultimately agreed upon by this committee is a good, representative and equitable scheme.

The qualification requirements of these commission members are as important as the makeup and size of the commission. It is intended that these provisions serve as a limitation on the partisan political influences on commission members. The qualification

requirements which most directly pertain to this problem are the prohibitions against running for or holding any elected office under the federal, state, or local governments; the prohibition against being considered for judicial appointment for a period of 3 years after service on the commission; and the prohibition against any attorney member remaining on a case if that attorney, his employer or firm represents a party in a case before a nominee for justice or judge, which attorney member must disqualify himself from the case until deliberations concerning that nominee are concluded. All these prohibitions are qualifications aimed at the elimination of all possible conflicts of interest which might violate the independent actions of the commission or of any of the individual members. Finally, your Committee decided that all members should be residents of this State and citizens of the United States. It is felt that these qualifications would help ensure that the members chosen to the commission would have an understanding not only of the laws and the legal system of this country but also of the values and interests in this State. It is intended that all these requirements work to preserve the independence and the credibility of the commission.

The length of the terms of members is another important facet in the commission structure. Your Committee has decided to set the term at six (6) years after initial terms have been completed, with terms to be staggered. It is felt that this length would allow the commissioners time to learn and grow into their responsibilities. Staggered terms would ensure that there be a continuity of experience and knowledge on the commission. In view of the number of members and the length of members' terms, your Committee suggests that the best schedule for staggering of terms would be as follows:

Member(s) appointed by:

governor	initial terms of 2, 4 and 6 years.
members of the state bar of Hawaii	initial terms of 4 and 6 years.
supreme court	initial terms of 4 and 6 years.
house of representatives	initial 2-year terms.
senate	initial 2-year terms.

It is intended that, after the initial appointees serve their first term, all future members be restricted to serving one full 6-year term. Therefore, it is possible that an initial appointee may serve one partial 2- or 4-year term and one full 6-year term for a total of 10 years. Staggering the terms would allow three different members of the five groups to vacate their positions from the commission every 2 years. In this way the commission would always have a number of experienced members and, at the same time, new members with fresh and different ideas.

It is the intent of your Committee that the commission promulgate its own rules which shall have the force and effect of law. The commission shall select one of its members to act as chairperson of the body. It is intended that no action of this commission be valid unless it is concurred in by a majority of the voting members. Your Committee foresees that attorney members of the commission and their law firms may in their practice of law represent a client whose case may be pending before a justice or judge who is subject to renewal of his or her judicial term. In that event, it is intended that the attorney member and his employer or law firm, in order to avoid any possibility or appearance of conflict of interest, withdraw from appearing before that justice or judge in court during the period of consideration by the commission. It is important to note that there may be other situations not foreseen by your Committee in which commission members may be involved in conflict. It is intended that the legislature provide for such situations.

One important concern your Committee addressed was in regard to the actions of the judicial selection commission in the confidentiality of their deliberations. Confidentiality is necessary to encourage and protect those prospective candidates who otherwise would not be willing to be considered if the deliberation process of the commission were to be made public.

Finally, your Committee considered the issue of compensation for commission members. In order to insure the impartiality, independence and nonpartisanship of members, your

Committee recommends the members serve without salary. It is intended, however, that the legislature provide for compensation and expenses of support staff, operation and other expenses incidental to the performance of commission duties. This would include per diem expenses in certain situations.

Your Committee therefore recommends that a new section, to be appropriately designated, be included in this article, providing for the creation of a judicial selection commission consisting of 9 members, to be divided as set forth above, and that each shall serve one full six (6) year term which shall be staggered. Further, that the qualifications concerning commission members and the procedures of the commission as set forth above be implemented. The deliberations of the commission shall be confidential as provided in this article. Further, that the operational and staff expenses of the commission shall be provided by the legislature and that the members shall serve without salary.

Your Committee on the Judiciary recommends that a new section to Article V be added, to read as follows:

"TRANSITION; EFFECTIVE DATE

"Section . . . The current terms of justices and judges in office shall terminate as heretofore provided by law, subject to earlier termination and removal as provided in this article. The amendments to Article V shall take effect upon ratification."

Your Committee recommends that this section be added to (1) ensure that those justices and judges presently in office may complete their current terms as provided by law, and (2) ensure that the amendments to this article are to take effect immediately upon ratification. Your Committee intends that any judicial vacancy after ratification be processed through the judicial selection commission. Your Committee realizes, however, that vacancies may exist before the legislature has established the judicial selection commission and therefore intends that all appointments be interim appointments until the judicial selection commission is set up.

Section 5 of Article V relating to administration and Section 6 of Article V relating to rules were not amended.

Therefore, your Committee recommends: (1) that the above-numbered proposals referred to your Committee be filed; (2) that Section 5 and Section 6 of Article V be retained without amendment; and (3) that Committee Proposal No. 10* pass first reading in the form shown.

Signed by all members of the Committee except Delegates Takitani, Laura Ching, Chu, Ontai and Weatherwax.

*For the complete text of this proposal, see Committee Proposal No. 10, page 802.

STANDING COMMITTEE REPORT NO. 53

Your Committee on Budget, Accounts and Printing begs leave to report that Com. Whole Rep. No. 6; Com. P. Nos. 6, RD. 1, and 5, RD. 2; Stand. Com. Rep. No. 54; Res. Nos. 15 and 16 and Minority Rep. Nos. 6, 7 and 8 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 54

Your Committee on Rules, to which was referred a request to seek clarification on the motion of the Previous Question under the Rules of the Convention, by the President in plenary session on August 21, 1978, begs leave to report as follows:

The request seeks to determine whether the motion of the Previous Question is governed by Convention Rule 15, generally relating to quorum and majority, or Convention Rule 36, generally relating to motions. A committee hearing was open to the public and Convention Parliamentarian Masato Sugihara presented testimony on this issue.

Parliamentarian Sugihara testified that the motion of the Previous Question falls under the present Convention Rule 15 because it differs from the motion to close debate for a specified time, as provided for in Convention Rule 36. The motion therefore requires a simple majority vote of the delegates present. To avoid future confusion regarding voting on that and similar motions, your Committee recommends the amending of Rule 15 to provide that an affirmative majority vote can adopt any motion except those motions that require more than a majority vote, under either parliamentary law (Robert's Rules of Order Newly Revised) or the Rules of the Convention. More particularly, Rule 15 is amended to read as follows:

"RULE 15. A quorum being present, [a] an affirmative majority vote of delegates present [shall be sufficient for the adoption of any motion or resolution or the taking of any action except where the affirmative vote of a greater number shall be required by these rules.] adopts any motion unless it is one of the particular motions that require a larger vote under parliamentary law or the Rules of the Convention."

Your Committee on Rules recommends that the resolution in the form shown hereto as Resolution No. 15 be adopted by this Convention without referral to your Committee.

Signed by all members of the Committee except Delegate Wurdeman.

RESOLUTION NO. 15

AMENDING CONVENTION RULE 15.

WHEREAS, the issue of whether the motion of the Previous Question is to be governed by Convention Rule 15 or Rule 36 was referred to the Committee on Rules for clarification; and

WHEREAS, the motion of the Previous Question is different from the motion to close debate at a specified time; and

WHEREAS, in an effort to avoid future confusion regarding similar parliamentary matters; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that Rule 15 of the Rules of the Convention be and is hereby amended to read as follows:

"RULE 15. A quorum being present, [a] an affirmative majority vote of delegates present [shall be sufficient for the adoption of any motion or resolution or the taking of any action except where the affirmative vote of a greater number shall be required by these rules.] adopts any motion unless it is one of the particular motions that require a larger vote under parliamentary law or the Rules of the Convention."

STANDING COMMITTEE REPORT NO. 55

Your Committee on Budget, Accounts and Printing begs leave to report that Stand. Com. Rep. Nos. 56 through 59, Com. P. Nos. 11 through 13 and Res. No. 17 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 56

Your Committee on Hawaiian Affairs was referred proposals numbered 108, 145, 209, 233, 245, 283, 302, 308, 392, 478, 665, 693, 804, 805 and 806, all relating to Article XI; and 310, 385, 392, 615, 762, 784 and 785, all relating to the Hawaiian Homes Commission Act, 1920, as amended. Your Committee on Hawaiian Affairs begs leave to report as follows:

This report covers Article XI, entitled "Hawaiian Home Lands," and the Hawaiian homes act, entitled "Hawaiian Homes Commission Act, 1920."

All committee meetings were open to the public, and representatives of organizations and individual citizens interested in the above-mentioned proposals were invited to present their views on the subjects covered by the proposals at public hearings.

The following citizens presented their views:

Mrs. Winona A. Freitas, Papakolea Community Association; Mrs. Kaipo Prejean; Mr. Keoni Agard; Mr. Merwyn Jones, Deputy Director, Department of Hawaiian Home Lands; J.E. Loomis, Hawaiian Sugar Planters' Association; Georgiana K. Padeken; Christobel Kealoha, Hawaiian Homes Commission; Mr. Melvin Kalahiki, Delegate Ginger Wurdeman; Mr. Richard Hoke; Mililani Trask; Gerard Lee Loy; Mrs. Billie Beamer, Chairman, Department of Hawaiian Home Lands.

On July 26, 1978, on Molokai, testimonies were taken in favor of the above Hawaiian Affairs proposals by the following citizens: Joyce Kaiona, Honokaupu Ohana; Karl A. Mowat, Protect Kahoolawe Ohana; Glenn Davis, Hawaiian Academy; Walter Ritte; Kathy Davis; Richard Sawyer; Rachel Kamakana; Mrs. Purdy, Hawaiian Homestead; Mrs. Clara Ku; Barbara Hanchett; Dr. Emmett Aluli, Mrs. Rose Kamakani.

On July 27, 1978, on Maui, testimonies were taken in favor of the above Hawaiian Affairs proposals by the following citizens: Walter Ritte; Charles K. Maxwell, ALOHA; Christine Teruya; Katherine Deardon.

On July 31, 1978, on Kauai, testimonies were taken in favor of the above Hawaiian Affairs proposals by the following citizens: Amelia C. Abreu; Tadao Suemori; Linda Moriarty; David Sprout; Natasha Paust; Charles H. Forward; Rosemary K. Smith; Dallas Girady; Herbert Kauahi.

On August 3, 1978, at Hilo, testimonies were taken in favor of the above Hawaiian Affairs proposals by the following citizens: Sidney M. Quintal; Gerard Lee Loy; Andrew Vento, Hawaiian Brotherhood of American Nationality; Dante Carpenter; Nathen Kaleiwahea, State; Brenda L. Lee, Na Pua O Hawaii; Alika Cooper, Congress of Hawaiian People; Steve Kaneai Morse, Native Hawaiian Legal Corporation; Linda Dela Cruz.

On August 4, 1978, at Kona, testimonies were taken in favor of the above Hawaiian Affairs proposals by the following citizens: Herman Paakonia; Renwrick Tassil; Moanekeala Akaka; Members of Kukailimoku Village; Charles Warrington; Sonny Kaniho; the Kamoku family.

As a preliminary statement, your Committee would like to remind the convention delegates that the term "native Hawaiian" as used in regard to the Hawaiian home lands and the Hawaiian Homes Commission Act, 1920, as amended, refers to those native Hawaiians who have been defined by the Act as being "any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778."

Section 1 of Article XI relating to the Hawaiian Homes Commission Act is amended to read as follows:

"Section 1. Anything in this constitution to the contrary notwithstanding, the Hawaiian Homes Commission Act, 1920, enacted by the Congress, as the same has been or may be amended prior to the admission of the State, is hereby adopted as a law of the State, subject to amendment or repeal by the legislature, provided, that if and to the extent that the United States shall so require, said law shall be subject to amendment or repeal only with the consent of the United States and in no other manner, provided, further, that, if the United States shall have been provided or shall provide that particular provisions or types of provisions may be so amended. The proceeds and income from Hawaiian home lands shall be used only in accordance with the terms and spirit of said Act [.] [and the] (A) The legislature [may, from time to time, make additional] shall make sufficient sums available for the purposes of: (1) development of home, agriculture, farm and ranch lots; (2) home, agriculture, aquaculture, farm and ranch loans; (3) rehabilitation projects to include, but not limited to, educational, economic, political, social, and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved; (4) the administration and operating budget of the department of Hawaiian Home Lands; in furtherance of (1), (2), (3) and (4) herein, [said Act] by appropriating the same in the manner provided by law.

"(B) Thirty percent of the State receipts derived from the leasing of cultivated sugarcane lands under any provision of law or from water licenses shall be transferred to the native Hawaiian rehabilitation fund, Section 213 of the Hawaiian Homes Commission Act, 1920, for the purposes enumerated in said section. Thirty percent of the State receipts derived from the leasing of lands cultivated as sugarcane lands on the effective date of the section herein shall continue to be so transferred to the native Hawaiian rehabilitation fund whenever said lands are sold, developed, leased, utilized, transferred, set aside, or otherwise disposed of for purposes other than the cultivation of sugarcane. There shall be no ceiling established for the aggregate amount transferred into the native Hawaiian rehabilitation fund."

Your Committee consolidated proposals numbered 302, 308, and 392 in its amendment to Section 1, Article XI, above-mentioned. The committee proposal amends that portion of Section 1 of Article XI, which authorizes the legislature to fund moneys to the Department of Hawaiian Home Lands (hereinafter DHHL) for purposes of the Hawaiian Homes Commission Act, 1920, as amended (hereinafter HHCA or Act), to provide that: (a) the legislature be required to provide sufficient funds to DHHL; and (b) the 30 percent of state receipts from sugarcane and water licenses be transferred in perpetuity to the DHHL.

Your committee proposal makes it expressly clear that the legislature is to fund DHHL for purposes which reflect the spirit and intent of the Act. Your Committee decided to no longer allow the legislature discretion in this area.

Your Committee decided that the legislature should provide sufficient funds to DHHL for the following projects:

1. For the development of site improvements for homes, agriculture, farm and ranch lots. Development shall include but not be limited to off-site and on-site improvements which are necessary to provide grading, access (roads) and utility services (drainage, sewerage, water and electrical systems) for the developed lots;
2. For lessee loans in the areas of home construction and farm and ranch construction and equipment. Under this loan mandate, DHHL is authorized to request loans for lessees or native Hawaiians for agricultural purposes, which includes but is not limited to aquaculture;
3. For various rehabilitation projects, including education, social, political, economic and cultural processes which contribute to the general welfare and betterment of native Hawaiian conditions; and
4. For administrative and operational costs, which expenditure requests are to be utilized for all of the above-mentioned.

Your Committee finds that the intent of the HHCA was to check the extinction of a dying native Hawaiian race and to preserve and perpetuate that native Hawaiian race through a series of rehabilitation projects designed to:

1. Return the native Hawaiian to the land;
2. Perpetuate the Hawaiian culture (language, history and ethnic studies);
3. Assimilate the native Hawaiian into the enveloping society without relinquishing the native identity, language and culture;
4. Develop political awareness in the republican form of government and encourage native Hawaiians to participate in its elections and processes;
5. Provide economic assistance to enable the native Hawaiian to be industrious, business-oriented and self-sufficient; and
6. Provide educational programs to allow the native Hawaiian to restore his Hawaiian awareness, language and culture.

Your Committee determined that DHHL has approximately 200,000 acres under its present land inventory (deleting congressional land withdrawals and land exchanges

between DHHL and the Department of Land and Natural Resources). The intent of the Act, inter alia, was to perpetuate the native Hawaiian race by encouraging Hawaiian people to return to the land to till the soil. The evil sought to be corrected was the departure of the Hawaiian people from the soil and the consequent weakening of their structure of society under the impact of western civilization. One of the basic causes of this departure was the fact that the Hawaiians did not actually receive one third of the domain which was supposed to have been set aside for them at the time of the Great Mahele, so that many persons had no land of their own when the change from feudal land tenures to common law land tenures was made.

Yet, in the 57 years since passage of the Act, less than 12-1/2 percent (25,000 acres) of the total "available lands" (200,000 acres) have actually been disposed of to native Hawaiians. This averages about 435 acres of Hawaiian home lands per annum. At that rate, it would take over 400 years to lease the remaining 175,000 acres to native Hawaiians; by the year 2378 the last square foot of available land will be awarded to a native Hawaiian. Nearly 25 generations will have passed before the goal of the HHCA is fully realized.

The department was established by the Act to provide a means to rehabilitate its beneficiaries through a series of projects and yet was given very little financial assistance to perfect its mandate. For example, the department must lease its lands in order to generate revenues to support its administrative and operating budget.

Of the 200,000 acres under its inventory, nearly 113,000 acres are leased, licensed or under permit by DHHL or the Department of Land and Natural Resources (hereinafter DLNR). This represents 57 percent of the total land inventory released to the general public for purposes of generating revenues to administer DHHL programs.

Of the above 113,000-acre total, over 90,000 acres are in agriculture-related uses to the general public. Nearly 28,000 acres (25 percent) of the 113,000 acres are managed by DLNR.

In addition, 16,867 acres are under Governor Executive Order and are utilized for public projects such as airports, parks, schools, game reserves, etc. There is no income return from lands under Governor Executive Orders.

Other DHHL land uses include 44,176.174 acres utilized by government agencies for graveyard sites, hunting grounds, watersheds, parks, schools, roads, highways, sewer sites, military training facilities, state nurseries, health centers, Hansen's disease centers, drainage channels, educational TV sites, dumping sites, etc.

TABLE

44,176.754 Acres Utilized By Government Agencies

14,342.11 acres by federal government with an annual income of 45 cents per acre

29,585.385 acres by state government with an annual income of 12 cents per acre

259.929 acres by county government with an annual income of \$3.105 per acre

Of the total 200,000 acres, 45,442.601 acres are under conservation classification. This indicates a limited use of nearly 23 percent of the total DHHL land inventory for homestead disposition. Over 22,000 acres presently under conservation classification are unencumbered and eligible for homestead use. However, these lands for the most part are of mountaintop-type terrain or barren lava; a prime example is Humuula, where there are 8,200 acres of conservation-unencumbered lands near the 9,000-foot elevation line which offers a delimiting slope and rocky terrain.

Your Committee reports that there are nearly 60,000 native Hawaiians within the State and approximately 2,800 lessees have been placed on the land. There are more than 5,200 applicants on the waiting list for homes.

The department's current budget is approximately \$1.3 million. Its revenue from general leases, licenses and revenue permits is approximately \$1.1 million. The department must support a statewide staff of 59 employees. Another 31 employees are funded

through SCET and CETA (34 percent of the total DHHL employees) programs which are temporary and conditional. Over a dozen employees under SCET have left their DHHL jobs, and the vacancies cannot be filled through SCET because of the current freeze on SCET funding.

The department presently general leases its lands to obtain moneys for administrative expenses and salaries. In order to keep up with a built-in inflation rate and to rehire prospective employees through SCET losses, DHHL continues to general lease more of its lands. These employees are necessary to keep up with the current housing output. DHHL averages 10 dollars per acre on its general leases.

DHHL cannot afford to lease more acreage to the general public for the purpose of generating income to accommodate a minimal employee level.

It is clear to your Committee that the intent and spirit of the Act would be better moneys served by releasing the department of its present burden to generate revenues through the general leasing of its lands. Your Committee decided that through legislative funding this dilemma would be resolved. In that manner more lands could be made available to the intended beneficiaries.

Your Committee found that besides the department's general leasing program to support its administrative expenditures the original Act provides that 30 percent of the state receipts derived from revenues originating from cultivated canelands and water licenses be transferred to the department to provide a means of developing farm, ranch and home lots.

Initially Congress established a \$1-million ceiling relating to the above revenues. The ceiling was raised to \$5 million through a series of subsequent congressional amendments. Further, the moneys were utilized for development and loan purposes. The last amendment occurred prior to Statehood.

With the admission to Statehood, the State became the trustee of the HHCA and was granted title to the lands and charged with the responsibility of administering and amending said Act.

In 1965, the \$5-million ceiling heretofore set by Congress was reached and the department petitioned the state legislature, for the first time, to again raise the ceiling. The legislature responded by creating the Additional Receipts Fund which raised the ceiling an additional \$2.5 million. However, 72.25 percent of the \$2.5 million was transferred to the DOE and the remaining 27.75 percent was transferred to several development and loan funds.

When the first \$2.5-million ceiling was reached, the state legislature raised it another \$2.5 million under the same conditions. Finally, in 1976 the aggregate ceiling was attained and the moneys have since been deposited in the State's general fund.

Your Committee found that of the \$5 million which the State transferred to the department, \$3.6 million was diverted to the DOE. Only \$1.4 million was actually utilized by the department for purposes of the Act (development and loans).

After 56 years, the total sum received from this source was \$10 million. Of that total, \$4.5 million was earmarked for home loans in a revolving fund, \$1.9 million for site development expenses and \$3.6 million for DOE.

If the department utilized this funding source for development and loans, only 12.5 house lots could be developed and constructed per year. This is based on an annual amount of \$500,000 divided by \$40,000 (the development and construction costs).

Your Committee decided that these 30 percent funds should be diverted to DHHL in perpetuity. Your Committee considered transferring these funds to development and loan funds but decided that these amounts would be substantially inadequate to fund these projects. Instead your Committee unanimously felt that these moneys would be better used by transferring the same to the native Hawaiian rehabilitation fund.

Your Committee has decided that this source of moneys should be protected and

preserved and therefore provided that, regardless of the use to which these lands are put, the revenues derived therefrom would be subject to these provisions. Only when these lands are sold in fee simple would these lands not be subject to the provisions of this proposal. However, the proceeds received from the sale of the land would be subject to the provisions of this proposal. Your Committee understands that approximately 36,615 acres of public lands (17,753--Kauai, 15,150--Hawaii, 3,712--Maui) are presently under sugar-cane cultivation.

Upon the effective date of this amendment, these lands as well as any other lands presently under cane cultivation shall be subject to this provision.

Your Committee considered proposals numbered 310, 385, 392, 615, 762, 784 and 785, all relating to the Hawaiian Homes Commission Act, 1920, as amended.

Your Committee decided to make certain changes to the Hawaiian Homes Commission Act, 1920, as amended. Although the Act appears to be in a format somewhat different from the usual constitutional provisions, nevertheless Section 3 of Article XI specifically provides that "As a compact with the United States relating to the management and disposition of the Hawaiian home lands, the Hawaiian Homes Commission Act, 1920, as amended, shall be adopted as a provision of the Constitution of said State. . . ." Sections 1 and 2 of Article XI, when read together, arrive at the same conclusion.

Your Committee amended Section 213 of the Act by adding a new subsection (b)(8) to conform to the committee's intent regarding the native Hawaiian rehabilitation fund as set forth in Article XI, Section (B).

Your Committee changed the language in Section 204 of the Act in order to grant the department more control of their lands. The approval of the Secretary of the Interior was deleted from Sections 204(1) and 212 because it would be too burdensome for the department to obtain this approval everytime it wished to withdraw its lands from DLNR management, for purposes of the Act. There are currently 28,000 acres of DHHL lands under DLNR general lease, license and revocable permit. Another 16,000 acres is under Governor Executive Order and more acreage is utilized by government agencies without document.

Your Committee added language to Section 204(2) in order to lease lands directly and preferentially to native Hawaiians for commercial, industrial or other business purposes. These lands shall be disposed of by lease at fair market value. The leasehold interest will be the same as the leasehold interest granted to the general public under the department's general lease program. It will not be issued pursuant to Section 208, HHCA, which has severe limitations.

Your Committee deleted Section 204(3) in its entirety to enable the department to dispose of as many acres to native Hawaiian applicants as possible under the circumstance. Section 204(4) was changed in order to allow the department to land-exchange its lands for privately or publicly owned lands, thus allowing DHHL greater flexibility in acquiring lands.

Your Committee changed the language in Section 212 in order to restrict the management of the department's lands by DLNR. Accordingly, DHHL lands under DLNR management may be disposed of by general leases only. This precludes the transferring of its lands by Governor Executive Order. Further, DLNR may general lease DHHL land only with the express consent of the department.

Your Committee changed the language in Section 221, HCCA, by prohibiting the department from transferring its water systems to any municipal, state or private agency. The department owns and operates a water system on Molokai and your Committee intended that this amendment would prohibit the department from transferring its water system to the County of Maui.

Your Committee decided to leave unchanged the requirement in Section 201(7) of the HHCA that the "term 'native Hawaiian' means any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778."

Your Committee decided that although this rule seemed unfair as it applied to those

who can qualify for a lease on Hawaiian homes lands, it might be premature to work on a change of this rule. The committee felt that, in light of the fact that the waiting list for a lease is so long, to add further applicants without a more in-depth analysis and without more hearings and input from the beneficiaries and potential beneficiaries, would be irresponsible. The committee did not feel comfortable in changing rights to the precious 'aina without more input from those affected.

The committee anticipated that all the Hawaiian home lands will probably be transferred to the Office of Hawaiian Affairs (contained in another committee proposal) but that perhaps the time was not yet ripe. The Office of Hawaiian Affairs will have more opportunity to consider this issue. Moreover, the Office of Hawaiian Affairs will be in a better position to negotiate. The office will have an elected board of many Hawaiians who can deliberate this issue. Your Committee concluded that it might not be appropriate for this type of question to be submitted to the general public because it involved the inheritance rights of Hawaiians only. The committee decided that rightfully the affected parties should decide.

Sections 2 and 3 of Article XI, relating to the compact with the United States and amendment and repeal, were not amended.

Therefore your Committee recommends: (1) that the above-numbered proposals referred to your Committee be filed; (2) that Sections 2 and 3 of Article XI be retained without amendment; and (3) that Committee Proposal No. 11 pass first reading in the form attached hereto.

Signed by all members of the Committee except Delegate Hagino.

COMMITTEE PROPOSAL NO. 11

RELATING TO HAWAIIAN AFFAIRS.

RESOLVED, that the following be agreed upon as amending Article XI of the Hawaiian Homes Commission Act, 1920, as amended, of the State Constitution.

1. Section 1 of Article XI is amended to read:

HAWAIIAN HOMES COMMISSION ACT

Section 1. Anything in this constitution to the contrary notwithstanding, the Hawaiian Homes Commission Act, 1920, enacted by the Congress, as the same has been or may be amended prior to the admission of the State, is hereby adopted as a law of the State, subject to amendment or repeal by the legislature, provided, that if and to the extent that the United States shall so require, said law shall be subject to amendment or repeal only with the consent of the United States and in no other manner, provided, further, that, if the United States shall have been provided or shall provide that particular provisions or types of provisions may be so amended. The proceeds and income from Hawaiian home lands shall be used only in accordance with the terms and spirit of said Act [,] [and the] (A) The legislature [may, from time to time, make additional] shall make sufficient sums available for the purposes of: (1) development of home, agriculture, farm and ranch lots; (2) home, agriculture, aquaculture, farm and ranch loans; (3) rehabilitation projects to include, but not limited to, educational, economic, political, social, and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved; (4) the administration and operating budget of the department of Hawaiian Home Lands; in furtherance of (1), (2), (3) and (4) herein, [said Act] by appropriating the same in the manner provided by law.

(B) Thirty percent of the State receipts derived from the leasing of cultivated sugarcane lands under any provision of law or from water licenses shall be transferred to the native Hawaiian rehabilitation fund, Section 213 of the Hawaiian Homes Commission Act, 1920, for the purposes enumerated in said section. Thirty percent of the State receipts derived from the leasing of lands cultivated as sugarcane lands on the effective date of the section herein shall continue to be so transferred to the native Hawaiian rehabilitation fund whenever said lands are sold, developed, leased, utilized, transferred, set aside, or otherwise disposed of for purposes other than the cultivation of sugarcane.

There shall be no ceiling established for the aggregate amount transferred into the native Hawaiian rehabilitation fund.

2. Section 213 of the Hawaiian Homes Commission Act, 1920, is amended to add a new subsection (b) (8) to read as follows:

Sec. 213 Funds and accounts.

(b) There are established in the treasury of the State [seven] eight special funds, to be known respectively as the Hawaiian home development fund, the Hawaiian home administration account, the Hawaiian loan guarantee fund, the Hawaiian loan interest fund, the borrowed money fund, the Hawaiian home trust fund, [and] the Hawaiian home education fund[.], and the native Hawaiian rehabilitation fund.

(8) Native Hawaiian rehabilitation fund. Pursuant to Article XI, Section 1 (B) of the State Constitution, thirty percent of the state receipts derived from lands previously cultivated as sugarcane lands under any other provision of law and from water licenses, shall be deposited into this fund. The department shall use this money solely for the rehabilitation of native Hawaiians which shall include but not be limited to the educational, economic, political, social and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved and perpetuated.

3. Section 204 is amended to read:

Section 204. (Control by department of "available lands", return to board of land and natural resources, when.) Upon the passage of this act, all available lands shall immediately assume the status of Hawaiian home lands and be under the control of the department to be used and disposed of in accordance with the provisions of this [title] Act, except that:

(1) In case any available land is under lease by the Territory of Hawaii, by virtue of section 73 of the Hawaiian Organic Act, at the time of the passage of this Act, such land shall not assume the status of Hawaiian home lands until the lease expires or the board of land and natural resources withdraws the lands from the operation of the lease. If the land is covered by a lease containing a withdrawal clause, as provided in subdivision (d) of Section 73 of the Hawaiian Organic Act, the board of land and natural resources shall withdraw such lands from the operation of the lease whenever the department[, with the approval of the Secretary of the Interior,] gives notice to [it] the board that the department is of the opinion that the lands are required by it for the purposes of this [title] Act; and such withdrawal shall be held to be for a public purpose within the meaning of that term as used in subdivision (d) of Section 73 of the Hawaiian Organic Act;

(2) Any available land, including lands selected by the department out of a larger area, as provided by this Act, [as may not be immediately needed for the purposes of this Act,] not leased as authorized by the provisions of section 207 (a) of this Act, may be returned to the board of land and natural resources [and may be leased by it as provided in chapter 171, Hawaii Revised Statutes] as provided under section 212 of this Act, or may be retained for management by the department.

[Any lease by the board of land and natural resources of Hawaiian home lands hereafter entered into shall contain a withdrawal clause, and the lands so leased shall be withdrawn by the board of land and natural resources, for the purpose of this Act, upon the department giving at its option, not less than one nor more than five years' notice of such withdrawal; provided that the minimum withdrawal-notice period shall be specifically stated in such lease.]

In the management of any retained available lands not required for leasing under section 207(a), the department may dispose of such lands to the public, including native Hawaiians, on the same terms, conditions, restrictions and uses applicable to the disposition of public lands as provided in chapter 171; provided, that the department may not sell or dispose of such lands to the public, including native Hawaiians, on the same terms, conditions, restrictions and uses applicable to the disposition of public lands as

provided in chapter 171; provided, that the department may not sell or dispose of such lands in fee simple except as authorized under section 205 of this Act [.] ; provided further, that the department is expressly authorized to negotiate, prior to negotiations with the general public, the disposition of a lease of Hawaiian home lands to a native Hawaiian, or organization or association owned or controlled by native Hawaiians, for commercial, industrial, or other business purposes, in accordance with the procedure set forth in section 171-59, subject to the notice requirement of section 171-16(c) and the lease rental limitation imposed by section 171-17(b).

[(3) The department shall not lease, use, nor dispose of more than twenty thousand (20,000) acres of the area of Hawaiian home lands, for settlement by native Hawaiians, in any calendar five-year period.]

[4] (3) The department may, with the approval of [the governor and] the Secretary of the Interior, in order to consolidate its holdings or to better effectuate the purposes of this Act, exchange the title to available lands for land, privately or publicly owned, of an equal value. All land so acquired by the department shall assume the status of available lands as though the same were originally designated as such under Section 203 hereof, and all lands so conveyed by the department shall assume the status of the land for which it was exchanged. The limitations imposed by Section 73(1) of the Hawaiian Organic Act and the land laws of Hawaii as to the area and value of land that may be conveyed by way of exchange shall not apply to exchanges made pursuant hereto. No such exchange of land publicly owned by the State shall be made without the approval of two-thirds of the members of the board of land and natural resources. For the purposes of this subparagraph, lands "publicly owned" means land owned by a county or the State or the United States.

4. Section 212 is amended to read:

Section 212. (Lands returned to control of board of land and natural resources.) The department may return any Hawaiian home lands not leased as authorized by the provisions of Section 207 of this [title] Act to the control of the board of land and natural resources. Any Hawaiian home lands so returned shall, until the department gives notice as hereinafter in this section provided, resume and maintain the status of public lands in accordance with the provisions of the (Hawaii Revised Statutes), [except] provided that such lands may not be sold, leased, set aside, used, transferred, or otherwise disposed of except under a general lease only. Any lease by the board of Hawaiian home lands hereafter entered into shall contain a withdrawal clause, and the lands so leased shall be withdrawn by the board, for the purpose of this Act, upon the department giving at its option, not less than one nor more than five years' notice of such withdrawal; provided, that the minimum withdrawal-notice period shall be specifically stated in such lease. Each such lease, whether or not stipulated therein, shall be deemed subject to the right and duty of the board of land and natural resources to terminate the lease and return the lands to the department whenever the department [, with the approval of the Secretary of the Interior,] gives notice to the board that the department is of the opinion that the lands are required [by it for leasing as authorized by the provisions of Section 207 of this title or for community pasture].

Notwithstanding the provisions of Hawaii Revised Statutes Section 171-95, in the leasing of Hawaiian home lands by the board to a public utility or other governmental agency, where such use directly benefits the department of Hawaiian home lands or the homestead lessees, the rental may be nominal; in all other instances, the lease rental shall be no less than the value determined in accordance with Hawaii Revised Statutes Section 171-17(b).

Any general lease of Hawaiian home lands hereafter entered into by the board shall be null and void unless prior to the disposition of said lease by public auction, direct negotiation or otherwise, approval shall be obtained from the department of Hawaiian home lands.

5. Section 221 is amended by adding a new subsection (f):

Section 221. (Water.)

(f) Water systems in the exclusive control of the department shall remain under its exclusive control; if any provision or the application of such provision is inconsistent with the provision contained herein, this section shall control.

Water systems includes all real and personal property together with all improvements to the same acquired or constructed by the department for the distribution and control of such water for domestic or agricultural use.

STANDING COMMITTEE REPORT NO. 57

Your Committee on Hawaiian Affairs was referred proposals numbered 187, 284, 645 and 672, all relating to education; 100 and 303, all relating to Hawaiian rights; 9 and 81, all relating to real property title claims; 82, 117, 341, 550 and 779, all relating to heritage; and 148, 493, 644 and 664, all relating to miscellaneous topics in the areas covered by this committee proposal.

Your Committee on Hawaiian Affairs begs leave to report as follows:

This report covers Article IX, entitled "Education," Article XIII, entitled "State Boundaries, Capital, Flag," Article XIV, entitled "General and Miscellaneous Provisions," and Article I, entitled "Bill of Rights."

All committee meetings were open to the public and representatives of organizations and individual citizens interested in the above-mentioned proposals were invited to present their views on the subjects covered by the proposals at public hearings.

The following citizens presented their views: Darrow Aiona, Chairman, Board of Education; Winoa A. Freitas, Papakolea Community Association; Moki Wilson; Georgiana K. Padeken; Christobel Kealoha, Hawaiian Homes Commission; Melvin Kalahiki; Delegate Ginger Wurdeman; Cathy Goeggel, Hawaiian Humane Society; Ricky Tilgenkamp, Life of the Land; Joyce Kaiona, Honokaupu Ohana; Karl A. Mowat, Protect Kahoolawe Ohana; Glenn Davis, Hawaiian Academy; Walter Ritte; Kathy Davis; Clara Ku; Barbara Hanchett; Dr. Emmett Aluli; Mrs. Rose Kamakani; Charles K. Maxwell, ALOHA; Christine Teruya; Amelia C. Abreu; Dallas Girady; Herman Alexander; Herbert Kauahi; Gerard Lee Loy; Andrew Vento; Nathen Kaleiwahea; Brenda L. Lee, Na Pua O Hawaii; Alika Cooper, Congress of Hawaiian People; Steve Kaneai Morse, Native Hawaiian Legal Corporation; Linda Dela Cruz; Herman Paakonia; Renwrick Tassil; Moanikeala Akaka; Charles Warrington; Sonny Kaniho; Lanis Romero.

Article IX is amended by adding a new section to read:

"HAWAIIAN EDUCATION PROGRAM

"Section . The State shall provide for a comprehensive Hawaiian education program consisting of language, culture and history as part of the regular curriculum of the public schools.

"The use of community expertise shall be encouraged as a suitable and essential means in furtherance of Hawaiian language, culture and history."

Your Committee decided to adopt this amendment to the Constitution in order to insure that there is a comprehensive Hawaiian education program consisting of language, culture and history as part of the regular curriculum of the public schools and to provide for the employment in the public school system of persons who have knowledge of Hawaiian language, culture and history but not necessarily the necessary formal educational achievements. This section is intended to thereby insure the general diffusion of Hawaiian history on a wider basis, to recognize and preserve the Hawaiian culture which has contributed to, and in many ways forms the basis and foundation of, modern Hawaii, and to revive the Hawaiian language, which is essential to the preservation and perpetuation of Hawaiian culture.

Presently Hawaiian courses are part of a larger program called social studies. The objective of the social studies program is to develop students who have knowledge and understanding of humans and society and the ability to apply this knowledge and understanding in decision-making and problem-solving situations.

As a part of the overall social studies program, the required units of Hawaiian courses cast a small shadow which is soon lost in the wave of western standards and the

emphasis on assimilation or "melting-pot" model in America. Furthermore, Hawaiian courses may not necessarily address Hawaiian history, culture and language, but generally deal with facts, events, people, environment and geography.

Your Committee finds that the social studies program suggests that the emphasis is placed on cultural unity rather than cultural diversity, which Hawaii prides itself on.

This section on the Hawaiian education program grows out of a background of increasing ethnic consciousness that began in America in the 1950s with the civil rights movement. As ethnic consciousness grew, ethnic identity became increasingly acceptable and even celebrated. There has been a strengthening of emphasis on the diversity of cultures found within the larger American society, and a lessening of emphasis on the assimilation or "melting-pot" model in America. Your Committee agrees with thoughtful scholars who point out that, as in the survival of biological species, variety rather than sameness enhances the possibilities for survival, and that a culturally diversified society is a source of strength for a nation. It is important that different, non-Western values be studied in order that we may evaluate existing models of society and perhaps thus discover alternative models of structuring society.

Your Committee determined that one ethnic group that may be a rich source for just such a study is the Hawaiian culture, with its emphasis on group responsibility and success, and the 'ohana extended family system. The Hawaiian culture survived and thrived in environmental harmony on a relatively small land area. As with all cultures, the Hawaiian culture was not a perfect one but it does have much that can be learned from it. Although the Hawaiian culture has been disrupted and changed, its strength has enabled it to survive.

Another important reason your Committee determined that we should set aside time and resources to study the Hawaiian culture is that the study of cultures from other areas of the world can draw on the resources and support of their home countries. For example, Japanese studies, Korean studies, et al. can receive and have received support from government, corporations and individuals in Japan and Korea. In contrast, Hawaii is the only place where Hawaiian studies is likely to occur, and for a Hawaiian studies or educational program the State of Hawaii is the "home country."

Finally, perhaps the most important reason to begin an intensive study of Hawaiian culture, history and language is that we are losing key sources of information daily. Not only are existing material resources disappearing but, even more important, women and men who have significant information are dying and the information they could provide is being lost forever.

Article XIII is amended by adding a new section to read:

"OFFICIAL LANGUAGES

"English and Hawaiian shall be the official languages of Hawaii, except that Hawaiian shall be required for public acts and transactions only as provided by law."

Your Committee decided to make this amendment to the Constitution in order to give full recognition and honor to the rich cultural inheritance that Hawaiians have given to all ethnic groups of this State, by making Hawaiian an official language of the State.

However, your Committee was cognizant of certain practical problems that might exist if Hawaiian was declared an official language without any proviso. The committee feared that all official acts and transactions might have to be in Hawaiian, such as statutes, proceedings of the legislature and judicial decisions. At this point in history, it might be too expensive and impractical to require both languages in these situations. The committee decided that it would be more sensible to delegate discretion to the legislature in determining the appropriate documents and acts to be in both languages.

Article XIV is amended by adding a new section to read:

"TRADITIONAL AND CUSTOMARY RIGHTS

"Section . The State reaffirms and shall protect all rights possessed by tenants

of an ahupua'a who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778 that were customarily and traditionally exercised for subsistence, cultural and religious purposes, subject to the right of the State to regulate the same."

Your Committee decided to add this new section to the Constitution in order to reaffirm, for descendants of native Hawaiians, rights customarily and traditionally exercised for subsistence, cultural and religious purposes. Aware and concerned about past and present actions by private landowners, large corporations, ranches, large estates, hotels and government entities which preclude native Hawaiians from following subsistence practices traditionally used by their ancestors, your Committee proposed this new section to provide the State with the power to protect these rights and to prevent any interference with the exercise of these rights. Moreover, your Committee decided to provide language which gives the State the power to regulate these rights. Your Committee did not intend these rights to be indiscriminate or abusive to others. While your Committee recognizes that, historically and presently, native Hawaiians have a deep love and respect for the land, called aloha 'aina, reasonable regulation is necessary to prevent possible abuse as well as interference with these rights. After a comprehensive examination of many versions of a constitutional provision recognizing native Hawaiian rights, your Committee decided that this version was the best, and accordingly the committee strongly recommends its passage.

Some members of your Committee have studied ancient native Hawaiian rights in detail. They have found valuable information in such material as Hawaiian Antiquities by David Malo (1951); Konohiki Fishing Rights by Richard Kosaki of the Legislative Reference Bureau (1954); "Native Hawaiian Land Rights" by Neil Levy (63 Calif. L Rev 869, 1975); The Origin of Hawaii Land Titles and of the Rights of Native Tenants by Louis Cannelora of Security Title Corporation (1974); and The Access Problem by Kali Watson (1977), on reserve at the Alu Like library.

A few members of your Committee expressed concern that the proposal might be subject to constitutional attack on equal protection grounds. However, your Committee found that these rights have withstood constitutional attack. Your Committee reviewed certain testimony that vested fishing rights, as recognized under Article X, Section 3, of the State Constitution, have been upheld by the U.S. supreme court. Konohiki and hoa'aina fishing rights to all registered fisheries have been recognized and upheld. Your Committee agrees with the analysis of these rights as set forth by Justice Oliver Wendell Holmes of the U.S. supreme court in Damon v. Hawaii, 194 U.S. 154 (1904). In referring to fishing rights, he stated:

"A right of this sort is somewhat different from those familiar to the common law, but it seems to be well-known to Hawaii, and, if it is established, there is no more theoretical difficulty in regarding it as property and a vested right than there is regarding any ordinary easement or profit a prendre as such.... Moreover, however anomalous it is, if it is sanctioned by legislation, if the statutes have erected it into a property right, property it will be, and there is nothing for the courts to do except to recognize it as a right."

Moreover, under Article XVI, Section 13, before the holders of these vested fishing rights can be deprived of their rights, they must be given "just compensation" upon condemnation by the State (see Konohiki Fishing Rights by Richard Kosaki of LRB, 1954). The Fifth Amendment of the U.S. Constitution also provides that "private property [shall not] be taken for public use, without just compensation." Since practically all ancient Hawaiians practiced and possessed such vested rights, which automatically passed to their descendants and which have never been condemned or compensated for, they are therefore still held by Hawaiians today, with the exception of fishing rights which were condemned and compensated for.

While for the most part the courts have treated such vested rights as proprietary interests, your Committee feels that a more accurate description of these rights is to refer to them as personal rights. Rather than being attached to the land, these rights are

inherently held by Hawaiians and do not come with the land. For instance, it was customary for a Hawaiian to use trails outside the ahupua'a in which he lived to get to another part of the Island. Moreover, where a hoa'aina was dissatisfied with the konohiki of his ahupua'a, he was free to leave and to take up residence in another ahupua'a, thereby transferring his vested rights, such as fishing, to the new area.

The proposed new section reaffirms all rights customarily and traditionally held by ancient Hawaiians. Your Committee found that besides fishing rights, other rights for subsistence, cultural and religious purposes exist. Hunting, gathering, access and water rights, while not provided for in the State Constitution, were nevertheless an integral part of the ancient Hawaiian civilization and are retained by its descendants. In examining the economic and social system of ancient Hawaii, your Committee found that it was based on a division of land known as an ahupua'a, ruled by a chief and managed by a konohiki, on which the hoa'aina, or tenants of the ahupua'a, had rights to make use of house lots, cultivate personal taro patches and engage in subsistence gathering and hunting activities that consumed but did not deplete the natural resources, wild animals and birds of the ahupua'a. In addition to the cultivation of taro lands in the valleys, hoa'aina had access mauka, for the plant and animal products of the wilderness, and maka'i, for the products of the ocean.

Your Committee decided that the word tenants, as used in this connection, has not lost its ancient restricted meaning and refers to the hoa'aina or native Hawaiians that inhabit an ahupua'a. Although a tenant may not own any land in the ahupua'a, since these rights are personal in nature, as a resident of the ahupua'a, he may assert any traditional and customary rights necessary for subsistence, cultural or religious purposes. Your Committee defines an ahupua'a as a land division or unit of land usually extending from the uplands to the sea, varying in size from 100 to 100,000 acres.

Your Committee also decided that it was important to eliminate specific categories of rights so that the courts or legislature would not be constrained in their actions. Your Committee did not intend to remove or eliminate any statutorily recognized rights or any rights of native Hawaiians from consideration under this section, but rather your Committee intended to provide a provision in the Constitution to encompass all rights of native Hawaiians, such as access and gathering. Your Committee did not intend to have the section narrowly construed or ignored by the courts. Your Committee is aware of the courts' unwillingness and inability to define native rights, but in reaffirming these rights in the Constitution, your Committee feels that badly needed judicial guidance is provided and enforcement by the courts of these rights is guaranteed.

Your Committee concluded that to preserve the small remaining vestiges of a quickly disappearing culture, the solution is to provide a legal means by constitutional amendment to recognize and reaffirm native Hawaiian rights. Your Committee strongly recommends passage of this proposal because such action would help to perpetuate a heritage that is unique and an integral part of our State.

Article I is amended by adding a new section to read:

"QUIETING TITLE

"Section . . . No person shall be deprived of title to an estate or interest in real property by another person claiming actual, continuous, hostile, exclusive, open and notorious possession of such lands."

Your Committee decided to pass this amendment for the purpose of abolishing prescription and adverse possession as a means of acquiring title, right or interest in and to real property. Title to much of the lands originally owned by Hawaiians was acquired through adverse possession. The committee learned of many cases where individuals, large corporations, hui, ranches, large estates and even churches have used adverse possession to take land away from its rightful owner.

Testimony revealed that this problem continues today. Hawaiians in Milolii - Hoopuloa on the Big Island, Kipu Kai on Kauai, Keanae, Hana and Kula on Maui, Halawa Valley on Molokai, as well as Laie on the windward side of Oahu are all faced with losing their land to large business entities using adverse possession. As is usually the case, those losing lands do not understand the law or cannot afford to fight these large corporations.

Your Committee reasoned that under our present federal and state Constitutions, the government is prohibited from depriving any person of his private property without just compensation. Yet adverse possession allows private individuals and business entities to take other people's land without any compensation to the owner.

Some members argued that without adverse possession, perfection of titles by Hawaiians who have lived on the land for many years would be impossible. Under this proposal this would not be a problem. Thus your Committee determined that this section be prospective in nature and that all claims that have already matured under present statutes and common law are recognized. Establishment of such title in the adverse possessor by a judicial proceeding is not necessary.

The committee learned through testimony that it is a sad fact that adverse possession has been and still is being used as a method for stealing property from the poor, particularly the Hawaiians. Thus, your Committee concluded the correct solution is to provide a vehicle by constitutional amendment to abolish adverse possession.

Accordingly, your Committee on Hawaiian Affairs submits the attached Committee Proposal No. 12 and recommends (1) that the above-numbered proposals referred to your Committee be filed; and (2) that Committee Proposal No. 12* pass first reading in the form shown.

Signed by all members of the Committee except Delegate Hagino. Delegate Teruo Ihara did not concur in part.

*For the complete text of this proposal, see Committee Proposal No. 12, page 811.

STANDING COMMITTEE REPORT NO. 58

Your Committee on Hawaiian Affairs, to which was referred Proposal No. 341 relating to the return of Kaho'olawe to the people of the State of Hawaii and concerning Article XIII, begs leave to report as follows:

All hearings and meetings of your Committee were open to the public, and many citizens, groups and organizations representing the community and representatives of the government were invited to present their views on the subject covered by the proposal at the public hearings.

Your Committee decided to adopt the attached resolution relating to the return of Kaho'olawe. Your Committee voted unanimously (with one abstention) to request the United States to stop bombing the Island of Kaho'olawe, begin cleaning the Island of materiel and unexploded ordnance, and return the Island to the State for use as a living cultural sanctuary.

Kaho'olawe was designated as government land by Kamehameha III at the time of the Great Mahele. This designation opened the waters around the Island to all persons who wanted to fish in the area, even though most coastal fisheries were exclusive to those who lived in the adjoining ahupua'a. It also meant that the people could use the beaches and trails on the Island for gathering, hunting and other traditional and religious uses. Later the Island was leased for ranching purposes but access by the general public to the fisheries, beaches and trails continued. The land was held in trust for the people of Hawaii.

Since 1941, this Island of Kaho'olawe has been controlled by the U.S. Navy. Especially in recent years, the public has been barred from access to these public lands and fisheries. No compensation has ever been paid for this federal taking.

A 1953 Executive Order signed by President Eisenhower which laid claim to the Island states that the Island will be returned to the State in its original condition and that the Navy will keep the goat population under control. The Navy has done little or nothing to comply with these provisions.

Your Committee received testimony from people all over the State who complained about being denied access to the rich cultural heritage of Kaho'olawe. Many Hawaiians

testified about their feelings of outrage that one of the State's eight major islands was being desecrated and permanently scarred by the continual bombing and shelling. Military representatives testified that the attacks were planned with care to avoid places of archaeological importance, but your Committee realizes that if the pilots and gunners always hit their targets, they would not need the target practice.

Your Committee was sorely tempted to adopt Proposal No. 341, which would have added a new section to Article XIII to read as follows:

"ISLAND OF KAHOO LAWE; RETURN AND USE

"Section . The right of the people of the State of Hawaii to access and use of the island of Kahoolawe shall be recognized. The island shall be preserved for its historic, religious and cultural heritage."

This proposal was signed by over 65 delegates representing all the Islands and many different perspectives. Your Committee would like to point out that no other delegate proposal received this type of overwhelming popular support by delegates prior to any discussion of the issue. The language of Proposal No. 341 certainly expresses the hopes and wishes of the members of your Committee and most delegates to the Convention.

But your Committee elected to pass Resolution No. 17 instead because the committee felt that the State of Hawaii is already pressing to achieve the goals of Proposal No. 341. Moreover, the congressional delegation from the State of Hawaii has indicated to your Committee that this resolution, if adopted by the Constitutional Convention, would be considered tantamount to a mandate from Hawaii's people.

Signed by all members of the Committee except Delegate Hagino.

RESOLUTION NO. 17

REQUESTING THE RETURN OF KAHOLAWE TO THE STATE FOR USE AS A CULTURAL SANCTUARY.

WHEREAS, the Island of Kaho'olawe has been unofficially under the jurisdiction of the United States Navy since Kaho'olawe Ranch subleased it to the Navy in 1941, and officially with the issuance of Executive Order 10436 on February 25, 1953, when President Eisenhower directed the Navy to assume complete authority over Kaho'olawe during the time of the Korean conflict; and

WHEREAS, the deep spirit of Hawaii and the movement among Hawaiians to regain their culture and to help regenerate the roots of that culture by opening up access to the land has again surfaced in the Kaho'olawe movement; and

WHEREAS, the people are quite concerned, for so much in Hawaiian culture centers on the 'aina and the spirit of the land; and

WHEREAS, the bombing and destruction of Kaho'olawe are contrary to the very essence of aloha 'aina, the love and reverence the Hawaiians have toward their land; and

WHEREAS, the Island of Kaho'olawe is rich in archaeological findings significant to the culture of Hawaii; and

WHEREAS, because of the historical, cultural and archaeological significance of the Island, it is essential that Kaho'olawe once again be returned to Hawaii for use as a living cultural sanctuary; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that the United States Navy is requested to cease its bombing, begin clearing the Island of all material and unexploded ordnance, and return the Island of Kaho'olawe to the State for use as a living cultural sanctuary; and

BE IT FURTHER RESOLVED that duly authenticated copies of this Resolution be transmitted to the President of the United States, the Secretary of the Navy, the members of

Hawaii's delegation to Congress, the Governor of the State of Hawaii, the members of the State Legislature, and the Mayor and Council of Maui County.

STANDING COMMITTEE REPORT NO. 59

Your Committee on Hawaiian Affairs was referred proposals numbered 405, 674 and 676 all relating to a public trust entity and the creation of new sections in Article XI. Your Committee on Hawaiian Affairs begs leave to report as follows:

This report covers Article XI, entitled "Hawaiian Home Lands," Article XVI, entitled "Schedule," Article X, entitled "Conservation and Development of Resources," and Article XIV, entitled "General and Miscellaneous Provisions."

All committee meetings were open to the public, and representatives of organizations and individual citizens interested in the above-mentioned proposals were invited to present their views on the subjects covered by the proposals at public hearings.

The following citizens presented their views:

Richard Hoke; Sid Quintal; Melvin Kalahiki; Mililani Trask; Keoni Agard; Georgiana K. Padeken; Christobel Kealoha; Joyce Kaiona; Karl A. Mowat; Glenn Davis; Walter Ritte; Rachel Kamakana; Clara Ku; Dr. Emmett Aluli; Rose Kamakani; Charles K. Maxwell; Christine Teruya; Katherine Deardon; Amelia C. Abreu; Tadao Suemori; Linda Moriarty; David Sprout; Charles Forward; Rosemary K. Smith; Herbert Kauhi; Andrew Vento; Nathen Kaleiwahea; Brenda L. Lee; Alika Cooper; Steve Kaneai Morse; Linda Dela Cruz; Herman Paakonia; Renwick Tassil; Moani keala Akaka; Charles Warrington; Sonny Kaniho.

Article XI is amended by deleting the title and adding a new title to read:

"[HAWAIIAN HOME LANDS] HAWAIIAN AFFAIRS"

Your Committee changed the title of Article XI in order to reflect the new format of this article which will now include areas beyond that of the Hawaiian home lands. Your Committee has included several new sections to Article XI that will affect all native Hawaiians. Previously Article XI applied only to those who could qualify for Hawaiian home lands and who were historically defined by the Hawaiian Homes Commission Act, 1920, as amended, as lessees based on a requirement of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778. In looking to the future, your Committee decided that it is of utmost importance to establish a trust entity that would be for all individuals whose ancestors were natives of the area which consisted of the Hawaiian Islands prior to 1778, the date that marks the arrival of Captain Cook to these shores. In the sections that follow, your Committee refers to all descendants, regardless of blood quantum, as being native Hawaiians. Your Committee determined that the time was ripe to establish a trust entity with an elected board of trustees that would control and manage the assets and inheritance, and financial assistance belonging to all native Hawaiians, and to formulate policy relating to their affairs. (See discussions of new Sections 5, 6 and 7 to Article XI.) Thus your Committee concluded that it should broaden the name of this article to reflect the concepts in the sections that follow.

Article XI is amended by adding a new section to read:

"PUBLIC TRUST

"Section 4. The lands granted to the State of Hawaii by Section 5(b) of the Admission Act and pursuant to Article XIV, Section 8 of the State Constitution, excluding therefrom lands defined as 'available lands' by Section 203 of the Hawaiian Homes Commission Act, 1920, as amended, shall be held by the State as a public trust for those native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended or may be amended, and the general public."

This new section recites the trust corpus of Section 5(b) and names the two principal beneficiaries established in Section 5(f) of the Admission Act--those native Hawaiians as

defined by the Hawaiian Homes Commission Act, 1920, as amended, and the general public. Your Committee decided to include the words "as may be amended" to follow "Hawaiian Homes Commission Act, 1920, as amended," in order to permit the Constitution in the future to reflect the change, if any, in the qualification of blood quantum set forth in that Act for native Hawaiians. Although your Committee was tempted to change this outmoded rule from the 1920s, your Committee concluded that this responsibility should be assumed by the Office of Hawaiian Affairs.

The Admission Act does not specify what percentage of the trust shall be allocated to native Hawaiians of one-half blood. The committee members felt that the proportion should rightfully be based either on equal division or at least on a percentage of the five purposes. The committee was unanimous in deciding that the pro rata share should not be based on population census or a percentum thereof.

Your Committee reviewed the history behind the trust set forth in Section 5(b) of the Admission Act in order to arrive at this recital.

As a result of the revolution on January 17, 1893, the crown lands, which belonged to the Hawaiian people, were ceded by the Republic of Hawaii to the United States. These lands were conveyed back to the State on Hawaii's admission to the Union pursuant to Section 5(b) of the Admission Act. Section 5(f) of the Admission Act created a trust of these public lands separate and apart from the lands defined as "available lands," by Section 203 of the HHCA, 1920, as amended. Your Committee found that the Section 5(f) trust created two types of beneficiaries and several trust purposes one of which is native Hawaiians of one-half blood.

Article XI is amended by adding a new section to read:

"OFFICE OF HAWAIIAN AFFAIRS;
ESTABLISHMENT OF BOARD OF TRUSTEES

"Section 5. There is hereby established an Office of Hawaiian Affairs. The Office of Hawaiian Affairs shall hold title to all the real and personal property now or hereafter set aside or conveyed to it which shall be held in trust for native Hawaiians. There shall be a board of trustees for the Office of Hawaiian Affairs elected by qualified voters who are native Hawaiians, in accordance with law. The board members shall be native Hawaiians. There shall be not less than 9 members of the board of trustees; provided that each of the following Islands have at least one representative: Oahu, Kauai, Maui, Molokai and Hawaii. The Board shall select a chairman from its members."

Your Committee added this new Section 5 relating to the Office of Hawaiian Affairs and the establishment of an elected board of trustees in order to provide a receptacle for any funds, land or other resources earmarked for or belonging to native Hawaiians, and to create a body that could formulate policy relating to all native Hawaiians and make decisions on the allocation of those assets belonging to native Hawaiians. Moreover, in looking to the future the office will be able to receive and administer any reparations money, which will probably be awarded to all native Hawaiians regardless of blood quantum.

Your Committee is unanimously and strongly of the opinion that people to whom assets belong should have control over them. After much deliberation and attention to testimony from all parts of the State, your Committee concluded that a board of trustees chosen from among those who are interested parties would be the best way to insure proper management and adherence to the needed fiduciary principles. In order to insure accountability, it was felt that the board should be composed of elected members. This amendment provides for direct participation in the selection process of the board of trustees by all native Hawaiians. The committee determined that such participation will avoid the much-justified criticism which has been directed at the Hawaiian homes commission for, among other things, its inability to respond adequately to the needs of native Hawaiians of one-half blood. The election of the board will enhance representative governance and decision-making accountability and, as a result, strengthen the fiduciary relationship between the board member, as trustee, and the native Hawaiian, as beneficiary. The cost for electing the board of trustees would be nominal, provided it is held at the same time as the state general elections.

Finally, the committee agreed that the board should be elected by all the beneficiaries. Certainly they would best protect their own rights. Such a practice is in line with the basic principles of a democratic society. Your Committee decided that at least nine members were necessary to allow for the proper representation. Your Committee felt that it was important that there be some deference to island representation. Thus the committee included the specific provision requiring at least one representative from each of the following Islands: Oahu, Kauai, Maui, Molokai and Hawaii. The committee felt that the legislature could arrive at a proper apportionment scheme for the remaining seats, although the committee did feel that an at-large election might suffice.

In addition, your Committee has delegated to the legislature the responsibility of implementing the election for the board. Your Committee did provide, in the transitory provision that follows, for the election to be held simultaneously with the general election. But the legislature is delegated the responsibilities of (1) determining the final apportionment scheme, (2) arriving at a method whereby voters will demonstrate proof that they are native Hawaiians, (3) developing procedures for registering qualified voters and (4) administering the ballot.

The committee intends that the Office of Hawaiian Affairs will be independent from the executive branch and all other branches of government although it will assume the status of a state agency. The chairman may be an ex officio member of the governor's cabinet. The status of the Office of Hawaiian Affairs is to be unique and special. The establishment by the Constitution of the Office of Hawaiian Affairs, with power to govern itself through a board of trustees (see Section 6, following), results in the creation of a separate entity independent of the executive branch of government. Moreover, the office shall have the power to hold title to all the real and personal property now or hereafter set aside or conveyed to it. The committee developed this office based on the model of the University of Hawaii. In particular, the committee desired to use this model so that the office could have maximum control over its budget, assets and personnel. The committee felt that it was important to arrange a method whereby the assets of Hawaiians could be kept separate from the rest of the state treasury. The committee learned that in the past there has been commingling of funds intended for native Hawaiians of one-half blood with other moneys in the state treasury. The committee felt it imperative that this practice stop.

Article XI is amended by adding a new section to read:

"POWERS OF BOARD OF TRUSTEES

"Section 6. The board shall exercise power in accordance with law, to manage and administer the proceeds from the sale or other disposition of the lands, natural resources, minerals, and income derived from whatever sources for native Hawaiians, including all income and proceeds from that pro rata portion of the trust referred to in Section 4 for those native Hawaiians as defined in the Hawaiian Homes Commission Act, 1920, as amended or may be amended; formulate policy relating to affairs of native Hawaiians, and exercise control over real and personal property set aside by state, federal, or private sources and transferred to said Board for Native Hawaiians. The board shall have the power to exercise control over the Office of Hawaiian Affairs through its executive officer, the administrator of the Office of Hawaiian Affairs, who shall be appointed by the board."

Your Committee decided to grant native Hawaiians the right to determine the priorities which will effectuate the betterment of their condition and welfare by granting to the board of trustees powers to "formulate policy relating to affairs of native Hawaiians." Your Committee created the board of trustees of the Office of Hawaiian Affairs in the Constitution to insure that it would handle the assets and financial affairs of native Hawaiians. It is intended that these powers will include the power to contract, to accept gifts, grants and other types of financial assistance and agree to the terms thereof, to hold or accept legal title to any real or personal property and to qualify under federal statutes for advantageous loans or grants, and such other powers as are inherent in an independent corporate body and applicable to the nature and purposes of a trust entity for native peoples. These powers also include the power to accept the transfer of reparations moneys and land.

Your Committee included the provision that the board would select an administrative officer to handle the management and operation of the office. The committee wanted

to create a separate position for these activities so that such a person could be employed on a full-time basis.

In making this decision, your Committee intends that the Office of Hawaiian Affairs would be able to accept title to the Hawaiian home lands in the event that said lands are transferred to it for administrative or any other purposes.

The committee intends this section to be broad enough to include within its scope the administration and management of the native Hawaiian land trust created by the Hawaiian Homes Commission Act of 1920. The Hawaiian Homes Commission Act, which provides for the administration of the Hawaiian home lands by the Hawaiian homes commission, was adopted as state law in Article XI of the Hawaii State Constitution in 1959. The Hawaiian home lands was created by the Act of 1920 whereby Congress set aside 200,000 acres of land in Hawaii for the rehabilitation and resettlement of native Hawaiians of one-half blood, under the management of the Hawaiian homes commission. It was felt at that time that only a return to the land could halt the sharp decline in numbers and the unfavorable trends in economic and social disorganization that were becoming apparent among the Hawaiian people. Title to these Hawaiian home lands remained with the United States prior to Statehood but was vested in the State of Hawaii upon the admission of Hawaii into the Union.

Pursuant to Section 6, the board of trustees could assume the trust responsibilities of the Hawaiian homes commission. Since Section 202 of the Hawaiian Homes Commission Act provides for the establishment of the Hawaiian homes commission, it constitutes the principal section which would have to be amended in order to eliminate the present practice of appointing commissioners and substituting therefor the elective model provided for in Section 5.

In accordance with Section 7(b) of Public Law 86-3, 86th Congress, Section 4 of the Admission Act became a part of Article XI, Hawaii State Constitution, at the election held on June 27, 1959, allowing Section 202 and other provisions relating to administration to be amended without congressional consent in the Hawaii State Constitution. The consolidation of the two trusts under the control and management of a single board would facilitate the attainment of the objective of the trusts: to provide for the betterment of the conditions of native Hawaiians. Such a merger would avoid duplication and waste of administrative expenditures.

Furthermore, this section empowers the board to administer and manage the pro rata share of assets derived from the public lands granted to those native Hawaiians as defined in the Hawaiian Homes Commission Act, 1920, as amended or may be amended, under Section 5(f) of the Admission Act.

Your Committee concluded that these Sections 5 and 6, taken together, are of utmost importance for they provide for accountability, self-determination, methods for self-sufficiency through assets and a land base, and the unification of all native Hawaiian people.

Unlike the Act and the Section 5(f) trust, this trust is established for the benefit of all native Hawaiians, including those defined as native Hawaiians under the Hawaiian Homes Commission Act, 1920, as amended, and the restoration of their culture. The committee recognizes the right of native Hawaiians to govern themselves and their assets by their assumption of the trust responsibility imposed on the State to better their condition.

Article XI is amended by adding a new section to read:

"DEFINITION: NATIVE HAWAIIAN

"Section 7. Native Hawaiian means any individual any of whose ancestors were natives of the area which consisted of the Hawaiian Islands prior to 1778.

"Native Hawaiians of one-half blood means any individual of not less than one-half part of the blood of races inhabiting the Hawaiian Islands previous to 1778."

Your Committee decided to add this new section defining native Hawaiians in order to clarify any ambiguity that might exist. Since 1920, native Hawaiians have been defined only in the Hawaiian Homes Commission Act, 1920, as amended, in Section 201(7),

which states: "The term 'native Hawaiian' means any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778." Native Hawaiians of one-half blood will not be a subgroup under this definition. The committee believes that the time has come to include all native Hawaiians, regardless of blood quantum, for the number of descendants is increasing. This qualification has proved to be a factor in dividing the Hawaiian community--mothers and fathers from their children, cousins from cousins, friends from friends. Moreover, the removal of a blood qualification will be in line with the current policy of the federal government to extend benefits for Hawaiians to all Hawaiians regardless of blood quantum.

Your Committee believes that this division among people who are of the same blood and may even be parent and child is not right or fair. The committee felt that the rule may even put undue pressure on a person's choice of who to bear children with. Your Committee took notice of the history of the two generations intervening between 1920 and 1978, which included two generations of further interracial offspring. Thus a rationale that may have had legitimacy in 1920 has now become outmoded.

Article XVI is amended by adding a new section to read:

"EFFECTIVE DATE FOR OFFICE
OF HAWAIIAN AFFAIRS

"Section . The legislature shall provide for the implementation of the amendments to Article XI in Sections 5 and 6 on or before the first general election following ratification of the amendments to Article XI in Sections 5 and 6."

Your Committee added this new section to Article XVI in order to provide for implementation of the election of the board of trustees to the Office of Hawaiian Affairs. Your Committee felt that the election could be most economically held at the same time as a general election. Moreover, to have implementation of the amendments to Article XI on or before the first general election following ratification would give the legislature adequate time to develop the necessary procedures.

Section 5 of Article X relating to farm and home ownership is amended to read:

"That pro rata portion of the [The] public lands set aside for the general public in Section 4 of Article XI, hereof, shall be used for the development of farm and home ownership on as widespread a basis as possible, in accordance with procedures and limitations prescribed by law."

The committee has amended this section in order to conform it to the general intent and purpose of new Sections 4 and 6 of Article XI which grant control over the trust created for those native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended or may be amended, in Section 5(b) of the Admission Act to the Office of Hawaiian Affairs. It is the remaining pro rata share of the public lands belonging to the general public that should be managed under this section. The policy governing the portion which was set aside for the betterment of native Hawaiians will be dealt with exclusively by the Office of Hawaiian Affairs. Section 8 of Article XIV relating to compliance with trust is amended to read:

"Section 8. Any trust provisions which the Congress shall impose, upon the admission of this State, in respect of the lands patented to the State by the United States or the proceeds and income therefrom, shall be complied by appropriate legislation. Such legislation shall not diminish or limit the benefits of native Hawaiians under Section 4 of Article XI."

The Committee decided to amend this section to once again conform another section of the Constitution to the policies and powers set forth in Article XI, Section 4, relating to the public trust, and Section 6, relating to the powers of the board of trustees of the Office of Hawaiian Affairs. Therefore your Committee recommends: (1) that the above-numbered proposals referred to your Committee be filed; and (2) that Committee Proposal No. 13* pass first reading in the form shown.

Signed by all members of the Committee except Delegates Alcon and Hagino.

*For the complete text of this proposal, see Committee Proposal No. 13, page 812.

STANDING COMMITTEE REPORT NO. 60

Your Committee on Budget, Accounts and Printing begs leave to report that Com. Whole Rep. No. 7; Stand. Com. Rep. Nos. 61 and 62; Com. P. Nos. 3, S. 1, 5, RD. 2, S. 1 and 7, RD. 1; and Minority Rep. Nos. 9 and 10 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale, member.

STANDING COMMITTEE REPORT NO. 61

Your Committee on Style, to which was referred Committee Proposal No. 3, begs leave to report as follows:

The proposal, which the Convention has adopted on second reading, covers Article IV, The Executive, Sections 1 and 2, and Article XVI, Schedule. The Convention has proposed amendments to Sections 1 and 2 of Article IV, as well as the addition of a new section to Article XVI.

Your Committee proposes several style changes which are indicated by brackets [for deletions] and underscoring for additions as shown in the committee report and in the committee proposal.

"ESTABLISHMENT OF THE EXECUTIVE

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

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

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

"No person shall be elected to the office of governor for more than two consecutive full terms.

"No person shall be eligible for the office of governor unless [he] the person shall be a qualified voter, have attained the age of thirty years[,] and have been a resident of this State for five years immediately preceding [his] the person's election.

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

"LIEUTENANT GOVERNOR

"Section 2. There shall be a lieutenant governor, who shall have the same qualifications as the governor. [He] The lieutenant governor shall be elected at the same time, for the same term[,] and in the same manner, as the governor; provided that the votes cast in the general election for the nominee for governor shall be deemed cast for the nominee for lieutenant governor of the same political party. No person shall be elected to the office of lieutenant governor for more than two consecutive full terms. The lieutenant governor shall perform such duties as [may be prescribed] provided by law."

Article XVI, new section. EFFECTIVE DATE FOR TERM LIMITATIONS FOR GOVERNOR AND LIEUTENANT GOVERNOR:

Your Committee considered the wording of this new section but decided not to recommend any changes.

Changes of particular interest recommended by your Committee:

1. Deletion of commas preceding conjunctions. This is consistent with previous action taken by your Committee on Style and the Convention.

2. Use of nondiscriminatory nouns, pronouns and adjectives. These suggested changes are made pursuant to the policy adopted in Resolution No. 13.

3. Change of "as may be prescribed by law" to "as provided by law" to remain consistent with similar wording elsewhere in the Constitution.

Style Committee Recommendations

Your Committee on Style recommends the adoption of Standing Committee Report No. 61 and consideration of the passage of Committee Proposal No. 3, S. 1* on third reading.

Signed by all members of the Committee except Delegates Ledward, Pulham, Takahashi, Takehara, Takemoto and Yoshimura.

*For the complete text of this proposal, see Committee Proposal No. 3, page 786.

STANDING COMMITTEE REPORT NO. 62

Your Committee on Style, to which was referred Committee Proposal No. 5, RD. 2, begs leave to report as follows:

The proposal, which the Convention has adopted on second reading, covers Article VIII, Public Health and Welfare. The Convention has proposed amendments to Section 2 (Care of Handicapped), Section 3 (Public Assistance) and Section 5 (Public Sightliness and Good Order), as well as the addition of the following new sections:

PRESERVATION OF A HEALTHFUL ENVIRONMENT
MANAGEMENT OF STATE POPULATION GROWTH
CULTURAL RESOURCES
ECONOMIC SECURITY OF THE ELDERLY
PUBLIC SAFETY

Your Committee proposes several style changes which are indicated by brackets [for deletions] and underscoring for additions as shown in the committee report and in the committee proposal.

Article VIII, Sections 2, 3 and 5:

"CARE OF HANDICAPPED PERSONS

"Section 2. The State shall have the power to provide for the treatment and rehabilitation of handicapped persons.

"PUBLIC ASSISTANCE

"Section 3. The State shall have the power to provide financial assistance, medical assistance[,] and social services for persons who are found to be in need of[,] and are eligible for such assistance and services as provided by law."

"PUBLIC SIGHTLINESS AND GOOD ORDER

"Section 5. The State shall have the power to conserve and develop objects and places of historic or cultural interest[,] and provide for public sightliness and physical good order[, and for that purpose]. For these purposes private property shall be subject to reasonable regulation."

Article VIII, new section. PRESERVATION OF A HEALTHFUL ENVIRONMENT:

Your Committee discussed this new section and feels no changes are necessary.

Article VIII, new section. MANAGEMENT OF STATE POPULATION GROWTH:

Your Committee discussed this new section and feels no changes are necessary.

Article VIII, new section:

"CULTURAL RESOURCES

"Section . The State shall have the power to preserve and develop the cultural, creative [,] and traditional arts of its various ethnic groups."

Article VIII, new section. ECONOMIC SECURITY OF THE ELDERLY:

Your Committee discussed this new section and finds no changes are necessary.

Article VIII, new section:

"PUBLIC SAFETY

"Section . The [Law of the Splintered Paddle, Kanawai Mamala-Hoe, decreed by Kamehameha I, "Let every elderly person, woman and child, lie on the road in safety,"] law of the splintered paddle, mamala-hoe kanawai, decreed by Kamehameha I - Let every elderly person, woman and child, lie on the road in safety - shall be a unique and living symbol of the State's concern for public safety.

"The State shall have the power to provide for the safety of the people from crimes against persons and property."

The changes recommended here are for the purposes of style and clarification, and have no further implications.

Changes of particular interest recommended by your Committee:

Section 2. Addition of the word "persons" to the title. Your Committee felt the addition was consistent with the term "handicapped persons" as proposed in Section 2, as well as somewhat further "humanizing" the title.

Section 2. Insertion of the word "the" before "power" to be consistent with phraseology elsewhere in the Constitution.

Section 2. Insertion of the word "the" before "treatment" for clarity.

Section 3. Deletion of the commas following "medical assistance" and "in need of" for purposes of clarity.

Section 5. Deletion of the comma following "or cultural interest" coupled with insertion of the word "and" in its place helps to clarify the sentence. Additionally, the sentence has been separated into two sentences for clarity and readability.

New Section _____. "Cultural Resources." Deletion of the comma preceding the conjunction is consistent with previous action taken by your Committee on Style and the Convention.

New Section _____. "Public Safety." To be consistent with previously passed sections and the Constitution, capitalizations except for proper names and the beginning of the law were deleted.

The phrase "Kanawai Mamala-Hoe" and the quotation "Let every elderly person, woman and child, lie on the road in safety" were researched for authenticity and form. Two sources were consulted: Dr. Kenneth Emory, Senior Anthropologist and Professor Emeritus, University of Hawaii, and Dr. Donald E. Mitchell. Neither could find a source

from which this direct quotation came. Therefore, dashes have been substituted for the quotation marks. The phrase "Kanawai Mamala-Hoe" was found to be improperly stated. Rather, it should read "mamala-hoe kanawai."

The single possible source for the derivation of this quote is a brochure entitled "The King Kamehameha Statue" by Dr. Mitchell [The Statuary Hall Commission, Honolulu, Hawaii, 1969].

Style Committee Recommendations

Your Committee on Style recommends the adoption of Standing Committee Report No. 62 and consideration of the passage of Committee Proposal No. 5, RD. 2, S. 1* on third reading.

Signed by all members of the Committee except Delegates Ledward, Pulham, Takahashi, Takehara, Takemoto and Yoshimura.

*For the complete text of this proposal, see Committee Proposal No. 5, page 789.

STANDING COMMITTEE REPORT NO. 63

Your Committee on Budget, Accounts and Printing begs leave to report that Stand. Com. Rep. No. 64 and Res. Nos. 14, RD. 1, 18 and 19 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 64

Your Committee on Education, to which was referred Resolution No. 14, entitled "REQUESTING THE LEGISLATURE OF THE STATE OF HAWAII TO REVIEW AND REDRESS THE PROBLEMS OF THE PUBLIC LIBRARIES AS PART OF THE DEPARTMENT OF EDUCATION," begs leave to report as follows:

The purpose of this resolution is to address the problems of the public libraries and to request the legislature to resolve the problem.

The present state library system is located in the Department of Education under the Office of Library Services. The State divides libraries into two main categories: (1) school libraries and (2) public libraries. Public libraries in turn are composed of (a) community/school libraries, (b) regional libraries, (c) community libraries and (d) the main library. While the school libraries are under the jurisdiction of the Department of Education, the public libraries are managed by the Office of Library Services.

Testimony before your Committee indicated that the public libraries have been plagued with a number of problems, including confusion of roles and responsibilities between the Department of Education and the Office of Library Services, a lack of priority in both personnel and budget distribution, and a decline in services to library users due to management and fiscal problems.

Your Committee is cognizant of the need to resolve the dilemma faced by the public libraries. It has heard several suggestions for the separation of public libraries from the Department of Education--by the creation of a separate department of libraries, the incorporation of libraries in a proposed Department of Life-Long Learning, and the integration of the libraries in other existing executive line departments. Your Committee, however, finds that granting the libraries an independent status could result in added costs to the State and add unnecessary layers of bureaucracy to the present system without the guarantee that the problem will be resolved. Your Committee further believes that the problems of the public libraries should not be resolved through constitutional revision.

Your Committee has amended the resolution to state that the public libraries are being inadequately supported. However, it does not believe that the Department of Education is solely responsible for the lack of adequate management of the libraries.

Your Committee recommends that the legislature of the State of Hawaii review and redress this problem in the 1979 legislative session. An early investigation of the problems will alleviate further deterioration of the public library system.

Your Committee on Education concurs with the intent and purpose of Resolution No. 14, as amended herein, and recommends its adoption in the form attached hereto as Resolution No. 14, RD. 1.

Signed by all members of the Committee.

RESOLUTION NO. 14, RD. 1

REQUESTING THE LEGISLATURE OF THE STATE OF HAWAII TO REVIEW AND REDRESS THE PROBLEMS OF THE PUBLIC LIBRARIES AS PART OF THE DEPARTMENT OF EDUCATION.

WHEREAS, the public libraries of the State of Hawaii are currently administered by the Department of Education, separate and apart from school libraries; and

WHEREAS, the competing needs of the educational system have resulted in internal disproportionate cutbacks in public library resources, and a seeming de-emphasis upon the importance of the public library system which serves the general public; and

WHEREAS, a variety of management studies, including those by the Legislative Auditor (1977), the Commission on Organization of Government (1977), and the Governor's Conference on Libraries and Information Services (1978), have concluded that the public libraries are being inadequately supported; and

WHEREAS, separate administration of the public library system would provide more equitable and independent recognition and evaluation of the library needs of the public, and of the importance of the public library system to the people; and

WHEREAS, long-standing problems encountered in ensuring adequate and appropriate public library resources for the State may be alleviated or solved by the establishment of a separate administrative entity for the public library system; and

WHEREAS, establishment of an independent library system to administer the public libraries of the State, separate and apart from school libraries which should remain a part of the educational system of which they are integral components, would enhance the responsiveness of the State to the needs of all the people; and

WHEREAS, the Committee on Education of this Constitutional Convention has in its Standing Committee Report No. 39, in recognition of the problems faced by the libraries, urged the Legislature to review and redress these problems; now, therefore,

BE IT RESOLVED that this Constitutional Convention of the State of Hawaii of 1978 request and recommend with equal urgency that the Legislature of the State of Hawaii immediately review and redress the problems of the public libraries as part of the Department of Education and recommend as a possible solution the creation of an independent statewide system of public libraries; and

BE IT FURTHER RESOLVED that duly authenticated copies of this Resolution be transmitted to the Governor, the Board of Education, and to the Legislature.

STANDING COMMITTEE REPORT NO. 65

Your Committee on Budget, Accounts and Printing begs leave to report that Stand. Com. Rep. Nos. 66 and 67; Com. P. Nos. 8, RD. 1, 6, RD. 1, S. 1 and 14; and Com. Whole Rep. No. 8 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 66

Your Committee on Taxation and Finance, to which were referred proposals numbered 755, relating to taxation and finance; 21, 178, 244, 259, 344, 365, 368, 469, 474, 557, 607, 649, 697, 742 and 767, relating to spending and taxation limitations; 20, 24, 43, 204, 250, 312, 354, 370, 441, 470, 666, 667, 694, 748, 769, 798, 799 and 806, relating to bonds and debt limitations; 328, 529, 530, 749 and 771, relating to the use of public funds; 23, 358 and 709, relating to state and federal income tax conformance; 429, 543, 566 and 626, relating to the auditor; 218, 278, 355, 364, 409, 480, 504, 505, 600, 605, 630, 644, 739, 780 and 829, relating to tax exemptions, credits, tax commissions and miscellaneous tax matters; 260, 293, 307, 366, 369, 442, 457, 514, 578, 655, 782 and 800, relating to county finances; and 2, 67, 68, 72, 84, 206, 224, 227, 299, 316, 343, 353, 367, 393, 394, 450, 510, 522, 565, 571, 608, 613, 614, 732, 750, 751, 770, 789, 790, 791 and 793, relating to budget, appropriations and expenditures, begs leave to report as follows:

This report covers Article VI of the Constitution of the State of Hawaii.

All committee meetings were open to the public, and representatives of organizations and individual persons interested in the above-mentioned proposals were invited to present their views on the subjects covered by the proposals at public hearings.

The following presented their views: Peter Lалlos, Vice-President, Public Finance, E. F. Hutton & Company, Inc.; Samuel Helman, member of the law firm of Wood, Dawson, Love & O'Brien, bond counsel for the State of Hawaii and the four counties; Gordon Wong, Director, State Department of Taxation; Hiroshi Oshiro; Stephen Yamashiro, Hawaii State Association of Counties; Alfred Lardizabel, Finance Director, County of Kauai; Richard Kibe, Finance Director, County of Maui; Peter Leong, Council Services, City and County of Honolulu; Stanley Nakamae, Finance Director, County of Hawaii; Representative James Wakatsuki, Speaker, State House of Representatives; Representative Jack Suwa, Chairman, Committee on Finance, State House of Representatives; Representative Ronald Kondo, Majority Leader, State House of Representatives; Senator Richard Wong, Chairman, Ways and Means Committee, State Senate; Senator Donald Ching, Majority Leader, State Senate; Dennis Goda, Chief, Budget Planning and Management Division, State Department of Budget & Finance; Jensen Hee, Deputy Director of Finance, State Department of Budget & Finance; Dr. Thomas Hitch, Senior Vice-President, Research Division, First Hawaiian Bank; Dr. Richard Joun, Division Head, Research & Economic Analysis Division, State Department of Planning & Economic Development; Wesley Hillendahl, Vice-President, Department of Business Research, Bank of Hawaii; Professor Richard Pollock, Department of Economics, University of Hawaii; Fred Bennion, Executive Director, Tax Foundation of Hawaii; Newton Sue, Assistant Legislative Auditor, State of Hawaii; Eileen Anderson, Director, State Department of Budget & Finance; Lowell Kalapa, Assistant Director, Tax Foundation of Hawaii, Delegate Georgia Miller; Harvey Toda, United Public Taxpayers; Ludwig E. Armerding, National Federation of Independent Businesses; Councilman George Koga, Honolulu City Council; Stephen B. Kealoha, Citizens Con-Con Monitor; James Savarese, Director, Public Policy Analysis, representing the Hawaii Government Employees' Association and the United Public Workers; Richard A. Heaton, Citizens for Tax and Spending Limits; William S. Cobb, Jr., Citizens for Tax and Spending Limits; Al Preston, Jr., Citizens' Tax Limitation Petition Committee-Hawaii; Edwin G. Maier, President, Ed & Don's Candies; Delegate Masu K. Dyer; Franklin Sunn, Hawaii Housing Authority, State Department of Social Services & Housing; Joe C. Litten, Vice-President, Public Finance, Dean Witter Reynolds, Inc.; Masaichi Tasaka, President, Kuakini Medical Center; Richard S. Locke, Executive Vice-President and Director, E. F. Hutton & Co., Inc., New York; Andrew T. F. Ing, Financial Vice-President, Hawaiian Electric Co., Inc.; Claire Cohen, Vice-President and Associate Director, Municipal Bond Research Division, Moody's Investors Service, Inc.; Robert B. McCall, Assistant Executive Director for State Relations, Education Commission of the States; Reverend Darrow L. Kakanui Aiona, Chairperson Board of Education, State Department of Education; Reinhard Mohr, Executive Director, American Civil Liberties Union of Hawaii; Rodney Shinkawa, Senior Vice-President/Treasurer, Island Federal Savings & Loan Association, representing The Hawaii League of Savings Associations; Lex Brodie, President, Small Business Association of Hawaii; Mel Goto, United Public Workers, Hawaii Government Employees' Association; Hideo Murakami, Comptroller, State Department of Accounting & General Services; Dorothy Hubbard, Job Finders, President, Hawaii Employment Association; Stanley D. Suyat, Deputy Director, State Department of Taxation; Roger Epstein, The Chamber of Commerce, of Hawaii; Rita Miller Thorpe; Patricia Kalima; Clinton Tanimura, Legislative Auditor, State of Hawaii; Delegate Steve

O'Toole; Lester E. Cingcade, Administrative Director, Supreme Court, State of Hawaii; Delegate Lawrence Kono; Representative Ralph Ajifu, Minority Leader, State House of Representatives; Thomas Unterman, Orrick, Herrington, Rowley & Sutcliffe, San Francisco; Delegate C. Randall Peterson; Desmond J. Byrne; C. P. Chee, Administrator, Finance Division, State Department of Budget & Finance; Clarence Taba, Hawaii Bankers Association; Wallace Aoki, Deputy Director, State Department of Transportation; Alan Altura, E. F. Hutton & Co., Inc.; John Hopkins, Senior Vice-President, Blyth Eastman Dillon Health Care Funding, Inc., New York; Dennis Ciocca, First Vice-President, and Frank J. Soriano, First Vice-President, San Francisco Municipal Bond Department of Blyth Eastman Dillon & Co.; William Kruse; Delegate Leon Sterling; David Slipper, Special Assistant for Housing, Office of the Governor, State of Hawaii; Delegate Marion Lee; James Gibson, Vice-President, American Savings; and Lewis Uhler, National Tax Limitation Committee.

The amendments to Article VI proposed by your Committee reflect its desire to establish a taxation and finance structure for the state and local governments which will foster the continued growth and diversification of the State's economy as well as act as a reasonable limitation on government spending.

A. State Debt Limit

The goal of your Committee in restructuring the State's debt limit was to restrict the issuance of general obligation bonds to a debt service ratio which would ultimately prevent the State from paying approximately more than fifteen percent of each current revenue dollar for maximum debt service.

The changes to the debt limit formula, which are prescribed in Section 3 of Article VI, proposed by your Committee are designed to achieve the following objectives:

1. To establish a more rational debt ceiling which will reflect the total debt costs of the State and the impact of such borrowing on current and future budgets.
2. To adopt limits that permit adequate financing of future capital improvements but exercise a restricting influence on debt issuance policies.
3. To impose a debt ceiling which bears a reasonable relationship to the State's ability to repay its debt.
4. To enhance the saleability of the State's general obligation bonds by devising a sound debt limit.
5. To provide a debt structure which does not place the State in an untenable position should the State's economy take a downturn.

The specific amendments to the State's debt limit formula recommended by your Committee and the reasons for such changes are as follows:

1. General obligation bonds may be issued, only if at the time of their issuance the maximum amount of principal and interest on such bonds and all outstanding bonds in the current or any future fiscal year does not exceed twenty percent of the average of the general fund revenues of the State in the immediately preceding three years. On July 1, 1982, the debt service ratio will be reduced to eighteen and one-half percent.

The present debt ceiling of three and one-half times the average of general fund revenues for the prior three fiscal years does not place sufficient restriction on the issuance of debt. Such a ceiling has allowed the accumulation of more than \$1 billion of authorized but unissued general obligation bonds and exerts no control over the State's debt policies. The State would be in serious difficulties if all such authorized bonds were issued.

One of the defects of the present debt formula stems from its failure to consider the substantial costs of interest on indebtedness. Debt service, or the amount required to pay principal and interest, is a more accurate measurement of the State's repayment capabilities than the present formula. The proposed debt formula would not restrict the amount of money

which can be pledged to servicing debt. Rather, it would limit the percentage of revenues which the State could apply to debt service in any particular year.

The twenty percent debt service ratio, which will be effective until 1982, was selected to accommodate the State's proposed bond issuance schedule and its ongoing and programmed capital improvement projects for the next five years. After that transitional period, the State's debt service ratio is to be reduced to eighteen and one-half percent and will remain at that level.

There were several members of your Committee who felt that the debt service ratio based on bond issuance should be coupled with an authorization ceiling. It was argued that the proposed debt ceiling did not prevent the State from authorizing as much general obligation bond debt as desired, thus perpetuating the reservoir of authorized but unissued bonds. However, the majority of your Committee believed that its proposed lapsing provision, discussed in a subsequent section of this report, goes a long way toward alleviating this problem. Further, the legislature would appear ill-advised if it authorized bonds in an amount which, if issued, would cause the debt service ceiling to be exceeded.

2. That a majority vote of the members of each house of the legislature shall authorize the issuance of all general obligation bonds.

The current language of Section 3 of Article VI requires a two-thirds vote of each house to authorize a general obligation bond issuance for the State. Although the two-thirds vote requirement was intended to assure that projects were thoroughly reviewed before bonds for their financing were authorized; it has had the opposite effect. It is expected that the more stringent debt ceiling and lapsing provision proposed will provide additional safeguards against imprudent bond authorizations.

3. That the debt ceiling may be exceeded when an emergency condition is declared by the governor and concurred to by a two-thirds vote of the legislature.

This provision is intended to allow the governor and the legislature by mutual agreement to exceed the debt ceiling when an extraordinary emergency exists. Such an emergency might be precipitated by the loss of tax-exempt status for municipal bonds or some other financial catastrophe. Because of the potential for abuse, your Committee believes that such bonds should be issued only in extreme emergencies. The type of emergency which would trigger this provision should be distinguished from the casual deficit and natural and other disasters referred to in proposed Section 3(i), which will be discussed later. It was felt that the two-thirds vote requirement was necessary to avoid any abuses of this provision. It is to be clearly understood that subsequent debt service resulting from the issuance under this emergency condition is not exempt from the debt limit and the provision is not the same as bond issuance permitted under emergency conditions enumerated under the new item (i), the debt service of which is excluded from the state debt. It is your Committee's intent that should the debt limit ever be exceeded under emergency conditions, such limit should not subsequently be routinely exceeded but that the capital improvements program should be thoroughly reviewed and adjusted to appropriate lower levels until the State's debt is brought back within constitutional limits.

4. That general obligation bonds shall mature not later than 25 years from the date of issue and that reimbursable general obligation bonds shall mature not later than 35 years from the date of such issue.

Section 3 of Article VI, as presently written, permits the State to repay bonds over a 35-year period. However, your Committee agreed that the 35-year period should be reduced to 25 years for general obligation bonds to preclude circumvention of the debt ceiling by issuing bonds with longer maturities resulting in lower annual debt service charges. Further, this requirement will not disrupt the present practice of the State, which has normally issued bonds with maturities from 3 to 20 years.

A new term, "reimbursable general obligation bonds," has been proposed. Such bonds are general obligation bonds issued for a public undertaking, improvement or system for which payment of principal and interest is reimbursed to the general fund from assessment collections, revenues or user taxes. Although not designated as such, the present Section 3 of Article VI permits the issuance of a type of general obligation bond which is in fact a reimbursable general obligation bond. Your Committee decided to retain

the 35-year period with respect to such bonds because there are some facilities, such as dormitories or parking structures, which could not be undertaken if shorter maturity periods, requiring higher annual debt service costs and higher user charges, were required.

5. The language of proposed Section 3 of Article VI relating to the issuance of serial form bonds has been amended to permit the State to issue notes up to two years without requiring them to be in serial form.

B. Exclusions from the State Debt Limit

Most of the present exclusions from the State's debt limit are kept intact. However, the following amendments are proposed:

1. Section 3(a) of Article VI has been expanded to allow the exclusion from the State's indebtedness of bonds for the full payment of which securities have been irrevocably set aside.

2. Section 3(b) is expanded to exclude from the debt limit the issuance of revenue bonds to finance loan programs, such as agricultural loans and home loans.

3. Proposed Section 3(c) would exclude special purpose revenue bonds from the State's debt limit. Such bonds are explained in a subsequent section of this report.

4. Proposed Sections 3(d) and 3(e), which are already included in Article VI but are redesignated, would change the reference of "authorized" bonds to "issued" bonds; the change is consistent with the recasting of the entire debt limit formula to one based on issued rather than authorized bonds.

5. Proposed Sections 3(f) and 3(g) of Article VI employ the new term, "reimbursable general obligation bonds." These are changes of style and not substance.

6. Present Sections 3(f) and 3(g) have been deleted because they refer to the exclusion of authorized but unissued bonds from the State's indebtedness. Since the new debt limit applies only to issued bonds, those sections are unnecessary.

7. Section 3(h) is a new subsection which would allow the exclusion of bonds used to guarantee loans from the State's indebtedness, if a reserve against such bonds is established. The reserve is required to be maintained in an amount in reasonable proportion to the outstanding loans guaranteed. Under the present language in Article VI, such contingent liabilities would be counted as general obligation bonds of the State. The intent of this proposal is to allow the State or a county to provide an incentive for financial institutions to make low-interest loans available for housing, including that on Hawaiian Home lands, and agricultural ventures.

8. Proposed Section 3(i), relating to bonds issued to meet casual deficits and emergencies caused by disaster or acts of God and other extraordinary circumstances, combines two existing paragraphs of present Section 3. The substance of the provision has not been altered.

C. Special Purpose Revenue Bonds

The constitutional issue with respect to special purpose revenue bonds is whether such bonds should be excluded from the debt limit. This issue has emerged because of a 1976 supreme court decision on Act 161, Session Laws of Hawaii 1973, which authorized the State to issue revenue bonds to finance anti-pollution projects. The court found that the bonds satisfied a public purpose, but it also found that the anti-pollution bonds did not qualify as revenue bonds as defined in the current Constitution and would therefore have to be counted against the debt limit.

The court's criteria were that the law authorizing the bonds must obligate the issuer to (1) impose rates and charges for the use of the undertaking sufficient to pay for the costs of its operations and to pay the principal and interest on the bonds and to deposit such revenues in a special fund; and (2) have sufficient proprietary control over the undertaking, because such control is necessary to provide the required security, in the form of revenues,

to make the required payments on the bonds. Consequently, the court's standards presumably ruled out for exclusion from the debt limit all revenue bonds intended to assist private enterprise, or even those revenue bonds intended for home loans under government programs.

While the legislature clearly has the authority to authorize special purpose revenue bonds, their exclusion from the debt limit is a constitutional matter. Your Committee has determined that the authorization and issuance of special purpose bonds should be allowed without being chargeable against the debt limit, if the legislature determines the bonds to be in the public interest and if they are authorized and issued for the following categories of enterprises and programs: (1) manufacturing, processing and industrial enterprises, (2) utilities serving the general public, (3) health care facilities provided to the public by not-for-profit corporations and (4) low- and moderate-income government housing programs.

The proposed provisions specify that no special purpose bonds can be secured, directly or indirectly, by the general credit, revenues or taxes of the issuer. The enterprise for which the bonds are issued is solely responsible for making payment on the bonds. The proposed language states that:

"No special purpose revenue bond shall be secured directly or indirectly by the general credit of the issuer or by any revenues or taxes of the issuer other than receipts derived from payments by a person under contract or from any security for such contract or special purpose revenue bonds and no moneys other than such receipts shall be applied to the payment thereof."

This language prohibits the use of public funds, directly or indirectly, to pay the principal and interest on any special purpose revenue bonds. Thus the issuing jurisdiction is prohibited from incurring any "moral obligation" in the event of default on the bonds.

The provisions allowing the State and political subdivisions to authorize and issue special purpose revenue bonds and to exclude such bonds from the debt limit of the respective jurisdictions were decided upon favorably for the following reasons:

1. The tax-exempt status of special purpose revenue bonds represents a national policy of assisting certain limited categories of enterprises.
2. It can be reasonably assumed that the lower costs of tax-exempt bonds will mean lower costs to consumers, particularly with respect to those enterprises which are under the economic regulation of the issuing jurisdiction.
3. Tax-exempt special purpose revenue bonds can be issued for only those purposes allowed by the Internal Revenue Code.
4. Special purpose revenue bonds combine the advantages of lower-cost government financing with the responsibilities and risks of private ownership.
5. Forty-eight other states allow the issuance of special purpose revenue bonds in one form or another.

Concerns were raised by several members of your Committee whether there would be sufficient safeguards in the issuance of special purpose revenue bonds. Your Committee finds that the safeguards include: (1) enabling legislation must be passed by the legislature and a determination must be made that the proposed bonds are in the public interest before they can be authorized or issued; (2) approval of any specific issue must be authorized by the state or county administration; and (3) close scrutiny will be given to such issues by the tax-exempt bond market.

Another concern was that the issuance of special purpose revenue bonds should be centrally coordinated together with the issuance of general obligation bonds and revenue bonds to avoid the overlapping of any bond issues with its possible detrimental effects on

Hawaii issues in the municipal bond market. Consequently, your Committee recommends that appropriate coordination of all bond issues be effected by a single agency in the executive branch.

D. Lapsing

Your Committee recommends the inclusion of a provision in Section 5 of Article VI which would provide for the automatic lapsing of unencumbered appropriations whose source is general obligation bond funds or general funds. Under your Committee's proposal, appropriations of such funds must be for a specified period but in no case more than two years. Both total unencumbered appropriations as well as partial unencumbered appropriations will lapse at the end of this period.

Your Committee's proposal includes a transitional provision. It allows the State until June 30, 1980 to examine the pool of authorized but unissued bonds and determine which should be implemented. Those appropriations and portions of appropriations unencumbered on that date will lapse.

The reasons for this suggested proposal are as follows:

1. It is unlikely that a large surplus of authorized but unissued bonds, such as the \$1 billion pool now in existence, could have accumulated with a lapsing provision in effect.
2. The provision would facilitate accountability for capital improvement projects by the legislature and governor and would encourage a more rational development of capital improvement programs. Presently, the legislature criticizes the executive for not implementing its projects, while the governor argues that it would be fiscally irresponsible to issue all of the bonds authorized by the legislature. Such a situation undermines the public's confidence in the State's capital improvement program.
3. A lapsing mechanism would require the executive agencies to conduct ongoing reviews of capital improvement programs to determine which projects should be implemented prior to their authorization termination date, which projects require additional authorizations and which projects should be canceled.

A longer lapsing period was considered but your Committee agreed that a two-year period, which corresponds with the State's biennial budgetary system, was adequate. Further, this will cause an ongoing, thoughtful review of the implementation and supervision of all stages of such projects by the executive branch and will increase the oversight capabilities of the legislative branch.

E. County Debt Limits

Your Committee believes that the present provisions relating to the counties' debt limits should be retained. It was agreed that the counties have demonstrated restraint and prudence in their debt-incurrence practices.

However, the following amendments discussed in connection with the State's debt limit also apply to the counties: (1) the addition of language authorizing special purpose revenue bonds, (2) the change in the maturity periods for general obligation and reimbursable general obligation bonds, and (3) the modifications to the exclusions from state debt limit or, in this case, the funded debt of any of the counties. Language clarifying the method of authorizing general obligation and reimbursable general obligation bonds for political subdivisions has also been suggested for inclusion in Section 3 of Article VI. Your Committee also recommends revising Section 3 of Article VI to provide the legislature with the option of authorizing, by general law, boards or agencies of political subdivisions to issue revenue bonds. Your Committee was informed that the Board of Water Supply of the City and County of Honolulu had utilized such bonds in the past. Although it was the feeling of your Committee that the present language of the Constitution allows the issuance of revenue bonds for such agencies or boards, it was decided to include clarifying language to avoid confusion in the future.

F. The State Spending Limit

In testimony before your Committee, the necessity of establishing some form of limitation on state government spending received wide support. Basically, the movement to control government spending, here and elsewhere in the United States, has its origins in the genuine concern of taxpayers that the costs of government should not consume an increasing proportion of their income. Your Committee concurs that discipline needs to be exercised in the development and execution of spending policies and that the Constitution is a proper place to exert and motivate such discipline. The following constitute your Committee's proposals for a state spending limitation:

1. That the rate of growth of general fund appropriations, excluding federal funds received by the general fund, be limited to the estimated rate of growth of the State's economy.

Both expenditure limitations, which would restrict the State's spending, and taxation limitations, which limit the amount of revenues the State may raise, were considered as means of limiting state spending. However, limits on the taxing power were rejected because of their potentially adverse effect on the State's credit rating; limiting the State's taxing power weakens the State's full faith and credit pledge. An expenditure limitation, on the other hand, would not jeopardize the State's credit rating or the State's revenue-producing potential. In fact, your Committee heard testimony that it would have a positive effect on the credit rating of the State. It would also allow both the legislative and executive branches of government to plan and establish their priorities in an orderly manner.

Your Committee chose the general fund, exclusive of federal funds, as the appropriate state spending base because it includes nontax revenues, such as fees and charges, but excludes special fund revenues earmarked for self-sufficient operations, such as airports and highways. Although federal funds are deemed part of the general fund, they do not reflect the State's ability to generate revenue and were accordingly eliminated from the computation of the expenditure ceiling.

After lengthy discussion, your Committee decided to allow the legislature to prescribe the standard of growth of the State's economy. There was strong support in your Committee for using total state personal income as the standard. It was argued that a number of experts testifying before your Committee agreed that state personal income was currently the best indicator of the State's ability to support government services and should be included in the Constitution itself. There was also the view that neither personal income nor any economic measure should limit government spending and that spending limits should be a matter for the legislature to decide. However, the majority of your Committee believed that the State should not be tied to one particular index. A standard, such as total state personal income which is a federal index, may be valid and useful today but outmoded at some later time. Your Committee preferred to allow the legislature the flexibility to devise an appropriate indicator and change it later, if necessary.

2. That the legislature by a two-thirds vote may exceed the expenditure ceiling if it states the dollar amount, the rate by which the ceiling will be exceeded and the reasons for such excess authorization.

Your Committee agreed that the legislature should be allowed to exceed the expenditure ceiling if circumstances warranted such action. The two-thirds vote requirement and the public disclosure requirement were designed to provide safeguards against the legislature exceeding the spending limit without an extraordinary legislative consensus and public knowledge that a genuine need exists.

3. That the State shall balance its budget except when the governor publicly declares a threat to the public health, safety or welfare.

The intent of this amendment to Section 6 is to assure that the State does not circumvent the expenditure ceiling provided in proposed Section 5 by engaging in deficit spending.

4. That, if the legislature mandates the counties to undertake new programs or to increase the level of services under existing programs, the State share in the costs of such new programs or new level of services.

Although your Committee considered granting the counties the ability to levy excise

taxes, it was agreed that such taxing power should not be given to the counties if they were not required to assume additional government services. On the other hand, your Committee was concerned that the State be prevented from placing the counties in a financial crisis by requiring them to provide additional services. This proposal, specified in a proposed section entitled "Transfer of Mandated Programs," is intended to assure that the State does not circumvent the proposed spending limit by transferring some of its functions to the counties or by requiring the counties to undertake new programs. It is the intent of your Committee that the State provide funding for the full cost of the new program or an increase in scope, represented by increased costs, in an existing program in the first year of the program and for a reasonable share of such cost in future years for as long a period as the new program or increase in scope shall be prescribed by law.

G. The Budget

Your Committee suggests including a provision in Section 4 of Article VI which would require that the governor's plan of proposed general fund expenditures and estimates of the aggregate expenditures of the judicial and legislative branches not exceed the general fund expenditure ceiling established by the legislature under Section 5 of this article. This requirement not only ties the provisions of Section 4 to the proposed expenditure ceiling requirement in Section 5 but also effectively requires the governor to present a realistic budget for the legislature's consideration. Proposed Section 4, however, does allow the governor to propose a budget which would exceed the general fund expenditure ceiling if public disclosure of the proposed excess over such ceiling and an explanation for such excess is given.

A provision to clarify the procedure for submission of the budget of the judicial branch has also been recommended. This provision authorizes the chief justice to submit the judiciary's budget directly to the legislature. The effect of this provision will be to constitutionally sanction an accepted current practice. It is also consistent with maintaining the separation of each of the three branches of government.

The proposed Section 4 also requires that the budget of both the governor and judiciary be submitted in bill form. This requirement conforms to present procedural requirements.

H. Public Purpose

Section 2 of the present Constitution provides that "No tax shall be levied or appropriation of public money or property made, nor shall the public credit be used, directly or indirectly, except for a public purpose. No grant shall be made in violation of Section 3 of Article I of this constitution." It is proposed that this "public purpose" clause, which has its origins in the 1950 Constitution, be retained intact, but that an additional sentence be added to read: "No grant of public money or property shall be made except pursuant to standards provided by law."

In effect, the additional language will require the legislature to establish standards for the appropriation of funds to private organizations conducting programs which the legislature has determined to be in the public interest. No such standards exist at the present time even though the legislature appropriates several millions of dollars each biennium to private organizations. The requirement that the legislature set standards would be useful to the legislature itself as well as provide the public with an understanding as to what guidelines govern, and which types of organizations qualify for, the appropriation of grants and subsidies.

I. The Auditor

Section 7 of the present Constitution, relating to the auditor and the functions of the auditor, has been amended to update the auditor's function to include post-audits of "programs and performance of" government agencies. This is basically a clarification rather than an expansion of the function. Since its establishment, the auditor has been engaged in program and performance audits (also called management audits) in addition to financial audits, and the incorporation of the new clarifying language follows the post-audit principles enunciated by the Congress of Supreme Audit Institutions and the U.S. General Accounting Office. Program and performance auditing represents a newer dimension of post-auditing which has rapidly gained acceptance in government auditing,

and the new language in effect modernizes the definition in the Constitution. In all other respects, your Committee has retained the existing language in the Constitution designed to secure and protect the independence of the post-audit function.

Your Committee also reviewed the issue of auditing in the executive branch and, as suggested by House Resolution 595, H.D. 1, 1978 Regular Session, which was directed to your Committee, considered whether all post-audits should be consolidated under the constitutionally established auditor. While executive auditing would appear to be self-auditing, an anomalous situation which the original 1950 Constitution attempted to correct, executive auditing persists because it pre-dates the establishment of the office of the auditor. Nothing appears to have been done to correct the situation, and the result is that auditing in the executive branch continues even though the legislative auditor is constitutionally assigned to perform that function.

Your Committee considered including language in the Constitution which would clarify that the duty of the auditor to certify to the accuracy of financial statements shall be exclusive. However, your Committee finds that it is already the duty of the auditor to certify to the accuracy of all financial statements. The problem is that the legislature has not clarified the statutes or made the necessary funding arrangements so that the function of certifying to financial statements can be discharged by the auditor without duplication of the function by the executive branch.

Therefore, your Committee views the issue at this time as one for legislative rather than constitutional remedy. It is the intent of your Committee that the legislature will proceed to amend the statutes and make the necessary funding arrangements so that the function of conducting financial audits leading to certifications will be discharged by the auditor. It is also your Committee's intent that the assignment to the auditor of the function of financial audits requiring certification does not preclude the executive branch from conducting audits of its accounting and internal control systems, management reviews and analyses, program and performance evaluations, and other examinations and studies necessary for the efficient conduct of executive operations.

J. Council on Revenues

A new section has been included in Article VI to provide for a council on revenues to be established by law. A council on revenues to prepare revenue estimates and to advise both the governor and the legislature was determined to be necessary because of the disagreements that arise between the governor and the legislature over budgetary and expenditure policies. To a large extent, executive-legislative conflict and conflict between the two houses of the legislature over fiscal matters are traceable to a lack of agreement over revenue estimates. Thus the governor may present one set of revenue estimates in submitting the executive budget, the house of representatives may work with a different set of revenue estimates, the senate with another set of revenue estimates, the legislature as a whole with still another set of revenue estimates in making appropriations and, finally, the governor may revise the estimates throughout the budget execution period.

It is your Committee's contention that revenue-estimating is a function which should not be influenced by the politics of either the executive or legislative branches. Thus, the establishment of a formal mechanism for revenue-estimating is intended to provide the means by which both the executive and legislative branches will be served impartially.

The new section provides that the council shall prepare and report estimates at times provided by law. The estimates are to be considered by the governor in preparing the budget, recommending appropriations and revenues and controlling expenditures, and by the legislature in appropriating funds and enacting revenue measures. This means that the council would prepare and report estimates to support at least three actions by the governor and the legislature: (1) budget preparation by the governor; (2) appropriations by the legislature; and (3) budget execution by the governor. It is intended that the council will update its revenue estimates whenever necessary.

There was considerable debate as to whether the council's estimates should be advisory or binding on the executive and the legislature. Those who favored binding estimates contended that advisory estimates would leave revenue-estimating in much the same state as it is at the present time. Those who argued against binding estimates contended that this would be too powerful a function to be placed in a body not directly accountable

to the electorate. Ultimately, your Committee's decision was to strengthen the council's advisory function as recommended by your Committee on Executive, by requiring the governor and the legislature to disclose to the public the reasons for exceeding revenue estimates made by the council.

K. Tax Review Commission

A new section has been added to provide for the establishment by law of a tax review commission on or before July 1, 1980 and every five years thereafter. The function of the commission would be to evaluate the State's tax structure and submit recommendations on revenue and tax policy to the legislature.

The constitutional requirement for a tax review commission is determined to be necessary since neither the executive branch nor the legislature has reviewed the State's overall tax system against such standards as equity and efficiency. There has been no systematic review of the tax structure in more than two decades. The last major restructuring of taxes took place in 1965, and that change had the objective of producing additional revenues rather than achieving economic and social objectives. Other changes have been piecemeal in nature, usually originating from the legislature and directed primarily to liberalization of the general excise tax. For its part, the executive branch has limited its recommendations to house-keeping measures.

A periodic and independent assessment of the State's tax system would be useful to both branches of government as well as provide the public with a framework by which it can assess executive and legislative actions on taxation and revenue policy.

L. Income Taxation

Your Committee recommends the inclusion of a new section which would allow the legislature to enact a law automatically conforming the state income tax law in desired areas to the federal income tax code. This could be accomplished by enacting a law which would provide that as the federal Internal Revenue Code is amended by Congress, the state income tax law would also be amended without the necessity of further legislative action. Presently the provisions of Article VI, Section 1, have been interpreted by the office of the attorney general to prevent such a law from being enacted, thereby necessitating this amendment.

Testimony before the committee indicated that in 1957, when the State first adopted its income tax law, it was based on, and the intent of the law was to have, the State's income tax law conform as nearly as possible with the federal income tax law in order to minimize the state taxpayer's burden in complying with two complicated tax laws, state and federal. Your Committee was informed that, in practice, changes made to the federal law were not adopted by the State for at least a year, in many instances for three or four years, and some were never adopted. Over a period of 20 years since the 1957 enactment, the state income tax law fell badly out of line with the federal law. Only recently through the cooperative efforts of the department of taxation, the legislative branch and the private sector was the state law brought back into close conformity with the federal law. The number of man-hours and documentation necessary to perform this conformance task, as shown to the committee were many, costly and, through this amendment, could be avoided in the future.

Although it was argued that by permitting automatic income tax conformance, the State would be surrendering a sovereign right and diluting the State's right to enact its own tax laws, such an argument fails to take into consideration that this amendment would not extensively change the present system, which is wholly based upon federal law. When the federal law is amended, the State adopts the great majority of the federal changes. The State does not at this time, nor would it under an automatic conformance law, be bound to blindly follow the lead of the federal government. The State could continue to maintain and create its own exemptions, tax credits and income tax policy, found in the present state income tax law, in particular, Section 235.3, Hawaii Revised Statutes, (Act 173, S.L.H. 1978), which could appropriately be used as the basis of such a conformity law. Further, basing the state income tax law on the federal law allows the State to take advantage of the input of individuals of national caliber. Finally, some argue that by automatically conforming to federal changes a large tax loss or policy change may be enacted that the State did not wish to follow. Such a tax loss or policy change, however, could

be easily and retroactively obviated in a legislative session following the adoption of such change. By requiring the department of taxation to advise the legislature of the changes in the federal Internal Revenue Code at every legislative session, both the department of taxation and the legislature will be able to keep abreast of the most recent federal changes.

Your Committee considered requiring that the State's financial statement be published annually within four months of the end of each fiscal year. While the desirability of informing the public of the financial condition of the State was not contested, your Committee concluded that the existing statutory requirement of such publication was sufficient. Your Committee does, however, urge the legislature to require that the report be published as soon after the end of the fiscal year as is practicable.

Your Committee also considered and rejected proposals which would have (1) disposed of excess general fund revenues by providing rebate or tax credits to individuals or by retiring state indebtedness, (2) required revenue-sharing and grants-in-aid from the State to the counties, (3) transferred the real property tax programs to counties, and (4) required deposit of public funds in licensed, federally insured financial institutions.

A number of style changes have been made by your Committee. For example, "monies" has been changed to "moneys" throughout Article VI. Provisions, such as definitional sections in Section 3 pertinent to the issuance of bonds and debt limits, have also been rearranged. These changes do not, however, affect the substantive provisions of Article VI.

Your Committee on Taxation and Finance recommends (1) that the above-numbered proposals referred to your Committee be filed, (2) that Section 1 be retained without amendment and (3) that Committee Proposal No. 14 pass first reading in the form attached hereto.

Signed by all members of the Committee except Delegates DiBianco, Ellis and Fernandes Salling. Delegates Barr, Marumoto and Peterson did not concur and Delegate Marion Lee did not concur in part.

COMMITTEE PROPOSAL NO. 14

RELATING TO TAXATION AND FINANCE.

RESOLVED, that the following be agreed upon as amending Articles VI and VII of the State Constitution:

1. Article VI is amended by adding three new sections to read:

COUNCIL ON REVENUES

Section . There shall be established by law a council on revenues which shall prepare revenue estimates of the state government and shall report the estimates to the governor and the legislature at times provided by law. The estimates shall be considered by the governor in preparing the budget, recommending appropriations and revenues and controlling expenditures and by the legislature in appropriating funds and enacting revenue measures. All revenue estimates made by the council to the governor and the legislature shall be made public. If the legislature in appropriating funds or the governor in preparing the budget or recommending appropriations exceeds estimated revenues due to proposed expenditures, this fact shall be made public including the reasons therefor.

TAX REVIEW COMMISSION

Section . There shall be a commission on tax review, which shall be appointed as provided by law on or before July 1, 1980, and every five years thereafter. The commission shall submit to the legislature an evaluation of the State's tax structure, recommend revenue and tax policy and then dissolve.

INCOME TAXATION

Section . In enacting any law imposing a tax on or measured by income, the legislature may define income by reference to provisions of the laws of the United States as they may be or become effective at any time or from time to time, whether retrospective or prospective in their operation. The legislature may provide that amendments to such laws

of the United States shall become the law of the State upon their becoming the law of the United States. The legislature shall in any such law set the rate or rates of such tax. The legislature may in so defining income make exceptions, additions or modifications to any provisions of the laws of the United States so referred to and provide for retrospective exceptions or modifications to those provisions which are retrospective.

2. Article VI, Section 2, is amended to read:

APPROPRIATIONS FOR PRIVATE PURPOSES
PROHIBITED

Section 2. No tax shall be levied or appropriation of public money or property made, nor shall the public credit be used, directly or indirectly, except for a public purpose. No grant shall be made in violation of Section 3 of Article I of this constitution. No grant of public money or property shall be made except pursuant to standards provided by law.

3. Article VI, Section 3, is amended to read:

BONDS; DEBT LIMITATIONS

Section 3. For the purposes of this section, the term "bonds" shall include bonds, notes and other instruments of indebtedness; the term "general obligation bonds" means all bonds for the payment of the principal and interest of which the full faith and credit of the State or a political subdivision are pledged[; and the term "revenue bonds" means all bonds payable solely from and secured solely by the revenues, or user taxes, or any combination of both, of a public undertaking, improvement or system.] and, unless otherwise indicated, includes reimbursable general obligation bonds; the term "net revenues" or "net user tax receipts" means the revenues or receipts derived from a public undertaking, improvement or system remaining after the costs of operation, maintenance and repair of such public undertaking, improvement or system and the required payments of the principal of and interest on all revenue bonds issued therefor have been made; the term "person" means an individual, firm, partnership, corporation, association, cooperative or other legal entity, governmental body or agency, board, bureau or other instrumentality thereof, or any combination of the foregoing; the term "rates, rentals and charges" means all revenues and other moneys derived from the operation or lease of a public undertaking, improvement or system, or derived from any payments or return on security under a loan program or a loan thereunder; the term "reimbursable general obligation bonds" means general obligation bonds issued for a public undertaking, improvement or system for which revenues, or user taxes, or a combination of both, may be derived for the payment of the principal and interest as reimbursement to the general fund and for which reimbursement is required by law, and, in the case of general obligation bonds issued by the State for a political subdivision, general obligation bonds for which the payment of the principal and interest as reimbursement to the general fund is required by law to be made from the revenue of the political subdivision; the term "revenue bonds" means all bonds payable from the revenues, or user taxes, or any combination of both, of a public undertaking, improvement, system or loan program and any loan made thereunder and secured as may be provided by law; the term "special purpose revenue bonds" means all bonds payable from rental or other payments made to an issuer by a person pursuant to contract and secured as may be provided by law; and the term "user tax" means a tax on goods or services or on the consumption thereof, the receipts of which are substantially derived from the consumption, use or sale of goods and services in the utilization of the functions or services furnished by a public undertaking, improvement or system.

[All bonds issued by or on behalf of the State or a political subdivision must be authorized by the legislature, and bonds of a political subdivision must also be authorized by its governing body.] The legislature by a majority vote of the members to which each house is entitled shall authorize the issuance of all general obligation bonds and revenue bonds issued by or on behalf of the State and shall prescribe by general law the manner and procedure for such issuance. The legislature by general law shall authorize political subdivisions to issue general obligation bonds and revenue bonds and may authorize any board or agency of such political subdivision to issue revenue bonds and, in either case, shall prescribe the manner and procedure for such issuance. All general obligation bonds issued by or on behalf of a political subdivision shall be authorized by the governing body of such political subdivision and all revenue bonds issued by or on behalf of a political subdivision shall be authorized by the governing body of such political subdivision or the governing

body of any board or agency of such political subdivision authorized by law to issue revenue bonds. The legislature by general law may authorize the State or political subdivisions, or both, to issue special purpose revenue bonds and, in such case, shall prescribe the manner and procedure for such issuance. No special purpose revenue bonds shall be authorized or issued except to finance facilities of or for, or to loan the proceeds of such bonds to assist, manufacturing, processing or industrial enterprises, utilities serving the general public, health care facilities provided to the general public by not-for-profit corporations or low and moderate income government housing programs, which facilities or loan the legislature finds to be in the public interest. No special purpose revenue bond shall be secured directly or indirectly by the general credit of the issuer or by any revenues or taxes of the issuer other than receipts derived from payments by a person under contract or from any security for such contract or special purpose revenue bonds and no moneys other than such receipts shall be applied to the payment thereof.

[Bonds] General obligation bonds may be issued by the State [when authorized by a two-thirds vote of the members to which each house of the legislature is entitled], provided that such bonds at the time of [authorization] issuance would not cause the total [of state indebtedness] amount of principal and interest payable in the current or any future fiscal year, whichever is higher, on such bonds and on all outstanding general obligation bonds to exceed: a sum equal to [three and one-half times] twenty percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance until June 30, 1982; and thereafter, a sum equal to eighteen and one-half percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding [the session of the legislature authorizing] such issuance. Any bond issue by or on behalf of the State may exceed the debt limit if an emergency condition is declared to exist by the governor and concurred to by a two-thirds vote of the members to which each house of the legislature is entitled. For the purpose of this paragraph, general fund revenues of the State shall not include [monies] moneys received as grants from the federal government and receipts in reimbursement of any [indebtedness that is] reimbursable general obligation bonds which are excluded [in computing the total indebtedness of the State.] as permitted by this section.

[By majority vote of the members to which each house of the legislature is entitled and without regard to any debt limit, there may be issued by or on behalf of the State: bonds to meet appropriations for any fiscal period in anticipation of the collection of revenues for such period or to meet casual deficits or failures of revenue, if required to be paid within one year; bonds to suppress insurrection, to repel invasion, to defend the State in war or to meet emergencies caused by disaster or act of God; and revenue bonds.]

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

[Bonds to meet appropriations for any fiscal period in anticipation of the collection of revenues for such period or to meet casual deficits or failures of revenue, if required to be paid within one year, may be issued by any political subdivision under authorization of law and of its governing body without regard to any debt limit.]

All general obligation bonds for a term exceeding [one year] two years shall be in serial form maturing in substantially equal installments of principal, or maturing in substantially equal [installment] installments of both principal and interest[, the]. The first installment of principal [to] of general obligation bonds and of reimbursable general obligation bonds shall mature not later than five years from the date of [the] issue of such series, [and] the last installment on general obligation bonds shall mature not later than [thirty-five] twenty-five years from the date of such issue[.] and the last installment on reimbursable general obligation bonds shall mature not later than thirty-five years from the date of such issue. The interest and principal payments of general obligation bonds shall be a first charge on the general fund of the State or political subdivision, as the case may be.

In determining the [total indebtedness] power of the State to issue general obligation bonds or the funded debt of any political subdivision, the following shall be excluded:

- (a) Bonds that have matured, or that mature in the then current fiscal year, or that

have been irrevocably called for redemption and the redemption date has occurred or will occur in the then fiscal year, [and] or for the full payment of which [monies] moneys or securities have been irrevocably set aside.

(b) Revenue bonds, [authorized or issued,] if the issuer thereof is obligated by law to impose rates, rentals and charges for the use and services of the public undertaking, improvement or system[,] or the benefits of a loan program or a loan thereunder or to impose a user tax, or to impose a combination of rates, rentals and charges and user tax, as the case may be, sufficient to pay the cost of operation, maintenance and repair, if any, of the public undertaking, improvement or system or the cost of maintaining a loan program or a loan thereunder and the required payments of the principal of and interest on all revenue bonds issued for the public undertaking, improvement or system[,] or loan program, and if the issuer is obligated to deposit such revenues or tax or a combination of both into a special fund and to apply the same to such payments in the amount necessary therefor. [For the purposes of this section a user tax shall mean a tax on goods or services or on the consumption thereof, the receipts of which are substantially derived from the consumption, use or sale of goods and services in the utilization of the functions or services furnished by the public undertaking, improvement or system.]

(c) Special purpose revenue bonds, if the issuer thereof is required by law to contract with a person obligating such person to make rental or other payments to the issuer in an amount at least sufficient to make the required payment of the principal of and interest on such special purpose revenue bonds.

[(c)] (d) Bonds [authorized or] issued under special improvement statutes when the only security for such bonds is the properties benefited or improved or the assessments thereon.

[(d)] (e) General obligation bonds [authorized or] issued for assessable improvements, but only to the extent that reimbursements to the general fund for the principal and interest on such bonds are in fact made from assessment collections available therefor.

[(e)] (f) [General] Reimbursable general obligation bonds issued for a public undertaking, improvement or system [from which revenues, user taxes, or a combination of both may be derived for the payment of all or part of the principal and interest as reimbursement to the general fund,] but only to the extent that reimbursements to the general fund are in fact made from the net revenue, net user tax receipts, or combination of both, as determined for the immediately preceding fiscal year. [For the purposes of this section, net revenue or net user tax receipts shall be the revenue or receipts remaining after the costs of operation, maintenance and repair of such public undertaking, improvement or system and the required payments of the principal of and interest on all revenue bonds issued therefor have been made.]

[(f)] General obligation bonds of the State, authorized but unissued, for an existing public undertaking, improvement or system that produces revenues, or user tax receipts, or a combination of both, but only if in the fiscal year immediately preceding the authorization, the public undertaking, improvement or system produced a net revenue, net user taxes or a combination of both, that was sufficient to pay into the general fund the full amount of the principal and interest then due for all general obligation bonds then outstanding for such public undertaking, improvement or system.]

[(g)] General obligation bonds of the State, authorized but unissued, for an existing public undertaking, improvement or system that has not been self-sustaining as determined for the immediately preceding fiscal year, and that produces revenues, or user tax receipts, or a combination of both, but only if the rates or charges for the use and services of the undertaking have been, or the rate of such user tax has been, increased by law or by the issuing body as authorized by law, in an amount that is determined will produce sufficient net revenue or net user taxes, or any combination thereof, for reimbursement to the general fund for the payment of principal and interest on all general obligation bonds then outstanding and authorized for such public undertaking, improvement or system.]

[(h)] (g) [General] Reimbursable general obligation bonds issued by the State for any political subdivision, whether issued before or after the effective date of this section, but only for as long as reimbursement by the political subdivision to the State for the payment of principal and interest on such bonds is required by law; provided

that in the case of bonds [authorized or] issued after the effective date of this [amendment,] section, the consent of the governing body of the political subdivision has first been obtained; and provided further that during the period that such bonds are excluded [from total indebtedness of] by the State, the principal amount then outstanding shall be included within the funded debt of such political subdivision.

(h) Bonds constituting instruments of indebtedness under which the State or any political subdivision incurs a contingent liability as a guarantor, provided that the State or political subdivision shall establish and maintain a reserve in an amount in reasonable proportion to the outstanding loans guaranteed by the State or political subdivision as is provided by law.

(i) Bonds issued by or on behalf of the State or by any political subdivision to meet appropriations for any fiscal period in anticipation of the collection of revenues for such period or to meet casual deficits or failures of revenue, if required to be paid within one year, and bonds issued by or on behalf of the State to suppress insurrection, to repel invasion, to defend the State in war or to meet emergencies caused by disaster or act of God.

[Determinations of the exclusions from the] The total outstanding indebtedness of the State or funded debt of any political subdivision [provided for in] and the exclusions therefrom permitted by this section shall be made annually and certified by law or as [prescribed] provided by law. For the purposes of this section, amounts received from on-street parking may be considered and treated as revenues of a parking undertaking.

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

4. Article VI, Section 4, is amended to read:

THE BUDGET

Section 4. Within such time prior to the opening of each regular session in an odd-numbered year as may be [prescribed] provided by law, the governor shall submit to the legislature a budget in a form provided by law setting forth a complete plan of proposed expenditures of the executive branch, estimates as provided by law of the aggregate expenditures of the judicial and legislative branches, and anticipated receipts of the State for the ensuing fiscal biennium, together with such other information as the legislature may require. A complete plan of proposed expenditures of the judicial branch for the ensuing fiscal biennium shall be submitted by the chief justice to the legislature in a form and within such time prior to the opening of each regular session in an odd-numbered year as shall be provided by law. The budget prepared by the governor and the plan of proposed expenditures prepared by the chief justice shall also be submitted in [a] bill form [prescribed by law]. The governor shall also, upon the opening of each such session, submit bills to provide for such proposed expenditures and for any recommended additional revenues or borrowings by which the proposed expenditures are to be met. [Such bills shall be introduced in the legislature upon the opening of each such session.] The proposed general fund expenditures in the plan of proposed expenditures, including estimates of the aggregate expenditures of the judicial and legislative branches, submitted by the governor shall not exceed the general fund expenditure ceiling established by the legislature under Section 5 of this article; provided that proposed general fund expenditures in the plan may exceed such ceiling if the governor sets forth the dollar amount and the rate by which the ceiling will be exceeded and the reasons therefor.

5. Article VI, Section 5, is amended to read:

LEGISLATIVE APPROPRIATIONS; PROCEDURES; LAPSING; EXPENDITURE CEILING

Section 5. In each regular session in an odd-numbered year, the legislature shall transmit to the governor an appropriation bill or bills providing for the anticipated total expenditures of the State for the ensuing fiscal biennium. In such session, no appropriation bill, except bills recommended by the governor for immediate passage, or to cover the expenses of the legislature, shall be passed on final reading until the bill authorizing operating expenditures for the ensuing fiscal biennium, to be known as the general appropriations bill, shall have been transmitted to the governor.

In each regular session in an even-numbered year, at such time as may be [pre-scribed] provided by law, the governor may submit to the legislature a bill to amend any appropriation for operating expenditures of the current fiscal biennium, to be known as the supplemental appropriations bill, and bills to amend any appropriations for capital expenditures of the current fiscal biennium, and at the same time [he] the governor shall submit a bill or bills to provide for any added revenues or borrowings that such amendments may require. In each regular session in an even-numbered year, bills may be introduced in the legislature to amend any appropriation act or bond authorization act of the current fiscal biennium or prior fiscal periods. In any such session in which the legislature submits to the governor a supplemental appropriations bill, no other appropriation bill, except bills recommended by the governor for immediate passage, or to cover the expenses of the legislature, shall be passed on final reading until such supplemental appropriations bill shall have been transmitted to the governor.

All appropriations for which the source is general obligation bond funds or general funds shall be for specified periods, and no such appropriation shall be made for a period exceeding two years. Any such appropriation or any portion of any such appropriation which is unencumbered at the close of the fiscal period for which the appropriation is made shall lapse. Where general obligation bonds have been authorized for an appropriation, the amount of the bond authorization shall be reduced in an amount equal to the amount lapsed.

Any appropriation for which the source is general obligation bond funds or general funds or any portion of any such appropriation which is effective on the date of ratification of this amendment and which is unencumbered on June 30, 1980 shall lapse on that date unless earlier lapsed by law. Where general obligation bonds have been authorized for an appropriation, the amount of the bond authorization shall be reduced in an amount equal to the amount lapsed on June 30, 1980.

Notwithstanding any other provision to the contrary, the legislature shall establish a general fund expenditure ceiling which shall limit the rate of growth of general fund appropriations, excluding federal funds received by the general fund, to the estimated rate of growth of the State's economy as provided by law. No appropriations in excess of such ceiling shall be authorized during any legislative session unless the legislature shall by a two-thirds vote of the members to which each house of the legislature is entitled set forth the dollar amount and the rate by which the ceiling will be exceeded and the reasons therefor.

6. Article VI, Section 6, is amended to read:

EXPENDITURE CONTROLS

Section 6. Provision for the control of the rate of expenditures of appropriated state [monies,] moneys, and for the reduction of such expenditures under prescribed conditions, shall be made by law.

No public money shall be expended except pursuant to appropriations made by law. General fund expenditures for any fiscal year shall not exceed the State's current general fund revenues and unencumbered cash balances, except when the governor publicly declares the public health, safety or welfare is threatened as provided by law.

7. Article VI, Section 7, is amended to read:

AUDITOR

Section 7. The legislature, by a majority vote of each house in joint session, shall appoint an auditor who shall serve for a period of eight years and thereafter until a successor shall have been appointed. The legislature, by a two-thirds vote of the members in joint session, may remove the auditor from office at any time for cause. It shall be the duty of the auditor to conduct post-audits of [all] the transactions [and of all], accounts [kept by or for], programs and performance of all departments, offices and agencies of the State and its political subdivisions, to certify to the accuracy of all financial statements issued by the respective accounting officers and to report [his] the auditor's findings and recommendations to the governor and to the legislature at such times as shall be [prescribed] provided by law. [He] The auditor shall also make such additional reports and conduct such other investigations as may be directed by the legislature.

8. Article VII is amended by adding a new section to read:

TRANSFER OF MANDATED PROGRAMS

Section . If any new program or increase in the level of service under an existing program shall be mandated to any of the political subdivisions by the legislature, it shall provide that the State share in the cost.

STANDING COMMITTEE REPORT NO. 67

Your Committee on Style, to which was referred Committee Proposal No. 6, RD. 1, begs leave to report as follows:

The proposal, which the Convention has adopted on second reading, covers Article IX, Education. The Convention has proposed amendments to Section 1 (Public Education), Section 2 (Board of Education), Section 3 (Power of the Board of Education) and Section 5 (Board of Regents; Powers), as well as the addition of a new section, "Hawaiian Studies."

Your Committee proposes several style changes which are indicated by brackets [for deleting] and underscoring for additions as shown in the committee proposal and report.

Article IX, Section 1. Public Education:

Your Committee considered the wording of this section and feels no changes are necessary.

"BOARD OF EDUCATION

"Section 2. There shall be a board of education composed of members who shall be elected in a nonpartisan manner by qualified voters [in accordance with] as provided by law from two at-large [units.] school board districts. The first [unit] school board district shall be comprised of the island of Oahu and all other islands not specifically enumerated. The second [unit] school board district shall be comprised of the islands of Hawaii, Maui, Lanai, Molokai, Kahoolawe, Kauai and Niihau. Each at-large [unit] school board district shall be divided into departmental school districts, as may be provided by law. There shall be at least one member residing in each departmental school district.

"[Members elected in the 1978 general election shall serve for two-year terms.]"

* * *

"POWER OF THE BOARD OF EDUCATION

"Section 3. The board of education shall have power, [in accordance with] as provided by law, to formulate policy [,] and to exercise control over the public school system through its executive officer, the superintendent of education, who shall be appointed by the board, except that the board shall have jurisdiction over the internal organization and management of the public school system, as provided by law, and shall exercise its jurisdiction in a manner consistent with general laws."

* * *

"BOARD OF REGENTS; POWERS

"Section 5. There shall be a board of regents of the University of Hawaii, the members of which shall be nominated and, by and with the advice and consent of the senate, appointed by the governor. At least part of the membership of the board shall represent geographic subdivisions of the State. The board shall have power, [in accordance with] as provided by law, to formulate policy, and to exercise control over the university through its executive officer, the president of the university, who shall be appointed by the board [The], except that the board shall have exclusive jurisdiction over the internal organization and management of the university [as provided by law; except that this section] . This

section shall not limit the power of the legislature to enact laws of [state-wide] statewide concern."

* * *

"1978 BOARD OF EDUCATION ELECTIONS

"Section . Members elected to the board of education in the 1978 general election shall serve for two-year terms."

Article IX, new section. HAWAIIAN STUDIES:

Your Committee considered the wording of this section and feels no changes are necessary.

The changes recommended are for the purposes of style and clarification, and have no further implications.

Changes of particular interest recommended by the Committee:

Section 2. There were three types of changes. "In accordance with" was changed to read "as provided by" -- a matter of consistency. The word "units" was changed to read "school board districts." These changes occur four times in Section 2. The word "departmental" was inserted before "school district" in lines 11 and 13.

In checking with convention counsel and the chairperson of the Committee on Education, your Committee on Style found this wording to be much more precise and to set forth the intent of your Committee on Education. The word "unit" is already used in the reapportionment provisions of the Constitution as island units. School board districts, however, are the districts established by the federal case reapportioning the board of education. The addition of the word "departmental" further helps to limit confusion with the school board districts.

The limit on the terms of members elected in the 1978 general elections was determined to be transitional material, and will be placed in Article XVI, Schedule, as indicated in this proposal.

Section 3. The changes here were for consistency ("in accordance with" changed to "as provided by" and deletion of the comma preceding "and to exercise control...").

Section 5. The first change made to Section 5 is a matter of changing "in accordance with" to "as provided by" for consistency.

The second change is the revision of the last two sentences contained in Redraft No. 1 of this proposal, which read: "The board shall have exclusive jurisdiction over the internal organization and management of the university as provided by law; except that this Section shall not limit the power of the legislature to enact laws of state-wide concern."

Your Committee on Style again consulted with the chairperson of the Committee on Education and also the attorney's office concerning this wording. It was agreed that the intent of the Committee on Education and the Committee of the Whole could be better served by rewording the above provision to read as set forth earlier in this report. It was further agreed that this is a style change and not one of substance.

Style Committee Recommendations

Your Committee on Style recommends the adoption of Standing Committee Report No. 67 and consideration of the passage of Committee Proposal No. 6, RD. 1, S. 1* on third reading.

Signed by all members of the Committee except Delegates Ellis and Weatherwax.

*For the complete text of this proposal, see Committee Proposal No. 6, page 791.

STANDING COMMITTEE REPORT NO. 68

Your Committee on Budget, Accounts and Printing begs leave to report that Stand. Com. Rep. No. 69 and Com. P. No. 15 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson, Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 69

Your Committee on Bill of Rights, Suffrage and Elections, to which were referred proposals numbered 12, 64, 76, 100, 117, 151, 167, 294, 295, 301, 303, 333, 491, 515, 556, 601, 681, 684, 735, 758, 779 and 819, all relating to Article I, Section 2: Rights of Man; proposals numbered 44, 73, 77, 207, 400, 402, 417, 517, 612, 618 and 691, all relating to Article I, Section 3: Freedom of Religion, Speech, Press, Assembly and Petition; proposals numbered 99, 169, 253, 458, 460 and 741, all relating to Article I, Section 5: Searches, Seizures and Invasion of Privacy; proposals numbered 85, 111, 125, 140, 142, 168, 424, 427 and 498, all relating to Article I, Section 8: Indictment, Double Jeopardy, Self-Incrimination; proposals numbered 520, 547 and 650, all relating to Article I, Section 10: Trial by Jury, Civil Cases; proposals numbered 247, 324, 360, 361, 371, 380, 397, 546, 603 and 632, all relating to Article I, Section 11: Rights of Accused; proposals numbered 378 and 598, relating to Article I, Section 12: Jury Service; and miscellaneous proposals numbered 9, 19, 81, 435, 516, 627, 646, 696, 798 and 817, all relating to Article I: Bill of Rights, begs leave to report as follows:

Your Committee held extensive hearings and meetings which were all open to the public and many citizens, organizations and representatives of governmental bodies appeared before your Committee to present their views on the various proposals covered by this report. Informational meetings and public hearings were held on Oahu, Kauai, Maui and Hawaii. Thus, your Committee had the benefit of the input of a wide cross-section of the community. Among those participating were: Dr. Norman Meller, Professor (retired), University of Hawaii; Dr. Stuart Gerry Brown, Professor, University of Hawaii; Ms Carol Zachary, Director, Common Cause; Mr. Yukio Naito, Attorney at Law; Mr. Morris Takushi, Elections Officer, Office of the Lieutenant Governor; Mr. Raymond Pua, Office of the City Clerk, City and County of Honolulu; Representative Faith Evans, State House of Representatives; Mr. Addison Bowman, Professor, School of Law, University of Hawaii; Mr. Donald Tsukiyama, Public Defender, Office of the Governor; Mr. Kenneth Nam, Deputy Attorney General, State of Hawaii; Ms Marcia Reynolds, Big Island Press Club; Mr. Clarence "Rags" Scanlan, SHOPO; Mr. Art Rutledge, Unity House; Senator Jean King, State Senate; Mr. Richard Ekimoto, Common Cause; and Mr. Walter Ritte, Protect Kahoolawe Ohana.

Your Committee, having heard numerous and varied testimonies and after due deliberation, recommends amending Article I, Section 4, to reflect nonsexist language; amending Article I, Section 10, to increase the amount to one thousand dollars (\$1,000) before a trial by jury in civil cases may be requested; amending Article I, Section 11, to require counsel for indigent accused charged with an offense carrying a sentence of imprisonment; amending Article I by deleting Section 12, in its entirety as being duplicative of protection offered in other sections; amending Article I to include separate sections dealing with the right to the people to privacy and the creation of the position of independent counsel for grand juries.

To eliminate sexist wording in the Constitution, your Committee amended Article I, Section 4, by deleting the word "his" prior to the words "civil rights." In no way does the committee intend to change the meaning and significance of Section 4's protections, but the committee takes this action to word the Constitution in a manner consistent with a greater awareness of the bias that language sometimes reveals.

The committee proposal thus reads:

"DUE PROCESS AND EQUAL PROTECTION

"Section 4. No person shall be deprived of life, liberty or property without due

process of law, nor be denied the equal protection of the laws, nor be denied the enjoyment of [his] civil rights or be discriminated against in the exercise thereof because of race, religion, sex or ancestry."

The members of your Committee agreed to amend Article I, Section 10: Trial by Jury, Civil Cases, by raising the amount of the value in controversy that triggers the right to trial by jury. The committee proposal reads as follows:

"TRIAL BY JURY, CIVIL CASES

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

We are cognizant of the fact that justice does not and should not be equated with amounts of money; nonetheless, we believe that the above-mentioned amount is fair and reasonable because of current circumstances. The current dollar requirement of one hundred dollars (\$100) originated in the constitutional convention of 1950. The amount is much too small by today's standards, especially when viewed with regard to inflation. We further feel that the increase will prevent those abuses which occur when small amounts are sued for, and the opposing party requests a trial by jury to discourage the plaintiff because of the additional costs involved, win or lose.

In an effort to update the Constitution to the present practice and law, your Committee agreed to amend Article I, Section 11, so that the State shall be required to provide counsel an indigent defendant charged with an offense punishable by imprisonment.

The committee proposal reads as follows:

"RIGHTS OF ACCUSED

"Section 11. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the district wherein the crime shall have been committed, which district shall have been previously ascertained by law, or of such other district to which the prosecution may be removed with the consent of the accused; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense. The State shall provide counsel for an indigent defendant charged with an offense punishable by imprisonment [for more than sixty days]."

The proposed amendment is necessary and advisable because of the recodification of Hawaii criminal law with the passage of the Hawaii Penal Code. Under the Penal Code, there is no crime carrying a 60-day sentence but petty misdemeanors do carry 30-day sentences. The only lower offenses are violations which carry no jail sentence. Under present Hawaii laws, the public defender is mandated to provide legal services for indigents charged with offenses punishable by jail or imprisonment (Hawaii Revised Statutes, 802-1). Thus the proposed amendment would bring the Constitution to date with current law and practice. This would also be in keeping with the spirit of Argersinger v. Hamlin, 407 U.S. 25, 92 S. Ct. 2006, 32 LEd 2d 530 (1972), holding that no person may be imprisoned for any offense unless he was represented by counsel.

In a further effort to update the Constitution, your Committee proposes to delete in its entirety Article I, Section 12. The concern of juror disqualification because of sex is addressed and covered in Sections 4 and 21, and any problems which may arise would be handled by the said sections.

The committee proposal seeks to delete the following:

"JURY SERVICE

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

Your Committee also reaffirmed Article I, Sections 4 and 21 to reaffirm the committee's basic support of the concepts expressed therein.

The concern of your Committee with regard to the shortcomings of the grand jury resulted in the agreement to create the position of independent legal counsel for grand juries. Your Committee is aware that many critics have pointed to certain ills in the current method of using a grand jury as an accusatory mechanism. Concern has been expressed because only the prosecution and his witness are present in the hearing room along with the grand jurors. He controls the evidence to be presented; there is no limit on the nature of the evidence to be presented; he advises the grand jury on the law; grand jurors are generally unfamiliar with the law; and the defendant is not present nor is the defendant's attorney.

Despite these defects in the grand jury system, your Committee is aware that the grand jury does have some positive aspects. In certain cases, such as sex crimes or those involving a youthful victim, it protects the victim against being cross-examined at the preliminary hearing level and at trial. Fears were expressed that undergoing cross-examination twice would be hard on those witnesses and may discourage them from acting as witnesses.

Besides the accusatory function of the grand jury, it plays another role which may be of greater importance to society. A grand jury can also be investigative but if there has been any inclination to become one in Hawaii, the lack of resources would hamper such an effort.

Because your Committee is not convinced that it would be appropriate to delete the requirement of a grand jury indictment, it has retained the requirement but has added the requirement that independent counsel be appointed to advise the grand jury.

The committee presents for consideration the following language as a new section in Article I:

"GRAND JURY COUNSEL

"Section . Whenever a grand jury is empanelled there shall be an independent counsel appointed in accordance with law to advise the members of the grand jury regarding the matters brought before it. Independent counsel shall be selected from among those persons admitted to practice before the supreme court of the state and shall not be a public employee. Term and compensation for independent counsel shall be established by law."

The role of counsel will be to advise the grand jury and not the witness or the prosecutor. Until now the prosecutor has served as the legal adviser to the grand jury, but there seems to be a conflict between presenting evidence to a grand jury in the hope that they will return an indictment and being their legal advisor. Independent legal counsel will be available to advise the grand jury on any appropriate matter. Your Committee believes that the parameters of the role of independent counsel will be determined by the grand jury, but if his role is to be effective counsel should advise the grand jury whether it is appropriate rather than when asked.

Your Committee believes that the position should not be filled by a public employee but by a private practitioner knowledgeable in criminal law. It would be incongruous to appoint a prosecutor or attorney general to advise the grand jury.

Further, the independent counsel should not be a public employee for the purpose of employee benefits. It is expected that he be hired and compensated as an independent contractor. Although his term shall be set by law, it is not the intent of your Committee to create a permanent position for someone. Rather, it is intended that the position be filled by different people. This is not to suggest a rotational system, where each week or each case will see a new counsel, but that his term be long enough to establish a good rapport with the grand jury but not so long that he dominates the proceedings because of excessive familiarity with the members of the grand jury.

Your Committee agreed to amend Article I to include a separate and distinct section devoted entirely to the right to privacy. Your Committee strongly believes that a new section on the right to privacy is warranted despite the inclusion within Article I, Section 5, of a prohibition against unreasonable invasions of privacy.

The committee proposal reads as follows:

"RIGHT TO PRIVACY"

"Section . The right of the people to privacy is recognized and shall not be infringed without the showing of a compelling state interest. The legislature shall take affirmative steps to implement this right."

In 1968 the Constitution was amended to include the prohibition against unreasonable invasions of privacy, but its inclusion within a section patterned after the Fourth Amendment right against unreasonable searches and seizures and the debate during the 1968 constitutional convention have engendered some confusion as to the extent and scope of the right. Although it appears clear that the proponents of the concept saw the right as broader than one limited to protection against invasions of privacy in criminal cases, the convention devoted most of the debate to the relationship between the proposed amendment and concern over wiretapping. This has led the Hawaii supreme court to state that the privacy right emanated from a concern over extensive use of electronic surveillance, thus limiting the right to privacy by implying that it did not encompass the concept of a right to personal autonomy. State v. Roy, 54 H. 513, 510 P2d 1066 (1973). Thus it may be unclear whether the present privacy provision extends beyond the criminal area. Therefore, your Committee believes that it would be appropriate to retain the privacy provision in Article I, Section 5, but limit its application to criminal cases, and create a new section as it relates to privacy in the informational and personal autonomy sense.

Your Committee is aware that the right of privacy has meaning varying in degree and nature, and case law may not be clear as to the extent and scope of the rights. Therefore, your Committee wishes to explicitly state the intent of your Committee as to the scope and nature of the right.

Your Committee believes that the right of privacy encompasses the common law right of privacy or tort privacy. This is a recognition that the dissemination of private and personal matters, be it true, embarrassing or not, can cause mental pain and distress far greater than bodily injury. For example, the right can be used to protect an individual from invasion of his private affairs, public disclosure of embarrassing facts, and publicity placing the individual in a false light. In short, this right of privacy includes the right of an individual to tell the world to "mind your own business."

Another area of concern that may be alleviated by this right is the issue of informational privacy, or the ability of a person to control the privacy of information about himself. There has been a trend in modern-day society to require that a person complete forms detailing information about himself. There is often a legitimate need for government or private parties to gather data about individuals, but there is danger of abuse in the use and/or dissemination of such information. The danger of inclusion of inaccurate data being retained in some computer bank, thereby affecting the life of an individual, is inherent in our modern day, but the right to privacy should insure that at the least an individual shall have the right to inspect records to correct misinformation about himself.

Perhaps the most important aspect of privacy is that it confers upon people the most important right of all--the right to be left alone. As Justice Brandeis said in his now celebrated and vindicated dissent in Olmstead v. U.S., 277 U.S. 438 (1928):

"The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the Government, the right to be let alone--the most comprehensive of rights and the right most valued by civilized men."

It gives each and every individual the right to control certain highly personal and intimate affairs of his own life. The right to personal autonomy, to dictate his lifestyle, to be oneself are included in this concept of privacy. As Justice Abe stated in his concurring opinion in State v. Kantner, 53 H. 327, 493 P 2d 306 (1972): each person has the "fundamental right of liberty to make a fool of himself as long as his act does not endanger others, and that the state may regulate the conduct of a person under pain of criminal

punishment only when his actions affect the general welfare--that is, where others are harmed or likely to be harmed."

Whether an individual's desire to engage in a particular activity is protected by this aspect of the right to privacy, (the right to personal autonomy) will remain a matter for the courts. For example, it has been held that society has no legitimate interest in the hairstyle of a person attending a public educational institution. Other cases have included certain marital, sexual and reproductive matters within this right, thereby insuring freedom of choice in these matters.

It should be emphasized that this right is not an absolute one but, because similar to the right of free speech, it is so important in value to society that it can be infringed upon only by the showing of a compelling state interest. If the State is able to show a compelling state interest, the right of the group will prevail over the privacy rights or the right of the individual. However, in view of the important nature of this right, the State must use the least restrictive means should it desire to interfere with the right.

Your Committee expects that at times the interests of national security, law enforcement, the interest of the State to protect the lives of citizens or other similar interests will be strong enough to override the right to privacy. It is not the intent of your Committee to grant a license to individuals to violate the right of others but rather to grant the individual full control over his life, absent the showing of a compelling state interest to protect his security and that of others. Thus it is expected that in certain situations the interest of the State will rise to such an intensity that it will be deemed a compelling state interest. For example, in the case of dissemination of information about individuals, law enforcement officials would not be restricted in sharing information about suspected wrongdoers, or the press may be justified in writing about certain personal matters of public figures. Further, it should be noted that the committee does not intend to prohibit one department of the state government from obtaining data kept in another department, as happened in Alaska. Your Committee does not believe that exchanging and sharing of information between separate components of government should be prohibited. Your Committee is concerned about abuses such as using such data for illegitimate purposes or revealing it to the public when no legitimate public interest is involved. Thus, your Committee does not envision closing off access to court records or public records already subject to "sunshine" laws but feels that this amendment would be useful in prohibiting abuse, misuse or unwarranted revelations of highly personal information. However, your Committee strongly believes that in a day when outside forces seek to learn more and more about an individual and control more and more about an individual's life, this amendment is necessary.

The importance of this amendment is that it establishes that certain rights deserve special judicial protection from majority rule. It recognizes that there will always be a dynamic tension between majority rule, which is the basis of a democratic society, and the rights of individuals to do as they choose, which is the basis of freedom, and your Committee believes that this amendment recognizes the high value that individuality has in society. Your Committee, by equating privacy with the First Amendment rights, intends that the right be considered a fundamental right and that interference with the activities protected by it be minimal.

Your Committee recognizes that generally the Constitution acts as a safeguard against the actions of government and not private parties. Therefore, your Committee has mandated that the legislature implement this section since statutory language can be legitimately drafted to protect against the actions of private parties. For example, the Federal Privacy Act of 1974 is one example of legislative action supportive of this right.

The question of whether provisions regarding discrimination based on sexual orientation should be included in the Constitution concerned your Committee. Certain members of your Committee argued that the inclusion of such a provision would extend nondiscrimination to another minority group.

Your Committee believes that the inclusion of such a provision would be duplicative of the equal protection and due process protections already existing in the Constitution. Accordingly, your Committee believes that inclusion of a provision related to discrimination based on sexual orientation would be superfluous.

Your Committee was also concerned with the subject of a journalist's privilege regarding the confidentiality of sources, or a shield law. Members favoring the privilege indicated that the question is one of great importance as members of the media have been incarcerated, both locally and nationally, because of their reluctance to divulge their source of information. Among other things, proponents stated that privilege is essential to the concept of the freedom of the press because reporters may be hesitant in their pursuit of stories and/or sources may be reluctant to provide information.

Members in opposition to the proposal stated that the rights contained in the First Amendment are adequate in their protection of the media. The problem arises only when the protection of sources conflicts with the right to a fair trial. Although well publicized, the conflict involves a relatively small number of cases.

Other arguments advanced by the opposition included: (1) that an accused should have the right to know his accuser; (2) that a court of law, rather than reporters, should decide on the innocence or guilt of an individual; (3) that the people have no assurance flagrant reporting will not occur; (4) that a defendant facing trial has the right to information that may pave the way for his acquittal and (5) because both the right of a free press and the right to a fair trial are in the federal Constitution, any conflict between the two could still be litigated in the federal courts under the federal Constitution, and any state constitutional provision relating to a privilege against revealing a source may well be moot.

It should be noted that the press has survived well for many years without a shield law and that state laws creating a shield law have not stopped courts from jailing reporters for contempt when they have refused to reveal their sources of information. For example, in the presently celebrated Farber case in New Jersey, New Jersey does have a shield law. Further, proponents of the privilege have argued that it was newspaper reporting, in part based on confidential sources such as "Deep Throat," that resulted in much of the unraveling of Watergate. It has been suggested that without a shield law sources would have been hesitant to reveal to reporters the hidden mysteries of the Watergate affair, but this argument fails to reflect the fact that no federal shield law existed during those days and none still exists today. Thus it is questionable whether the lack of a shield law will hamper effective investigative reporting.

Case law has been consistent in holding that a reporter does not have the right to refuse disclosure of his sources upon proper request. In the context of a criminal case, courts have consistently held that no one has the right to refuse compliance with a properly issued subpoena seeking evidence. The U.S. supreme court in the Nixon papers case reaffirmed this basic concept. Since the question arises in the context of a conflict between two important rights--that of the press and a fair trial--your Committee believes that it would not be wise to place in the Constitution a provision tipping the scales toward free press, especially in light of the potential of conflict with the federal courts.

Therefore, your Committee recommends: (1) that the above-numbered proposals referred to your Committee be filed, and (2) that Committee Proposal No. 15* pass first reading in the form shown.

Signed by all members of the Committee except Delegates Barnard, Eastvold, Funakoshi, Hayashida and Kono. Delegate Peterson did not concur.

*For the complete text of this proposal, see Committee Proposal No. 15, page 825.

STANDING COMMITTEE REPORT NO. 70

Your Committee on Budget, Accounts and Printing begs leave to report that Com. Whole Rep. No. 9 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 71

Your Committee on Budget, Accounts and Printing begs leave to report that Stand.

Com. Rep. Nos. 72 and 73; Com. P. Nos. 9, S. 1, 10, RD. 1, 11, 12, 13, RD. 1, and 16; and Com. Whole Rep. Nos. 10 through 13 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 72

Your Committee on Bill of Rights, Suffrage and Elections, to which were referred proposals numbered 11, 87 and 356, relating to the presidential primary; proposals numbered 40, 377 and 617, relating to the limitations on public office terms; proposals numbered 120, 274 and 660, relating to voter rights, education and information; proposals numbered 519 and 695, relating to qualifications; proposal numbered 671, relating to disqualifications in voting; proposals numbered 357 and 430, relating to registration; proposals numbered 4, 92, 97, 163, 403, 415, 560, 609, 705, 787 and 833, relating to an open primary; proposals numbered 39, 46, 63, 86, 163, 413, 560, 609, 611 and 712, relating to general and special elections; proposals numbered 342, 479 and 647, relating to public financing; proposals numbered 95, 96, 122, 123, 149, 242, 248, 326, 327, 398, 426, 619, 816, 827, 828 and 834, relating to initiative; proposals numbered 137, 261, 262, 281, 391, 420, 747 and 810, relating to recall; proposals numbered 96, 138, 501, 595, 827 and 834, relating to referendum; and miscellaneous proposals numbered 339, 351, 388 and 573, relating to Article II, begs leave to report as follows:

All committee meetings were open and accessible to the public. Private citizens, government officials and representatives of various groups and organizations were invited to present their views on the subjects addressed in the above-mentioned proposals. Informational meetings and public hearings were held on the Islands of Oahu, Kauai, Maui and Hawaii.

Among those participating were: the Honorable Nelson Doi, Lieutenant Governor, State of Hawaii; Mr. Jon Van Dyke; Ms Lisa Naito; Mr. Sid Rosen; Mr. Joseph Viela, HGEA; Ms Althea McCleery, League of Women Voters; Mr. Wallace Otsuka, Jr., the Chamber of Commerce of Hawaii; Mr. Steve Christensen; and Mr. Lex Brodie.

After considerable deliberation your Committee recommends: amending Article II to include a separate section dealing with forced resignation and disqualification from office; amending Section 5 of Article II to include primary elections and to allow a period of 45 days between the primary and general elections; amending Article II to include a section dealing with the public financing of election campaigns; and amending Article II to include a section providing for limitations on campaign contributions.

Your Committee's concern with improving the electoral process resulted in unanimous agreement to amend Article II, Section 5, to include as a minimum an increase from thirty (30) to forty-five (45) days in the time interval between the primary and general elections.

We are aware that the current interval of thirty (30) days places a severe time restraint on the elections division of the Lieutenant Governor's office. More specifically, the interval does not allow for any unforeseen circumstances, emergencies or challenges to the primary election results which could lead to delays in the printing of the ballots.

Of greater concern to your Committee is the fact that the present interval does not allow sufficient time for the processing of absentee ballots. Absentee ballots are sent to voters between seven (7) and twelve (12) days prior to the election and as a result many of the returned ballots are received after the deadline or are simply not returned at all. Your Committee believes it is reasonable to assume that the increase in time will remedy the situation.

The committee proposal reads:

"GENERAL, [AND] SPECIAL AND PRIMARY ELECTIONS

"Section 5. General elections shall be held on the first Tuesday after the first Monday in November in all even-numbered years. Special and primary elections may be held

in accordance with law [.] ; provided that in no case shall any primary election precede a general election by less than forty-five days."

Your Committee believes it would be justified to require a person to resign from office before becoming eligible to run for another public office with an overlapping term. By running for another office, the person is in effect saying that he no longer wishes to fulfill the responsibilities of the office to which he was elected, and accordingly he should resign from that office. The voters should not be saddled with an elected public official who no longer wishes to fulfill the duties of the office to which he was elected and will do so only if he fails to win election to the other office. This is not fair to the voters, who elected him to serve a full term, and is a violation of the public trust.

Therefore, your Committee presents for consideration the following language:

"RESIGNATION FROM PUBLIC OFFICE

"Section . An elected public officer shall resign from that office before being eligible as a candidate for another public office, if the term of the office sought begins before the end of the term of the office held."

Your Committee does not believe it would be warranted for a candidate to resign if the office he is seeking has a concurrent term. In this case, he is in effect resigning since, if he loses the election, he does not have an office to return to. He is not abusing his elected office by using it as a safe haven from which to make political forays and return if he proves unsuccessful.

It is not the intent of your Committee that this provision shall apply to constitutional convention delegates. Your Committee believes that the rationale for such an amendment is not applicable to the question of eligibility to run for the position of delegate because the convention is a very unique body. It forms every ten years if the voters approve, does its work of examining the Constitution and dissolves. It is not in any of the three traditional branches of our republican system of government. It is readily apparent that the framers of this Constitution intended that this convention be fully independent and benefit from the experience of all. Article XV, Section 2, on the election of delegates, reads in part: "Notwithstanding any provision in this constitution to the contrary, other than Section 3 of Article XIV, any qualified voter of the district concerned shall be eligible to membership in the convention." Although the proposal speaks to eligibility to run rather than eligibility to membership, your Committee is of the opinion that the present language demonstrates an intent to have a convention with minimal restriction on those eligible to run and serve. The convention is a transient body of short duration and as such the elected public official will return to his duties, and your Committee feels that this situation is not akin to the usual one where, if elected, the public official will never return to the duties of his original office. As a practical matter, it will not apply to delegates since the term of office will not be overlapping. Accordingly, it is the intent of your Committee that the provisions related to forced resignation shall not apply to a constitutional convention delegate and any elected public official may run for such an office.

Your Committee has agreed to three concepts which are presented for consideration in the two proposals following:

"CAMPAIGN FUND AND CAMPAIGN SPENDING

"Section . The legislature shall establish a campaign fund to be used for partial public financing of campaigns for public offices of the state and its political subdivisions, as prescribed by law. The legislature shall provide a limit on the campaign spending of candidates."

"LIMITATION ON CAMPAIGN CONTRIBUTIONS

"Section . Limitations on campaign contributions to any political candidate, or authorized political campaign organization for such candidate, for any elective office within the State shall be established by law."

These proposals contain the concept of public financing of elections, campaign spending limits and campaign contribution limits.

It is the intent of your Committee that implementation of these proposals will improve the political process, encourage the expenditure of public moneys for a public purpose, permit campaign spending limits, encourage wider participation in the political process and reduce the political influence of money, the appearance of impropriety and the potential for corruption of public officials.

Your Committee is greatly concerned about the high cost of running for office and the ramifications it has for the political process. Your Committee believes that money has been allowed to play too large a role in the political process. Your Committee is aware of the widespread belief that it takes money to win an election and that only the rich need bother to run or attempt to influence an election by way of political support.

Your Committee believes that the need for money generates pressure to raise money that is incompatible with the public interest. Your Committee wonders whether public officials have the flexibility to act in a manner detrimental to the interest of their powerful backers when the public interest so requires. The official may fear alienating the support of rich and powerful backers and accordingly rearrange his views. To best serve the public, an official must be free to act according to what he deems to be in the public interest but if the need for campaign financing is too great, this flexibility is lost.

Your Committee also believes that many believe the political process is the exclusive domain of the rich. They believe that without adequate personal resources one does not have the money to be a viable candidate or to have adequate input into the system. With an analysis that tells them their participation would be meaningless without the money to make it effective and influential, many become frustrated and alienated from the system. They feel it is no use to participate in the system, either as a candidate or supporter, since they do not have the funds to do so in a meaningful fashion.

Your Committee seeks to alleviate the need for money by addressing itself to the public interest of preventing the reality of corruption and the appearance of corruption spawned by the real or imagined coercive influence of large sums of money.

Your Committee believes that what is more damaging and dangerous to the political process is the appearance of impropriety. After the recent Watergate revelations, many are willing to believe that the decisions of public officials are unduly influenced by the interests of large contributors. This situation can be easily exploited by a masterful manipulator of the media, who could easily dramatize a small incident into a seemingly sordid affair of corruption where the reality does not match the image. However, in the eye of the public, the reality is not as important as the image. So long as the public believes public officials to be corrupt or beholden to the interests of contributors, they will act accordingly. Public trust and confidence in the political process will decrease and the public would feel powerless to meaningfully participate and influence the political process because of the inordinate influence of large contributors.

This ignores the reality that often contributors give large sums to a candidate because he already espouses views similar to their own. It is not always the case that an elected representative changes his views or acts contrary to his beliefs simply because of the need for money. Motivations for decisions are complex, and it is sometimes difficult to pinpoint the exact reason for a decision; but it is easy enough in today's suspicious atmosphere to charge that a decision beneficial to the interests of large contributors was motivated not by public interest but by a desire to keep the "fat cat" happy.

One benefit of these proposals would be that talk of special interest groups and the influence they have may diminish. Representative democracy works best when people have trust in the process and their representatives, and representatives are free to inform themselves intelligently and vote according to their perception of the public interest rather than by their need to gather campaign funds. There would be the further beneficial effect of freeing him from much time spent chasing the dollar, time which would be spent better doing something else.

Another benefit would be a more objective and intelligent discussion of issues. Some believe that because a public official and a special interest group have similar views, the particular view espoused is inimical to the public interest. Public interest is a vague and nebulous concept to begin with, but to assume that a special interest position is always in opposition to the public interest is another negative result of the influence of money on

elections. It is hoped that these reforms will permit the public to judge an issue on its merits without allowing accusations of the undue influence of special interest groups to become a detracting factor.

Therefore, your Committee has agreed to partial public financing of campaigns as one step in the effort to serve the public interest. Your Committee believes that the details of implementation are best handled by the legislature, but it is the intent of your Committee that the legislature create a fund to partially finance the campaigns of candidates running for certain offices. It is left to the discretion of the legislature to decide which races will be funded.

It is not the intent of your Committee to fully fund the entire campaign of a candidate; whether the financing will be a percentage of the total need, or matching funds or some other formula is left to the legislature but it is enough to state that your Committee intends that the public fund only a portion of the costs. The exact amount, the manner in which it shall be raised and similar details are also left to the legislature. The committee does not address itself to the question of whether public financing will be limited to only the two major political parties or include minor party candidates or nonpartisans.

It is the intent of your Committee that the development of public financing be done incrementally. It is not deemed feasible or advisable to fund all races immediately as the public treasury would be depleted, but to fund one or a few races and to use the experiences as a guide to further development. Your Committee believes that this proposal is the beginning of public financing but leaves it to the legislature as to how far it shall go.

The limitation on campaign spending is not without constitutional problems. The limitation on spending would be constitutionally justified if linked to public financing but *Buckley v. Valeo*, 424 U.S. 1 (1976) presents a constitutional hurdle to limiting expenditures for those not receiving public financing. Your Committee is fully aware that litigation will be necessary to determine the validity of any limits on spending by those who do not receive public financing, but your Committee believes that such litigation is necessary and welcome because the public interest served by campaign spending limits is so essential.

The U.S. supreme court has ruled spending limits unconstitutional because it violates the right of free speech. The court reasoned that a spending limit limits the size of the audience you can reach, limits the depth of exploration of the issues, and limits the number of issues that can be discussed. Your Committee is not convinced that such is the case, believing that this assessment does not square with reality.

It may well be that a campaign spending limit will help the advocacy of issues. If limits are established, the probability is high that media expenditures will be reduced since that is the most expensive item. The use of media will continue, so you will continue to reach a large audience although not as often. To compensate for the reduction in media time, reliance will have to be placed to a greater extent on brochures, coffee hours, canvassing or more grass-roots tactics, and intelligent discussions of issues are more likely to occur in that arena as opposed to the media. Media spots are not conducive to discussing issues and if any attempt is made to do so, it is often misleading since it is difficult to be accurate and comprehensive in a short TV ad. Person-to-person contact where dialogue can occur is enlightening and useful in focusing upon the issues, but that is not present in media ads so it is questionable whether limits will hurt the advocacy of issues.

By diluting the effective influence of money and large contributors, your Committee seeks to equalize opportunity for all to participate meaningfully in the political process. Candidates will have to seek a broader base of support to overcome the effects of campaign contribution limits and will need greater manpower to conduct the person-to-person campaign needed when spending limits are in effect. Your Committee believes that it is within the context of a "person-to-person," grass-roots campaign that the issues are better and more intelligently discussed.

These proposals are aimed at reducing the effective influence of money on the political process. By doing so, it is the belief of your Committee that those without financial resources will be encouraged to participate in the process because such participation can be meaningful. By doing so, it is the belief of your Committee that the appearance as well as the potential for actual corruption will be reduced. Your Committee believes

that these measures would go far in reducing the alienation of large segments of the public, and greatly improve our representative form of government.

The question of whether to amend Article II, Section 4, to eliminate the closed primary and replace such with either an open or a blanket primary was considered by your Committee.

In general, differences among the types of primaries discussed are as follows:

1. In the closed primary, party affiliation must be declared. At the time of election, the voter is given the ballot of his designated party and allowed to vote for the candidate(s) of his choice from the designated party.
2. In the blanket primary, party affiliation is not declared by the voter. A ballot with all candidates seeking election is given to the voter, who may choose without restriction to a candidate's affiliation.
3. In the open primary, party affiliation is not declared by the voter. At the time of election, the voter is given ballots representing the different parties with their candidates listed thereon. The voter must make his selection(s) on only one of the ballots, thereby maintaining or restricting his choice to candidates of only one party.

Supporters of the blanket primary state that such a system allows for confidentiality of the voter's party affiliation, and that voters are allowed to vote for whom they believe to be the best candidate regardless of the party. They also state that the current party selection system is not effective and does not allow for public input. Moreover, if the primary election is only for the purpose of party selection, public moneys should not be utilized.

Advocates of the open primary maintain that the system not only keeps a voter's party affiliation confidential but also allows for "independent" voters to participate. In short, the system permits and encourages more people to vote. The open primary also recognizes that our present political system was founded on the principle of political parties and thus presents a compromise between the other systems.

Proponents of the closed primary stress that under the open and blanket primaries cross-over votes are a distinct possibility, the result being that opposing parties may influence the outcome of the other party in the primary nominating election. Thus a weaker candidate would be facing a much stronger opponent in the general election. Proponents also state that people have the freedom to choose their party and to work actively in the decisions of that party, thus allowing for the selection of those candidates adhering to party platforms; that either the open or the blanket primary would bring about the destruction of a minority party; that voter turnout problems should not be remedied by a change in the primaries; and that a majority of the states have closed primaries.

Although your Committee is cognizant of the fact that there are inherent problems in all primary systems, no conclusive evidence has been presented to demonstrate the necessity for a change. Therefore, your Committee does not recommend amending the Constitution to include a primary election system different from the one which we now have.

The concepts of initiative and referendum have been discussed at all constitutional conventions held in the State of Hawaii and have produced much concern and debate. Whether to include the above-mentioned concepts in the Constitution, either in total or in part, were issues which your Committee considered.

The Legislative Reference Bureau manual, Hawaii Constitutional Convention Studies 1978, Article II: Suffrage and Elections, at page 49, defines initiative as:

"... the process through which the electorate, by petition, may propose legislation or constitutional amendments and enact the same by direct vote of a majority of the people. This is done independently

of the legislature, and thus is a direct, rather than representative, form of democracy. There are 2 types of initiative: direct and indirect.

"In direct initiative, a petition concerning a certain measure is circulated for signature. After the required number of signatures is obtained, the proposal is placed on the ballot for a vote at the next election. Upon ratification, the measure becomes law.

"... [I]ndirect initiative requires the completed petition to be submitted to the legislature for consideration. The legislature must, within a specified period of time, enact the proposed measure or a substantially similar measure. If not acted upon, the proposal is automatically placed on the ballot for a vote by the electorate."

Conceptually and in practice, referendum is usually an integral part of the initiative system. Referendum, on page 51 of the LRB manual, is defined as "...a process..." etc. "... a process through which the electorate may approve or reject at the polls an act or constitutional amendment passed by the legislature."

Proponents of initiative and referendum steadfastly believe that the inclusion of such a system in the Constitution guarantees that the aims, goals and desires of the people will be safeguarded; that the legislature will be more responsive to the will of the people; and that the people will become much more involved in the legislative process. They state further that the system allows for legislation in areas where the legislature has failed or is afraid to act for fear of repercussions.

Advocates also point out that no state has rescinded the provisions of initiative and referendum once adopted. Currently the county charters of Hawaii, Maui and Kauai provide for initiative and referendum; the county charter of Honolulu includes initiative only.

Opponents believe that the present representative system of government possesses a stability which may not necessarily exist with the inclusion of initiative and referendum. They further believe that the present system is an effective, time-tested and rational form of government. Said system allows for a clearing of the issues, an exchange of ideas and for compromises.

Those in opposition also fear that large expenditures of money are necessary to educate the people on propositions brought forth by initiative and referendum; that very possibly the media will greatly influence the decision of the people; that propositions will not truly reflect the will of the people, but that of a vocal minority, special interest groups, and/or large monied organizations; and that legislation may be the result of emotionalism by the people.

Opponents report that very often the number of signatures on an initiative petition is much more than the total number voting on the proposition. Likewise, in many cases the number of those voting on referenda has been much less than those voting for candidates on the ballot. In all probability the above demonstrates that there is a complete lack of interest in the matter, or that the public does not or will not take the time to become sufficiently acquainted with the subject to express an opinion, or that they have more confidence in allowing their elected representatives to handle such detailed matters.

Historically, the movement toward initiative and referendum in the United States resulted from a disillusionment with representative institutions. Your Committee believes that such disillusionment is neither warranted nor exists with regard to the Hawaii state legislature.

In the absence of clear and convincing evidence demonstrating the necessity, effectiveness or merits of initiative in any form and/or referendum, your Committee recommends against the inclusion of statutory initiative and/or referendum, and constitutional initiative in the Constitution.

The question of whether to include recall in the Constitution was also considered by your Committee. According to the Hawaii Constitutional Convention Studies, on page 56 recall is defined as "... a procedure through which the people may petition and vote to remove a public official from office."

Although recall allows the people to remove those public officials in whom they have lost confidence, your Committee does not recommend amending the Constitution to include such.

Your Committee believes that the present safeguards of impeachment and removal of officials through the judicial system are sufficient. We believe that our public officials labor under enough pressure presently; that the terms of office of our elected officials are such that any "recall" may be accomplished at the next election, without any additional expenses; and that the passage of time may prove that an unpopular decision made by an official was indeed the correct course of action.

Accordingly, your Committee on Bill of Rights, Suffrage and Elections submits the attached committee proposal and recommends (1) that the above-numbered proposals referred to your Committee be filed, and (2) that Committee Proposal No. 16* pass first reading in the form shown.

Signed by all members of the Committee except Delegates Eastvold, Hale, Hino, Liu and Peterson. Delegate Goodenow did not concur and Delegates Barnes and Odanaka did not concur in part.

*For the complete text of this proposal, see Committee Proposal No. 16, page 827.

STANDING COMMITTEE REPORT NO. 73

Your Committee on Style, to which was referred Committee Proposal No. 9, begs leave to report as follows:

The proposal, which the Convention has adopted on second reading, covers Article IV, Section 6, of the State Constitution, Executive and Administrative Offices and Departments.

Your Committee proposes several style changes which are indicated by [for deletions] and underscoring for additions as shown in the committee report and in the committee proposal.

Your Committee considered the wording of the first paragraph of Section 6 and feels no changes are necessary.

"Each principal department shall be under the supervision of the governor and, unless otherwise provided in this constitution or by law, shall be headed by a single executive. Such single executive shall be nominated and, by and with the advice and consent of the senate, appointed by the governor [and he]. That person shall hold office for a term to expire at the end of the term for which the governor was elected, unless sooner removed by the governor; except that the removal of the chief legal officer of the State shall be subject to the advice and consent of the senate.

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

"The governor shall nominate and, by and with the advice and consent of the senate, appoint all officers for whose election or appointment provision is not otherwise made by this constitution or by law. If the manner of removal of an officer is not prescribed in this constitution, [his] removal shall be in a manner [prescribed] provided by law.

"When the senate is not in session and a vacancy occurs in any office, appointment to which requires the confirmation of the senate, the governor may fill the office by granting a commission which shall, unless such appointment is confirmed, expire at the end of the next session of the senate [; but the]. The person so appointed shall not be

eligible for another interim appointment to such office if the appointment [shall have] failed [of confirmation] to be confirmed by the senate.

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

"Every officer appointed under the provisions of this section shall be a citizen of the United States and shall have been a resident of this State for at least one year immediately preceding [his] that person's appointment; except that this [residence] residency requirement shall not apply to the president of the University of Hawaii."

The changes recommended are for the purposes of style and clarification and have no further implications.

Changes of particular interest recommended by your Committee:

1. Paragraph 2. The second sentence has been broken into two parts. By (1) ending the first new sentence after "appointed by the governor," (2) deleting the words "and he" and (3) beginning the second new sentence with the words "That person," the paragraph reads with better clarity.

2. Paragraph 3. As a matter of consistency, "prescribed by law" was changed to "provided by law." Also, the last sentence reads with better clarity with the addition of "an" before "ex officio" and deletion of "a" before "voting."

3. Paragraph 4. Again for consistency, "his" was removed and "prescribed" was changed to "as provided."

4. Paragraph 5. Presently, this whole paragraph is one sentence. Deletion of the semicolon and the words "but the" therein brings that portion of the sentence to a close. The other changes were for clarity.

5. Paragraph 6. Your Committee considered the wording of paragraph 6 and feels no changes are necessary.

6. Paragraph 7. For consistency, "his" was changed to "that person's" and "residence" was changed to "residency" for grammatical purposes.

Style Committee Recommendation

Your Committee on Style recommends the adoption of Standing Committee Report No. 73 and consideration of the passage of Committee Proposal No. 9, S. 1* on third reading.

Signed by all members of the Committee except Delegates Nozaki and Yoshimura.

*For the complete text of the proposal, see Committee Proposal No. 9, page 801.

STANDING COMMITTEE REPORT NO. 74

Your Committee on Budget, Accounts and Printing begs leave to report that Res. No. 21 has been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 75

Your Committee on Budget, Accounts and Printing begs leave to report that Stand. Com. Rep. Nos. 76 and 77 and Com. P. Nos. 7, RD. 1, and 17 have been printed and distributed.

Signed by Delegates Ledward, Chairperson, Crozier, Vice-Chairperson, Hayashida, Vice-Chairperson; Hale, member.

STANDING COMMITTEE REPORT NO. 76

Your Committee on Style, to which was referred Committee Proposal No. 7, RD. 2, begs leave to report as follows:

The proposal, which the Convention has adopted on second reading, covers Article VII, Section 3, of the State Constitution, Taxation and Finance, and adds a new section, "Effective Date and Application of Article VII, Section 3," to Article XVI. The Convention has proposed amendments to Article VII, Section 3.

Your Committee considered the wording of these two sections but decided no further changes were necessary.

Therefore, your Committee on Style recommends the adoption of Standing Committee Report No. 76 and consideration of the passage of Committee Proposal No. 7, RD. 2* on third reading.

Signed by all members of the Committee except Delegates Burgess, Ellis, Odanaka and Takehara.

*For the complete text of this proposal, see Committee Proposal No. 7, page 792.

STANDING COMMITTEE REPORT NO. 77

Your Committee on Environment, Agriculture, Conservation and Land, to which were referred 117 proposals relating to ocean and marine resources, constitutional zoning and land classification, environment rights and protection, growth management, conservation and development of resources, land, water and agriculture, energy, historical and cultural conservation, and access to recreational areas and shorelines, begs leave to report as follows:

Your Committee held six public hearings on the above-mentioned subjects. Nine additional public hearings were held during nonbusiness hours on five islands to afford the public a chance to participate and testify. Individual proposals were filed, committee proposals were drafted and a public hearing was held to receive public comments on those drafts.

After full and free discussion, your Committee recommends amending Article X, Section 1, Resources; Conservation, Development and Use; amending Article X, Section 3, Sea Fisheries and Article XVI, Section 13, Condemnation of Fisheries; amending Article X, Section 5, Farm and Home Ownership and amending Article X to include new sections on land banking, water resources and environmental rights.

Your Committee recommends that Section 1 of Article X be amended to read:

1. Article X, Section 1, reading as follows, is deleted:

"[RESOURCES; CONSERVATION, DEVELOPMENT AND USE

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

2. Article X is amended by adding a new section to be designated Section 1 and to read:

"CONSERVATION AND DEVELOPMENT OF RESOURCES

"Section 1. For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii's natural beauty and all natural

resources, including land, water, air, minerals, and energy sources; and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.

"All public natural resources are held in trust by the State for the benefit of the people."

Section 1 has been amended to clarify the policy of the State with regard to resources. Your Committee felt it important to include: "For the benefit of present and future generations..." because it affirms the ethical obligations of this generation toward the next and is entirely consistent with the concept that the Constitution should provide for the future.

Much testimony was received expressing the opinion that the current language of Section 1 is contradictory and places insufficient weight on the preservation or protection end of the balance that is implied in the word "conservation." Your Committee agreed with this testimony and amended Section 3 to recognize this concern. However, your Committee felt it necessary to define the word "conservation" and agreed on the following definition--the protection, improvement and use of natural resources according to principles that will assure their highest economic or social benefits.

Your Committee felt that the inclusion of "natural beauty" in this article, rather than Article VIII, is more in keeping with the concept of natural beauty as a resource. Moreover, the language of this section mandates that the State and its political subdivisions provide for the conservation and protection of natural beauty, as contrasted with the previous language which simply empowered the State to "conserve and develop its natural beauty."

A question was raised as to whether the term "minerals" included geothermal resources. Your Committee determined that state law already defines "geothermal resources" as minerals.

The consensus of your Committee with regard to self-sufficiency was to constitutionally recognize the growing concern and awareness of Hawaii as being overly dependent on outside sources for, among other resources, food and energy.

Your Committee spent much time considering the need for a separate section on an energy policy for the State. However, it was concluded that the promotion of energy conservation, the development of clean, renewable sources of energy, and the achievement of increased energy self-sufficiency would be adequately covered by the provisions of this section.

Your Committee recommends that Section 3 of Article X and Section 13 of Article XVI be amended to read:

"[CONDEMNATION OF FISHERIES

"Section 13. All vested rights in fisheries in the sea waters not included in any fish pond or artificial inclosure shall be condemned to the use of the public upon payment of just compensation, which compensation, when lawfully ascertained, shall be paid out of any money in the treasury of the State not otherwise appropriated.]"

"[SEA FISHERIES] MARINE RESOURCES

"Section 3. The State shall have the power to manage and control the marine, seabed and other resources located inside the boundaries of the State, including the archipelagic waters of the State, and reserves to itself all such rights outside State boundaries not specifically limited by federal or international law.

"All fisheries in the sea waters of the State not included in any fish pond, [or] artificial [inclosure] enclosure, or state-licensed marine operation shall be free to the public, subject to vested rights and the right of the State to regulate the same. The State may condemn such vested rights for public use."

The intent of the proposed amendment is to clarify the State's long-standing interest in its marine resources and to assert its right to manage and control those resources.

Testimony received by the committee revealed that the power of the State of Hawaii to manage its marine resources has been reduced and diluted by past federal actions. Moreover, it appears that future federal action may further reduce the State's ability to manage resources located within the State.

The language of this amendment reiterates the clarification of the boundaries of the State as expressed by the Committee on Revision, Amendment and Other Provisions.

Your Committee notes that the Fishery Conservation and Management Act of 1976, which extended the federal government's jurisdiction over fisheries, foreign and domestic, to a limit of 200 nautical miles, also provides that coastal states may share by agreement the enforcing of management rules in the 200-mile zone. As a result, the amendment clearly asserts the State's latent power to exercise management authority in the 200-mile fishery conservation zone.

Your Committee was also apprised of the concern that the present language of Section 3, Article X, precludes the development of sea-farms or other mariculture operations "not included in any fish pond or artificial inclosure." Testimony indicated that the State's future in the area of commercial fisheries would be in the direction of sea-farming rather than traditional fishing operations. Thus your Committee, in order to enable the development of sea-farms, recommends the exclusion of fisheries developed as a result of a "state-licensed marine operation" from the public fisheries.

The possibility that the public may be adversely affected by the development of sea-farms was raised. However, after careful consideration, your Committee felt that the provision for state licensing should serve to prevent the indiscriminate proliferation of sea-farms that would significantly reduce the fisheries open to the public.

Your Committee also recommends that the constitutional provision regarding the condemnation of vested rights in fisheries be moved from Section 13 of Article XVI to Section 3 of Article X in order to consolidate the provisions dealing with marine resources in a single section. The provision was condensed to improve its clarity. In addition, your Committee amended the provision to make condemnation optional rather than mandatory, in the belief that it may not be in the public interest to condemn all konohiki rights. However, should a party or parties assert lawfully ascertained konohiki rights in an area which the State wishes to keep open to public fishing, the State would continue to have the obligation to pay just compensation, under Article I, Section 18 ("Eminent Domain").

Your Committee recommends that Section 5 of Article X be amended to read:

"[FARM AND HOME OWNERSHIP] AGRICULTURAL LANDS

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

"The State shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and assure the availability of agriculturally suitable lands.

"Reclassification of lands identified by the State as 'prime', 'unique', or 'other important' agricultural lands in agricultural districts shall be subject to approval by two thirds of each house of the legislature. These lands shall be protected and maintained for bona fide agricultural use. Necessary support facilities are permissible."

Your Committee deleted the provision in Section 5 of Article X dealing with the use of public lands for farm and home ownership. It was generally understood, based on a letter opinion by the attorney general, that the phrase "farm and home ownership" meant both farm or home ownership. The inconsistency of this interpretation, with a renewed emphasis on preserving valuable and important agricultural lands, and the recommendation of the chairman of the board of agriculture convinced your Committee to delete the provision on farm and home ownership.

In response to increasing concerns regarding the future of agriculture in the State, your Committee has amended Section 5 of Article X, entitled "Farm and Home Ownership,"

by revising it to "Agricultural Lands" and by amending it to provide policy direction to the State. Moreover, the section has been amended to safeguard existing agricultural lands designated by the state Department of Agriculture as "prime," "unique" or "other important" and classified as agricultural by the state Land Use Commission. Thus the reclassification of these lands will now require, in addition to approval by the state Land Use Commission or other body assigned this function, the approval of the legislature by two thirds of each house.

Your Committee provided further protection for important agricultural lands by requiring that the lands be protected and maintained for bona fide or good faith agricultural use and that only support facilities necessary for agricultural use of such land be permitted.

It is your Committee's intent that Hawaiian home lands and those public lands held in trust for native Hawaiians not be restricted by the land classification procedures of this section.

Your Committee recommends that Article X be amended to add a new section to read:

"WATER RESOURCES

"Section . All waters shall be held by the State as a public trust for the people of Hawaii.

"The legislature shall provide for a water resources agency which shall, in accordance with law, set overall water conservation, quality and use policies; define beneficial and reasonable uses; protect groundwater resources, watersheds, and natural stream environments; establish criteria for water use priorities while assuring appurtenant rights and existing correlative and riparian uses; and establish procedures for regulating all new uses of Hawaii's water resources."

Your Committee has adopted the concept of trusteeship in the management, conservation and control of the precious water resources of the State. The State has long possessed the necessary police powers to regulate and control water resources in the State, but these powers have not been actively employed to avert the present water supply problems. Accordingly, your Committee concluded that the Constitution should specify that the State holds the water resources in trust, with the responsibilities of a trustee to actively protect, control and regulate the development of water resources in the State. This concept implies not only the power to protect the resources but the responsibility to do so long before any crisis develops.

Your Committee also found that there are a number of agencies, often with overlapping and conflicting duties, responsible for the management and control of water resources in the State. The need for a single trustee agency has become vital because of continued development in the State and the greater demands placed on our scarce water resources. Thus your Committee has specified that one agency shall be created or designated by the legislature with the responsibility for regulating all water development and use, whether public or private.

Your Committee believed it necessary to set out the major functions of the water resources agency, recognizing however that other functions could be assigned by the legislature. The trustee agency will be responsible for approving all new water uses and guaranteeing that such new uses will not be detrimental to existing water uses, to the water resources itself or to the natural environment of the water resource.

Although the functions of the water resources agency listed in the proposal are self-explanatory, your Committee wishes to emphasize that regulation of water uses is only one of the duties assigned to this agency. The agency will also have the duty to protect groundwater resources, watersheds and natural stream environments because groundwater resources, watersheds and streams form the basis of our water resources system.

It is the intent of your Committee that the word "agency" be used in a broad sense to allow the legislature to designate an existing governmental body or to create a new one to carry out the trust responsibility. However, your Committee notes that it should not be an existing governmental body which is a competing user of water, because no one

user should have full authority to regulate other water users or to regulate its own water use.

It is not the intention of your Committee, in the imposition of this trust, to interfere with the water rights of private property owners using water as defined by law, but merely to subject such rights to reasonable regulation by a trustee agency so that all those holding water rights may continue to enjoy the benefit of such rights. Neither is this proposal intended to limit the rights of individuals to protect their water rights through litigation.

Your Committee recommends that Article X be amended to add a new section to read:

"PUBLIC LAND BANKING

"Section . The State shall have power to acquire interests in real property to control future growth, development and land use within the State. The exercise of such power is to be for a public use and purpose."

In Hawaii's land economy, a few major landowners and large developers exercise a predominant influence in land development and land marketing decisions.

Many studies suggest that public land banking may have an effective role to play in such a market. Land banking refers to the acquisition of land for the specified purpose of asserting the State's ownership interests in shaping the growth and development of entire regions, in advance of any immediate need for a particular public use.

Currently, the legislature is deterred from considering the feasibility of using this planning tool by Article I, Section 18, of the State Constitution, which permits the taking of private property only when there is a public use of that property. The term "public use" has been judicially interpreted to mean immediate and specific use. Hence private landholders whose properties are sought for banking purposes may assert that the acquisition will not be put to a public use and thus defeat the State's action.

The recommended constitutional amendment would blunt such an attack by stating that the State's acquisition of interests in real property to control future growth, development and land use within the State would be deemed to be for a public use and purpose.

However, while this provision would remove the constitutional impediment to legislative consideration of this concept, it would not establish a land bank program. It would simply enable the legislature to assess the benefits and liabilities of land banking without concerns about its constitutional status.

Your Committee recommends that Article X be amended to add a new section to read:

"ENVIRONMENTAL RIGHTS

"Section . Each person has the right to a clean and healthful environment, as defined by laws relating to environmental quality, including pollution control and natural resources conservation, protection, and enhancement. Any person may enforce this right against any party, public or private, through appropriate legal proceedings, subject to reasonable limitations and regulation as provided by law."

Your Committee believes that a clean and healthful environment is an important right of every citizen and that this right deserves constitutional protection. The definition of this right would be accomplished by relying on the large body of statutes, administrative rules and ordinances relating to environmental quality. Defining the right in terms of present laws imposes no new legal duties on parties, a point of fairness important to parties which have invested or are investing large sums of money to comply with present laws.

Developing a body of case law defining the content of the right could involve confusion and inconsistencies. On the other hand, legislatures, county councils and administrative agencies can adopt, modify or repeal environmental laws and regulation laws in light of the latest scientific evidence and federal requirements and opportunities. Thus, the right can be reshaped and redefined through statute, ordinance and administrative rule-making procedures and not inflexibly fixed.

Your Committee believes that this important right deserves enforcement and has removed the standing to sue barriers, which often delay or frustrate resolutions on the merits of actions or proposals, and provides that individuals may directly sue public and private violators of statutes, ordinances and administrative rules relating to environmental quality. The proposal adds no new duties but does add potential enforcers. This private enforcement right complements and does not replace or limit existing government enforcement authority.

Your Committee intends that the legislature may reasonably limit and regulate this private enforcement right by, for example, prescribing reasonable procedural and jurisdictional matters, and a reasonable statute of limitations.

Your Committee believes that this new section adequately recognizes the right to a clean and healthful environment and at the same time would prevent abuses of this right. Concern was expressed that the exercise of this right to a clean and healthful environment would result in a flood of frivolous lawsuits. However, your Committee believes that if environmental law enforcement by government agencies is adequate in practice, then there should be few additional lawsuits, given the barriers that litigation costs present.

Moreover, your Committee is convinced that the safeguards of reasonable limitations and regulations as provided by law should serve to prevent abuses of the right to a clean and healthful environment.

Accordingly, your Committee on Environment, Agriculture, Conservation and Land submits the attached committee proposal and recommends 1) that the 117 proposals referred to your Committee be filed and 2) that Committee Proposal No. 17* pass first reading in the form shown.

Signed by all members of the Committee except Delegates Funakoshi and Lewis.

*For the complete text of this proposal, see Committee Proposal No. 17, page 828.

STANDING COMMITTEE REPORT NO. 78

Your Committee on Style, pursuant to the policy and direction to your Committee contained in Resolution No. 13, RD. 1, providing for the use of nondiscriminatory nouns, pronouns and adjectives in the State Constitution, begs leave to report as follows:

This report and the committee proposal carry out the direction contained in Resolution No. 13, RD. 1, "...to submit a committee proposal conforming the Constitution to this policy [of using nondiscriminatory nouns, pronouns and adjectives] where necessary and deleting as no longer necessary the second paragraph of Article XIV, Section 13..." Your Committee found that the conformance necessary was made by substituting nouns for personal pronouns in such manner that the noun used was the same as the antecedent noun used earlier in the sentence. For example, Article II, Section 2, reading in part:

"No person convicted of a felony shall be qualified to vote except upon [his] the person's final discharge or earlier as provided by law."

Article III, Section 9, reading in part:

"No member of the legislature shall hold any other public office under the State, nor shall [he,] the member, during the term for which [he] the member is elected or appointed..."

Article III, Section 17, reading in part:

"If [he] the governor approves it, [he] the governor shall sign it and it shall become law."

The remaining changes in the usage of personal pronouns are similar to the above. Finally, your Committee has deleted the last paragraph in Article XIV, Section 13, as directed in Resolution No. 13, RD. 1, which reads:

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

Your Committee proposes that Article I, Section 4, read:

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

Your Committee notes that the proposed amendment differs from that suggested by the Committee on Bill of Rights, Suffrage and Elections in Committee Proposal No. 15. The Committee on Bill of Rights, Suffrage and Elections in their proposal deleted the word "his" but did not, as your Committee proposes, insert the words "the person's." Your Committee discussed the difference and decided that this is in the jurisdiction of your Committee on Style, as provided by Convention Rule 18(b) and by Resolution No. 13, RD. 1, and that your Committee should have the final word on this matter.

Your Committee also notes that some of the sections contained in this committee proposal amend sections of the Constitution being amended or deleted by other committees, such as your Committee's suggested amendments to Article V, Section 4, which section was completely rewritten by the Committee on Judiciary. Your Committee defers to the other standing committees on substantive changes and will modify this committee proposal as necessary to conform to such substantive changes or will conform this proposal with other proposals when making its final report to the Convention.

Your Committee notes that the changes in this committee proposal may be presented to the voters for ratification either as part of a question similar to question 23 on the 1968 ballot, or the question may be amended to include the changes made by this committee proposal concerning the use of nondiscriminatory words, or the changes may be presented as a separate question.

Finally, your Committee notes that the subject matter of this committee proposal is limited to the use of nondiscriminatory terms and does not present any other subject matter to the Convention.

Your Committee on Style recommends that Committee Proposal No. 18 pass first reading in the form attached hereto.

Signed by all members of the Committee except Delegates Laura Ching and Weatherwax.

COMMITTEE PROPOSAL NO. 18

RELATING TO THE USE OF NONDISCRIMINATORY TERMS IN THE CONSTITUTION.

RESOLVED, that the following be agreed upon as amending the State Constitution.

1. Article I, section 2, is amended to read:

RIGHTS OF [MAN] INDIVIDUALS

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

2. Article I, section 4, is amended to read:

DUE PROCESS AND EQUAL PROTECTION

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

3. Article I, section 8, is amended to read:

INDICTMENT, DOUBLE JEOPARDY, SELF-INCRIMINATION

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

4. Article I, section 11, is amended to read:

RIGHTS OF ACCUSED

Section 11. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the district wherein the crime shall have been committed, which district shall have been previously ascertained by law, or of such other district to which the prosecution may be removed with the consent of the accused; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against [him;] the accused; to have compulsory process for obtaining witnesses in [his] the accused's favor; and to have the assistance of counsel for [his] the accused's defense. The State shall provide counsel for an indigent defendant charged with an offense punishable by imprisonment for more than sixty days.

5. Article II, section 2, is amended to read:

DISQUALIFICATION

Section 2. No person who is non compos mentis shall be qualified to vote. No person convicted of a felony shall be qualified to vote except upon [his] the person's final discharge or earlier as provided by law.

6. Article II, section 3, is amended to read:

RESIDENCE

Section 3. No person shall be deemed to have gained or lost residence simply because of [his] the person's presence or absence while employed in the service of the United States, or while engaged in navigation or while a student at any institution of learning.

7. Article III, section 7, is amended to read:

QUALIFICATIONS OF MEMBERS

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

8. Article III, section 8, is amended to read:

PRIVILEGE OF MEMBERS

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

9. Article III, section 9, is amended to read:

DISQUALIFICATION OF MEMBERS

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

10. Article III, section 17, is amended to read:

APPROVAL OR VETO

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

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

RECONSIDERATION AFTER ADJOURNMENT

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

In computing the number of days designated in this section, the following days shall be excluded: Saturdays, Sundays, holidays, and any days in which the legislature is in recess prior to its adjournment as provided in Section 11.

11. Article III, section 19, is amended to read:

PUNISHMENT OF NONMEMBERS

Section 19. Each house may punish by fine, or by imprisonment not exceeding thirty days, any person not a member of either house who shall be guilty of disrespect of such house by any disorderly or contemptuous behavior in its presence or that of any committee thereof; or who shall, on account of the exercise of any legislative function, threaten harm to the body or estate of any of the members of such house; or who shall assault, arrest or detain any witness or other person ordered to attend such house, on [his] the witness' or other person's way going to or returning therefrom; or who shall rescue any person arrested by order of such house.

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

12. Article IV, section 3, is amended to read:

COMPENSATION: GOVERNOR, LIEUTENANT GOVERNOR

Section 3. The compensation of the governor and of the lieutenant governor shall be prescribed by law, but shall not be less than thirty-three thousand five hundred dollars, and twenty-seven thousand five hundred dollars, respectively, a year. Such compensation shall not be increased or decreased for their respective terms, unless by general law applying to all salaried officers of the State. When the lieutenant governor succeeds to the office of the governor, [he] the lieutenant governor shall receive the compensation for that office.

13. Article IV, section 4, is amended to read:

SUCCESSION TO GOVERNORSHIP;
ABSENCE OR DISABILITY OF GOVERNOR

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

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

In the event of the impeachment of the governor or of the lieutenant governor, [he] the governor or the lieutenant governor shall exercise the powers of [his] the applicable office until acquitted.

14. Article IV, section 5, is amended to read:

EXECUTIVE POWERS

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

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

The governor shall appoint an administrative director to serve at [his] the governor's pleasure.

15. Article V, section 2, is amended to read:

SUPREME COURT

Section 2. The supreme court shall consist of a chief justice and four associate justices. When necessary, the chief justice shall assign a judge or judges of a circuit court to serve temporarily on the supreme court. As prescribed by law, retired justices of the supreme court also may serve temporarily on the supreme court at the request of the chief justice. In case of a vacancy in the office of chief justice, or if [he] the chief justice is ill, absent or otherwise unable to serve, an associate justice designated in ac-

cordance with the rules of the supreme court shall serve temporarily in [his] the chief justice's place.

16. Article V, section 3, is amended to read:

APPOINTMENT OF JUSTICES AND JUDGES

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

QUALIFICATIONS

No justice or judge shall hold any other office or position of profit under the State or the United States. No person shall be eligible for the office of justice or judge unless [he] the person shall have been admitted to practice law before the supreme court of this State for at least ten years. Any justice or judge who shall become a candidate for an elective office shall thereby forfeit [his] any state judicial office [.] held.

TENURE; COMPENSATION; RETIREMENT

The term of office of a justice of the supreme court and of a judge of a circuit court shall be ten years. They shall receive for their services such compensation as may be prescribed by law, but no less than twenty-eight thousand dollars for the chief justice, twenty-seven thousand dollars for associate justices and twenty-five thousand dollars for circuit court judges, a year. Their compensation shall not be decreased during their respective terms of office, unless by general law applying to all salaried officers of the State. They shall be retired upon attaining the age of seventy years. They shall be included in any retirement law of the State.

17. Article V, section 4, is amended to read:

RETIREMENT FOR INCAPACITY AND REMOVAL

Section 4. Whenever a commission or agency, authorized by law for such purpose, shall certify to the governor that any justice of the supreme court or judge of a circuit court appears to be so incapacitated as substantially to prevent [him] the justice or judge from performing [his] judicial duties or has acted in a manner that constitutes wilful misconduct in office, wilful and persistent failure to perform [his] judicial duties, habitual intemperance, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute, the governor shall appoint a board of three persons, as provided by law, to inquire into the circumstances. If the board recommends that the justice or judge should not remain in office, the governor shall remove or retire [him] the justice or judge from office.

18. Article V, section 5, is amended to read:

ADMINISTRATION

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

19. Article VI, section 5, is amended to read:

LEGISLATIVE APPROPRIATIONS; PROCEDURES

Section 5. In each regular session in an odd-numbered year, the legislature shall transmit to the governor an appropriation bill or bills providing for the anticipated total expenditures of the State for the ensuing fiscal biennium. In such session, no appropriation bill, except bills recommended by the governor for immediate passage, or to cover the expenses of the legislature, shall be passed on final reading until the bill authorizing

operating expenditures for the ensuing fiscal biennium, to be known as the general appropriations bill, shall have been transmitted to the governor.

In each regular session in an even-numbered year, at such time as may be prescribed by law, the governor may submit to the legislature a bill to amend any appropriation for operating expenditures of the current fiscal biennium, to be known as the supplemental appropriations bill, and bills to amend any appropriations for capital expenditures of the current fiscal biennium, and at the same time [he] the governor shall submit a bill or bills to provide for any added revenues or borrowings that such amendments may require. In each regular session in an even-numbered year, bills may be introduced in the legislature to amend any appropriation act or bond authorization act of the current fiscal biennium or prior fiscal periods. In any such session in which the legislature submits to the governor a supplemental appropriations bill, no other appropriation bill, except bills recommended by the governor for immediate passage, or to cover the expenses of the legislature, shall be passed on final reading until such supplemental appropriations bill shall have been transmitted to the governor.

20. Article VI, section 7, is amended to read:

AUDITOR

Section 7. The legislature, by a majority vote of each house in joint session, shall appoint an auditor who shall serve for a period of eight years and thereafter until a successor shall have been appointed. The legislature, by a two-thirds vote of the members in joint session, may remove the auditor from office at any time for cause. It shall be the duty of the auditor to conduct post-audits of all transactions and of all accounts kept by or for all departments, offices and agencies of the State and its political subdivisions, to certify to the accuracy of all financial statements issued by the respective accounting officers and to report [his] the auditor's findings and recommendations to the governor and to the legislature at such times as shall be prescribed by law. [He] The auditor shall also make such additional reports and conduct such other investigations as may be directed by the legislature.

21. Article XIV, section 13, is amended to read:

TITLES, SUBTITLES[, PERSONAL PRONOUNS]; CONSTRUCTION

Section 13. Titles and subtitles shall not be used for purposes of construing this constitution.

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

STANDING COMMITTEE REPORT NO. 79

Your Committee on Budget, Accounts and Printing begs leave to report that Res. No. 22 has been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hale, member.

STANDING COMMITTEE REPORT NO. 80

Your Committee on Budget, Accounts and Printing begs leave to report that Stand. Com. Rep. No. 81, Minority Rep. Nos. 13 and 14, Res. No. 23, Com. Whole Rep. No. 14 and Com. P. Nos. 8, RD. 1, S. 1, and 14, RD. 1, have been printed and distributed.

Signed by Delegates Ledward, Chairperson, Crozier, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 81

Your Committee on Style, to which was referred Committee Proposal No. 8, RD. 1, begs leave to report as follows:

The proposal, which the Convention has adopted on second reading, covers Articles III and XVI of the State Constitution, as well as the addition of a new article, "REAPPOINTMENT." The Convention has proposed amendments to Article III, Sections 2, 3, 10, 11, 13 and 16, and Article XVI, Sections 1 and 2, as well as the deletion of Section 4 of Article III and Sections 3, 4, 5 and 6 of Article XVI.

Your Committee proposes several style changes which are indicated by brackets [for deletions] and underscoring for additions as shown in the committee proposal and the committee report.

Article III, Sections 2 and 3 ("SENATE; COMPOSITION" and "HOUSE OF REPRESENTATIVES; COMPOSITION").

Your Committee discussed these sections and feels no further changes are necessary.

Article III, Section 10:

"SALARY; ALLOWANCES; COMMISSION
LEGISLATIVE SALARY

"Section . The members of the legislature shall receive allowances reasonably related to expenses as [prescribed] provided by law, and a salary prescribed pursuant to this section.

"There shall be a commission on legislative salary, which shall be appointed by the governor on or before November 30, 1978, and every eight years thereafter. Not later than the fortieth legislative day of the 1979 regular legislative session and every eight years thereafter, the commission shall submit to the legislature and the governor recommendations for a salary plan for members of the legislature, and then dissolve. The salary plan submitted shall become effective as provided in the plan unless the legislature disapproves the plan by adoption of a concurrent resolution prior to adjournment sine die of the legislative session in which the plan is submitted or the governor disapproves the plan by a message of [the] disapproval transmitted to the legislature prior to [the said] such adjournment. Any change in salary which becomes effective shall not apply to the legislature to which the recommendation for the change in salary was submitted."

Article III, Section 11 ("SESSIONS"):

Your Committee discussed this section and made only one change by deleting a comma in the first sentence of the third paragraph, to read:

"Regular sessions shall be limited to a period of sixty days[,] and special sessions shall be limited to a period of thirty days...."

Article III, Section 13 ("ORGANIZATION; DISCIPLINE; RULES; PROCEDURE"):

Your Committee discussed this section and made no change in the first paragraph. The remaining paragraphs are set forth below with their changes.

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

"Every meeting of a committee in either house or of a committee comprised of a member or members from both houses held for the purpose of making decision on matters referred to the committee shall be open to the public.

"Each house shall provide by rule of its proceedings for a date, applicable to both houses but no sooner than the twentieth day of the session, by which date all bills to be considered in a regular session shall be introduced; provided that such date shall precede the commencement of the mandatory recess of not less than five days under Section .]

"By rule of its proceedings, applicable to both houses, each house shall provide for the date by which all bills to be considered in a regular session shall be introduced. This date shall be after the nineteenth day of the session and shall precede the commencement of the mandatory recess of not less than five days under Section 10."

Article III, Section 16 ("PASSAGE OF BILLS"):

Your Committee discussed this section and feels no changes are necessary.

The new article ("REAPPORTIONMENT"):

Your Committee discussed this new article and for purposes of clarity gave each major break in the article a section number, and corrected internal references to conform to this change, as shown in the committee proposal. Your Committee discussed the first paragraph of this new article, designated Section 1, and feels no changes are necessary. Paragraphs 2 and 3 of the new article are set forth below with their changes.

"Section 2. A reapportionment commission shall be constituted on or before March 1 of each reapportionment year and whenever reapportionment is required by court order. The commission shall consist of nine members. The president of the senate and the speaker of the house of representatives shall each select two members. Members of each house belonging to the party or parties different from that of the president or the speaker shall designate one of their number for each house and the two so designated shall each select two members of the commission. The eight members so selected shall, promptly after selection, be certified by the selecting authorities to the chief election officer and shall within thirty days thereafter select, by a vote of six members, and promptly certify to the chief election officer the ninth member who shall [serve as chairman of] chair the commission.

"Each of the four officials designated above as selecting authorities for the eight members of the commission shall, at the time of the commission selections, also select one person from each basic island unit to serve on an apportionment advisory council for that island unit. The councils shall remain in existence during the life of the commission and each shall serve in an advisory capacity to the commission for matters affecting its island unit."

Your Committee discussed the remainder of this new article and no other major changes were made except for inserting or changing punctuation as shown in paragraphs 5 and 11, now designated Section 4, and as shown in paragraph 10, now designated Section 3. These changes are set forth below.

"The commission shall act by majority vote of its membership and shall establish its own procedures, except as may be provided by law."

"Section 3. The legislature shall provide for a chief election officer of the State, whose responsibilities shall be as [prescribed] provided by law and shall include the supervision of state elections, the maximization of registration of eligible voters throughout the State and the maintenance of data concerning registered voters, elections, apportionment and districting."

"Section 4. The commission shall allocate the total number of members of each house of the state legislature being reapportioned among the four basic island units, namely (1) the island of Hawaii, (2) the islands of Maui, Lanai, Molokai and Kahoolawe, (3) the island of Oahu and all other islands not specifically enumerated, and (4) the islands of Kauai and Niihau, on the basis of the number of voters registered in the last preceding general election in each of the basic island units and computed by the method known as the method of equal proportions[,]; except that no basic island unit shall receive less than one member in each house."

Paragraph 15, now designated Section 6, was amended and reads in part:

"Section 6. If a senator is serving a term which will extend past the general election at which an apportionment plan becomes effective, the reapportionment commission shall designate in the plan the senatorial district the senator shall represent for the remaining period of the senator's term. In making such designation, the senator need not

live in the senatorial district which the senator is designated as representing during the remainder of the term which extends past the general election [at] for which the reapportionment plan becomes effective; provided the reapportionment commission shall consider the following criteria...."

Finally, paragraph 19, now designated Section 9, was amended and reads:

"Section 9. Original jurisdiction is vested in the supreme court of the State to be exercised on the petition of any registered voter whereby it may compel, by mandamus or otherwise, the appropriate person or persons to perform their duty or to correct any error made in a reapportionment plan, or it may take such other action to effectuate the purposes of this section as it may deem appropriate. Any such petition [must] shall be filed within forty-five days of the date specified for any duty or within forty-five days after the filing of a reapportionment plan."

Your Committee discussed section 10 of the proposal, amending Article XVI, Section 1, and feels no changes are necessary. Your Committee discussed section 11 of the proposal, amending Article XVI, Section 2, and renumbered the reference to Article III, Section 5, to Article III, Section 4, to reflect the renumbering in Article III, as indicated in section 8 of the proposal.

The changes recommended are for the purposes of style and clarification and have no further implications.

Changes of particular interest recommended by your Committee:

1. As a matter of consistency, your Committee continues to change "prescribed" to "provided" by law.

2. In Article III, Section 10, "SALARY; ALLOWANCES; COMMISSION ON LEGISLATIVE SALARY," the term "the said" was replaced by the word "such," to be consistent with the Convention's intent to use plain language.

3. Article III, Section 13, "ORGANIZATION; DISCIPLINE; RULES; PROCEDURE":

a. Paragraph 2. The word "same" is replaced by "bill" for clarity.

b. Paragraph 3. Insertion of "a" before "member" for grammatical purposes.

c. Paragraph 4. The paragraph was rewritten for clarification. The revision was discussed with the chairperson of the Committee on Legislature and he concurred with all changes as being those of style.

4. New article, "REAPPORTIONMENT":

a. New Section 2, paragraph 1. The phrase "serve as chairman of" was substituted by "chair" to remain consistent with previous action taken concerning the use of nondiscriminatory nouns in the Constitution.

b. New Section 2, paragraph 2. The phrase "serve on" was inserted before "an apportionment advisory council" for clarity.

c. New Section 6. The word "at" was replaced by "for" in the first paragraph for technical purposes, to reflect the fact that the reapportionment plan becomes effective upon publication and not at a general election.

Style Committee Recommendation

Your Committee on Style recommends the adoption of Standing Committee Report No. 81 and consideration of the passage of Committee Proposal No. 8, RD. 1, S. 1* on third reading.

Signed by all members of the Committee except Delegate Takahashi.

*For the complete text of the proposal, see Committee Proposal No. 8, page 794.

STANDING COMMITTEE REPORT NO. 82

Your Committee on Budget, Accounts and Printing begs leave to report that Res. No. 24 has been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson, Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 83

Your Committee on Budget, Accounts and Printing begs leave to report that Res. No. 25, Stand. Com. Rep. Nos. 84 through 87, Com. P. Nos. 10, RD. 2, S. 1; 11, S. 1; 12, RD. 1, S. 1; 13, RD. 2, S. 1; and 15, RD. 1; and Com. Whole Rep. No. 15 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 84

Your Committee on Style, to which was referred Committee Proposal No. 10, RD. 2, begs leave to report as follows:

The proposal, which the Convention has adopted on second reading, covers Article V, Section 1, Judiciary Power; Article V, Section 2, Supreme Court; Appellate Court; Article V, Section 3, Appointment of Justices and Judges; and Article V, Section 4, Retirement; Removal; Discipline, as well as new sections, The Judicial Selection Commission and Transition; Effective Date.

Your Committee proposes several style changes which are indicated by brackets [for deletions] and underscoring for additions as shown in the committee proposal and report. The changes recommended are for the purposes of style and clarification, and have no further implications.

Changes of particular interest recommended by your Committee:

1. "Judicial Power" as the title of Article V, Section 1, replaces "Judiciary Power" for the purpose of style.

2. Commas have, as is the style format, been deleted when preceding a conjunction.

3. Article V, Section 1, end of last sentence:

"...for disposition of cases in accordance with [its] their rules."

This is a matter of agreement, with the subject of that sentence being the several courts.

4. "Provided by law" replaces "prescribed by law" as a matter of consistency.

5. "He," "his place," "his nomination," "his term," "his term of office" and "chairman" have been replaced with nondiscriminatory language (i.e., "in his place" is replaced by "in place of the chief justice," etc.).

6. "Should fail" is replaced twice by "fails" in Article V, Section 3. This is for the purpose of clarity.

7. In Article V, Section 3, paragraph 2, your Committee proposes the following change to the last sentence, for purposes of clarity:

"The same appointment and consent procedure shall be followed until a valid appointment has been made, or failing [the making of a valid appointment,] this, the commission shall make the appointment from the list, without senate consent."

8. In Article V, Section 3, the first paragraph under "Tenure; Compensation; Retirement," your Committee proposes the following changes for purposes of clarity and in accordance with the convention policy of using nondiscriminatory terms:

"The term of office of justices and judges of the supreme court, intermediate appellate court and circuit courts shall be ten years. Judges of district courts shall hold office for the periods [prescribed] as provided by law. At least six months prior to the expiration of [his] a justice's or judge's term of office, every justice and judge shall petition the judicial selection commission to be retained in office or shall inform the commission of [his] an intention to retire. If the judicial selection commission determines that the justice or judge should be retained in office, the commission shall renew [his] the term of office of such justice or judge for the period [prescribed] as provided by this section or by law."

9. In Article V, Section 4, first paragraph, your Committee proposes the following changes for the purposes of clarity:

"The supreme court shall have the power to reprimand, discipline, suspend with or without salary, retire [and] or remove from office[,] any justice or judge for misconduct or disability, [any justice or judge, according to such rules governing exercise of this power] as provided by rules adopted by the supreme court [shall adopt]."

10. (a) "State" has been capitalized as it is a proper noun ("Members in good standing of the bar of the [state] State shall elect..."), in the first paragraph of the new section entitled "The Judicial Selection Commission."

(b) "Six-year term" is hyphenated as it is a compound adjective, in the second paragraph of such new section.

(c) The fourth paragraph of such new section has been rewritten for clarity and now reads:

"No act of the judicial selection commission shall be valid [unless concurred in by a] except by concurrence of the majority of its voting members."

(d) The last paragraph in this section has been divided into two paragraphs and the order of the first two sentences has been reversed for clarity. At the same time, the capitals therein have been changed to lower case for consistency. These changes are as follows:

"[No member of the judicial commission shall receive any compensation for commission services, but shall be allowed necessary expenses for travel, board and lodging incurred in the performance of commission duties. The legislature shall provide for the staff and operating expenses of the commission in a separate budget. The Judicial Selection Commission shall be attached to the Judiciary Branch of the State Government for purposes of administration.]

"The legislature shall provide for the staff and operating expenses of the judicial selection commission in a separate budget. No member of the judicial selection commission shall receive any compensation for commission services, but shall be allowed necessary expenses for travel, board and lodging incurred in the performance of commission duties.

"The judicial selection commission shall be attached to the judiciary branch of the state government for purposes of administration."

11. The second new section to Article V, entitled "Transition; Effective Date," has instead been added to Article XVI and is now entitled "Judiciary; Transition; Effective Date," as this language is transitional and more appropriately placed thereunder. The reference in the fifth sentence in that section to "this article" has been changed to "Article V" since the section is no longer in Article V. Lastly, the capitalization of "Judicial Selection Commission" has been changed to lower case for purposes of consistency.

Style Committee Recommendation

Your Committee on Style recommends the adoption of Standing Committee Report

No. 84 and consideration of the passage of Committee Proposal No. 10, RD. 2, S. 1, on third reading.

Signed by all members of the Committee except Delegate Takehara.

COMMITTEE PROPOSAL NO. 10, RD. 2, S. 1

RELATING TO THE JUDICIARY.

RESOLVED, that the following be agreed upon as amending Articles V and XVI of the State Constitution.

1. Article V, Section 1, is amended to read:

[JUDICIARY] JUDICIAL POWER

Section 1. The judicial power of the State shall be vested in one supreme court, one intermediate appellate court, circuit courts, district courts[,] and in such other courts as the legislature may from time to time establish. The several courts shall have original and appellate jurisdiction as provided by law and shall establish time limits for disposition of cases in accordance with [its] their rules.

2. Article V, Section 2, is amended to read:

SUPREME COURT; APPELLATE COURT

Section 2. The supreme court shall consist of a chief justice and four associate justices. The chief justice may assign a judge or judges of the intermediate appellate court or a circuit court to serve temporarily on the supreme court, a judge of the circuit court to serve temporarily on the intermediate appellate court[,] and a judge of the district court to serve temporarily on the circuit court. As [prescribed] provided by law, retired justices of the supreme court also may serve temporarily on the supreme court at the request of the chief justice. In case of a vacancy in the office of chief justice, or if [he] the chief justice is ill, absent or otherwise unable to serve, an associate justice designated in accordance with the rules of the supreme court shall serve temporarily in [his place.] place of the chief justice.

3. Article V, Section 3, is amended to read as follows:

APPOINTMENT OF JUSTICES AND JUDGES

The governor shall, with the consent of the senate, fill a vacancy in the office of the chief justice, supreme court, intermediate appellate court and circuit courts, by appointing a person from a list of not less than six nominees for the vacancy, presented to the governor by the judicial selection commission.

If the governor [should fail] fails to make any appointment within thirty days of presentation, or within ten days of the senate's rejection of any previous appointment, the appointment shall be made by the judicial selection commission from the list with the consent of the senate. If the senate [should fail] fails to reject any appointment within thirty days thereof, it shall be deemed to have given its consent to such appointment. If the senate shall reject any appointment, the governor shall make another appointment from the list within ten days thereof. The same appointment and consent procedure shall be followed until a valid appointment has been made, or falling [the making of a valid appointment,] this, the commission shall make the appointment from the list, without senate consent.

The chief justice shall fill a vacancy in the district courts by appointing a person from a list of not less than six nominees for the vacancy presented by the judicial commission. If the chief justice fails to make the appointment within [30] thirty days of presentation, the appointment shall be made by the judicial selection commission from the list. The chief justice shall appoint per diem district court judges [in accordance with] as provided by law.

QUALIFICATIONS FOR APPOINTMENT

Justices and judges shall be residents and citizens of the State and of the United States, and licensed to practice law by the supreme court. A justice of the supreme court, a judge of the intermediate appellate court and a judge of the circuit court shall have been so licensed for a period of not less than ten years preceding [his] nomination. A judge of the district court shall have been so licensed for a period of not less than five years preceding [his] nomination.

No justice or judge shall, during [his] the term of office, engage in the practice of law, or run for or hold any other office or position of profit under the United States, the State[,] or its political subdivisions.

TENURE; COMPENSATION; RETIREMENT

The term of office of justices and judges of the supreme court, intermediate appellate court and circuit courts shall be ten years. Judges of district courts shall hold office for the periods [prescribed] as provided by law. At least six months prior to the expiration of [his] a justice's or judge's term of office, every justice and judge shall petition the judicial selection commission to be retained in office or shall inform the commission of [his] an intention to retire. If the judicial selection commission determines that the justice or judge should be retained in office, the commission shall renew [his] the term of office of such justice or judge for the period [prescribed] as provided by this section or by law.

There shall be a salary commission to review and recommend salaries for justices and judges of all state courts. Justices and judges shall have salaries as [prescribed] provided by law. Their compensation shall not be decreased during their respective terms of office, unless by general law applying to all salaried officers of the State. They shall be retired upon attaining the age of seventy years. They shall be included in any retirement law of the State.

4. Article V, Section 4, is amended to read:

RETIREMENT; REMOVAL; DISCIPLINE

Section 4. The supreme court shall have the power to reprimand, discipline, suspend with or without salary, retire [and] or remove from office[,] any justice or judge for misconduct or disability, [any justice or judge, according to such rules governing exercise of this power] as provided by rules adopted by the supreme court [shall adopt].

The supreme court shall create a commission on judicial discipline which shall have authority to investigate and conduct hearings concerning allegations of misconduct or disability and to make recommendations to the supreme court concerning reprimand, discipline, suspension, retirement or removal of any justice or judge.

5. Article V is amended by adding a new section to be appropriately designated and to read:

THE JUDICIAL SELECTION COMMISSION

Section . There shall be a judicial selection commission that shall consist of nine members. The governor shall appoint three members to the commission. No more than one of the three members shall be a licensed attorney. The president of the senate and the speaker of the house of representatives shall each respectively appoint one member to the commission. The chief justice of the supreme court shall appoint two members to the commission. No more than one of the two members shall be a licensed attorney. Members in good standing of the bar of the [state] State shall elect two of their number to the commission in an election conducted by the supreme court or its delegate. No more than four members of the commission shall be licensed attorneys.

The commission shall be selected and shall operate in a wholly nonpartisan manner. After the initial formation of the commission, elections and appointments to the commission shall be for staggered terms of six years each. No member of the commission shall serve for more than one full six-year term on the commission.

Each member of the judicial selection commission shall be a resident of the State

and a citizen of the United States. No member shall run for or hold any other elected office under the United States, the State, or its political subdivisions. No member shall take an active part in political management or in political campaigns. No member shall be eligible for appointment to judicial office of the State so long as [he] the person is a member of the judicial commission[,] and for a period of three years thereafter.

No act of the judicial selection commission shall be valid [unless concurred in by a] except by concurrence of the majority of its voting members.

The judicial selection commission shall select one of its members to serve as [chairman.] chairperson. The commission shall promulgate rules which shall have the force and effect of law. The deliberations of the commission shall be confidential.

[No member of the judicial commission shall receive any compensation for commission services, but shall be allowed necessary expenses for travel, board and lodging incurred in the performance of commission duties. The legislature shall provide for the staff and operating expenses of the commission in a separate budget. The Judicial Selection Commission shall be attached to the Judiciary Branch of the State Government for purposes of administration.]

The legislature shall provide for the staff and operating expenses of the judicial selection commission in a separate budget. No member of the judicial selection commission shall receive any compensation for commission services, but shall be allowed necessary expenses for travel, board and lodging incurred in the performance of commission duties.

The judicial selection commission shall be attached to the judiciary branch of the state government for purposes of administration.

6. Article [V] XVI is amended by adding a new section to be appropriately designated and to read:

JUDICIARY: TRANSITION; EFFECTIVE DATE

Section . The three members initially appointed to the judicial selection commission by the governor shall serve for terms of two, four and six years respectively. The members initially appointed to the commission by the president of the senate and the speaker of the house of representatives shall serve for two years. The two members initially appointed to the commission by the chief justice of the supreme court shall serve terms of four and six years respectively. The two members initially elected to the commission by the members of the bar of the [state] State shall serve for terms of four and six years respectively. The current terms of justices and judges in office shall terminate as heretofore provided by law, subject to earlier termination and removal as provided in [this article.] Article V. The amendments to Article V shall take effect upon ratification. The [Judicial Selection Commission] judicial selection commission shall be created no later than April 1, 1979.

STANDING COMMITTEE REPORT NO. 85

Your Committee on Style, to which was referred Committee Proposal No. 11, begs leave to report as follows:

The proposal, which the Convention has adopted on second reading, covers Article XI, Section 1, of the State Constitution, Hawaiian Homes Commission Act, and sections 213, 204, 212 and 221 of the Hawaiian Homes Commission Act of 1920. The Convention proposes amendments to Article XI, Section 1, and sections 204 and 212 of the Hawaiian Homes Commission Act, as well as the addition of new subsections to sections 213 and 221 of that Act.

Your Committee proposes several style changes, which are indicated by brackets [for deletions] and underscoring for additions as shown in the committee report and proposal:

Your Committee considered Article XI, Section 1, and proposes the following changes.

HAWAIIAN HOMES COMMISSION ACT

"Section 1. Anything in this constitution to the contrary notwithstanding, the Hawaiian Homes Commission Act, 1920, enacted by the Congress, as the same has been or may be amended prior to the admission of the State, is hereby adopted as a law of the State, subject to amendment or repeal by the legislature[,]; provided[,], that if and to the extent that the United States shall so require, [said] such law shall be subject to amendment or repeal only with the consent of the United States and in no other manner[,]; provided[,], further[,], that[,], if the United States shall have been provided or shall provide that particular provisions or types of provisions of [said] such Act may be amended in the manner required for ordinary state legislation, such provisions or types of provisions may be so amended. The proceeds and income from Hawaiian home lands shall be used only in accordance with the terms and spirit of [said] such Act. (A) The legislature shall make sufficient sums available for the following purposes [of]: (1) development of home, agriculture, farm and ranch lots; (2) home, agriculture, aquaculture, farm and ranch loans; (3) rehabilitation projects to include, but not limited to, educational, economic, political, social[,], and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved; (4) the administration and operating budget of the department of Hawaiian [Home Lands;] home lands; in furtherance of (1), (2), (3) and (4) herein, by appropriating the same in the manner provided by law.

"(B) Thirty percent of the [State] state receipts derived from the leasing of cultivated sugarcane lands under any provision of law or from water licenses shall be transferred to the native Hawaiian rehabilitation fund, [Section] section 213 of the Hawaiian Homes Commission Act, 1920, for the purposes enumerated in [said] that section. Thirty percent of the [State] state receipts derived from the leasing of lands cultivated as sugarcane lands on the effective date of [the] this section [herein] 1(B) shall continue to be so transferred to the native Hawaiian rehabilitation fund whenever [said] such lands are sold, developed, leased, utilized, transferred, set aside[,], or otherwise disposed of for purposes other than the cultivation of sugarcane. There shall be no ceiling established for the aggregate amount transferred into the native Hawaiian rehabilitation fund."

Your Committee considered the wording of section 213(b) (8) of the Hawaiian Homes Commission Act and deleted the comma before the conjunction for consistency, spelled out "Sec." and added a period after "213" for consistency and placed a comma between the words "political" and "social" to correct an apparent typographical error, to read as follows:

"[Sec.] Section 213. Funds and accounts.

"(b) There are established in the treasury of the State eight special funds, to be known respectively as the Hawaiian home development fund, the Hawaiian home administration account, the Hawaiian loan guarantee fund, the Hawaiian loan interest fund, the borrowed money fund, the Hawaiian home trust fund, the Hawaiian home education fund[,], and the native Hawaiian rehabilitation fund.

"(8) Native Hawaiian rehabilitation fund. Pursuant to Article XI, Section 1(B) of the State Constitution, thirty percent of the state receipts derived from lands previously cultivated as sugarcane lands under any other provision of law and from water licenses, shall be deposited into this fund. The department shall use this money solely for the rehabilitation of native Hawaiians which shall include but not be limited to the educational, economic, political, social and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved and perpetuated."

Your Committee considered the wording of section 204 of the Hawaiian Homes Commission Act and proposes the following changes to the title and the first unnumbered paragraph as follows:

"Section 204. [(Control by department of "available lands["],)] return to board of land and natural resources, when. [)] Upon the passage of this [act,] Act, all available lands shall immediately assume the status of Hawaiian home lands and be under the control of the department to be used and disposed of in accordance with the provisions of this Act, except that:"

Your Committee considered the wording of paragraph (1) of section 204 and feels no changes are necessary.

Your Committee considered the first paragraph in paragraph (2) of section 204 and feels no changes are necessary. Your Committee considered the second paragraph in that section and proposes the following changes:

"In the management of any retained available lands not required for leasing under section 207(a), the department may dispose of such lands to the public, including native Hawaiians, on the same terms, conditions, restrictions and uses applicable to the disposition of public lands as provided in chapter 171[;], Hawaii Revised Statutes; provided[,] that the department may not sell or dispose of such lands in fee simple except as authorized under section 205 of this Act; provided further[,] that the department is expressly authorized to negotiate, prior to negotiations with the general public, the disposition of a lease of Hawaiian home lands to a native Hawaiian, or organization or association owned or controlled by native Hawaiians, for commercial, industrial[,] or other business purposes, in accordance with the procedure set forth in section 171-59, Hawaii Revised Statutes, subject to the notice requirement of section 171-16(c), Hawaii Revised Statutes, and the lease rental limitation imposed by section 171-17(b) [.] , Hawaii Revised Statutes."

Your Committee considered paragraph (3) of section 204 and proposes the following changes:

"(3) The department may, with the approval of the Secretary of the Interior, in order to consolidate its holdings or to better effectuate the purposes of this Act, exchange the title to available lands for land, privately or publicly owned, of an equal value. All land so acquired by the department shall assume the status of available lands as though [the same] such land were originally designated as [such] available lands under [Section] section 203 hereof, and all lands so conveyed by the department shall assume the status of the land for which it was exchanged. The limitations imposed by [Section] section 73(1) of the Hawaiian Organic Act and the land laws of Hawaii as to the area and value of land that may be conveyed by way of exchange shall not apply to exchanges made pursuant hereto. No such exchange of land publicly owned by the State shall be made without the approval of two-thirds of the members of the board of land and natural resources. For the purposes of this [sub]paragraph, lands 'publicly owned' means land owned by a county or the State or the United States."

Your Committee considered section 212 of the Hawaiian Homes Commission Act and proposes the following changes:

"Section 212. [(Lands returned to control of board of land and natural resources.)] The department may return any Hawaiian home lands not leased as authorized by the provisions of section 207 of this Act to the control of the board of land and natural resources. Any Hawaiian home lands so returned shall, until the department gives notice as hereinafter in this section provided, resume and maintain the status of public lands in accordance with the provisions of the [(Hawaii Revised Statutes)]; provided that such lands may not be sold, leased, set aside, used, transferred[,] or otherwise disposed of except under a general lease only. Any lease by the board of Hawaiian home lands hereafter entered into shall contain a withdrawal clause, and the lands so leased shall be withdrawn by the board, for the purpose of this Act, upon the department giving at its option, not less than one nor more than five years' notice of such withdrawal; provided[,] that the minimum withdrawal-notice period shall be specifically stated in such lease. Each such lease, whether or not stipulated therein, shall be deemed subject to the right and duty of the board of land and natural resources to terminate the lease and return the lands to the department whenever the department gives notice to the board that the department is of the opinion that the lands are required.

"Notwithstanding the provisions of [Hawaii Revised Statutes Section] section 171-95, Hawaii Revised Statutes, in the leasing of Hawaiian home lands by the board to a public utility or other governmental agency, where such use directly benefits the department of Hawaiian home lands or the homestead lessees, the rental may be nominal; in all other instances, the lease rental shall be no less than the value determined in accordance with [Hawaii Revised Statutes Section] section 171-17(b) [.] , Hawaii Revised Statutes."

"Any general lease of Hawaiian home lands hereafter entered into by the board shall

be [null and] void unless prior to the disposition of [said] such lease by public auction, direct negotiation or otherwise, approval shall be obtained from the department of Hawaiian home lands."

Your Committee considered section 221 of the Hawaiian Homes Commission Act and proposes the following changes:

"Section 221. [(Water.)]

"(f) Water systems in the exclusive control of the department shall remain under its exclusive control[; if] . If any provision or the application of such provision is inconsistent with the provision contained herein, this section shall control.

"Water systems [includes] include all real and personal property together with all improvements to [the same] such systems acquired or constructed by the department for the distribution and control of such water for domestic or agricultural use."

The changes recommended are for the purposes of style and clarification and have no further implications.

Changes of particular interest recommended by your Committee:

1. In various places semicolons were substituted for commas and vice versa, for grammatical and technical purposes.
2. "Said" was replaced by "such" or "that" to remain consistent with style format.
3. Specific commas were deleted to improve readability.
4. "The legislature, shall make sufficient sums available for the following purposes [of]" in Article XI, Section 1(A), was changed as indicated for clarity and grammatical purposes.
5. The capitalization of "State" was changed to lower case in all instances when it was not a noun or possessive adjective (the only instances where capitalization is in order).
6. "The section herein" in Article XI, Section 1(B), was changed to read "this section 1(B)" for clarity.
7. "Act" was capitalized when referring specifically to a specific act (i.e., Hawaiian Homes Commission Act...such Act...).
8. "Chapter 171[;], Hawaii Revised Statutes; provided[,]..." is one example of eight instances in which the sentence was further clarified by adding a comma and "Hawaii Revised Statutes" after a particular section or chapter number in order to indicate the proper reference.
9. To remain consistent with style format, "null and" was deleted from "...null and void..." as redundant.
10. All parentheses before and after titles of sections in the Hawaiian Homes Commission Act and in the first paragraph of section 212 of the Act before and after "Hawaii Revised Statutes" were deleted as they only reflect changes made by the Revisor of Statutes in the text. Your Committee agrees with such changes, has adopted the suggestions of the Revisor of Statutes and has therefore deleted the parentheses as no longer necessary.
11. Breaking the first sentence in section 221 of the Hawaiian Homes Commission Act into two sentences was done for clarity and readability. The substitution of "such systems" for "the same" in the second paragraph of that section was also made for clarity.

Style Committee Recommendation

Your Committee on Style recommends the adoption of Standing Committee Report

No. 85 and consideration of the passage of Committee Proposal No. 11, S. 1* on third reading.

Signed by all members of the Committee except Delegate Nozaki.

*For the complete text of the proposal, see Committee Proposal No. 11, page 807.

STANDING COMMITTEE REPORT NO. 86

Your Committee on Style, to which was referred Committee Proposal No. 12, RD. 1, begs leave to report as follows:

The proposal, which the Convention has adopted on second reading, covers the addition of four new sections to the Constitution: Article IX, Hawaiian Education Program; Article XIII, Official Languages; Article XIV, Traditional and Customary Rights, and Article I, Quieting Title.

The Convention also proposed an amendment to the title of Article XIII (State Boundaries, Capital, Flag, Language).

Your Committee proposes several style changes which are indicated by brackets [for deletions] and underscoring for additions as shown in the committee proposal and report.

Your Committee considered the new section added to Article IX, entitled "Hawaiian Education Program," and deleted commas in paragraphs one and two for consistency and clarity, to read:

"Section . The State shall promote the study of Hawaiian culture, history[,] and language.

"Section . The State shall provide for a Hawaiian education program[,] consisting of language, culture and history[,] in the public schools. The use of community expertise shall be encouraged as a suitable and essential means in furtherance of the Hawaiian education program."

Your Committee considered the new title to Article XIII and feels no changes are necessary.

Your Committee considered the new section to Article XIII, entitled "Official Languages," and feels no changes are necessary.

Your Committee considered the new section to Article XIV, entitled "Traditional and Customary Rights," and proposes the following changes:

"Section . The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by [tenants of an] ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778 [that were customarily and traditionally exercised for subsistence, cultural and religious purposes], subject to the right of the State to regulate [the same] such rights."

Your Committee considered the new section to Article I, entitled "Quieting Title," and feels no changes are necessary.

The changes recommended are for the purposes of style and clarification and have no further implications.

Changes of particular interest recommended by the committee:

New section, "Traditional and Customary Rights," was rewritten in its entirety for the purpose of clarity. Two particular changes include:

1. "tenants of an ahupua'a" now reads "ahupua'a tenants," and

2. "the same" is replaced by "such rights."

Style Committee Recommendation

Your Committee on Style recommends the adoption of Standing Committee Report No. 86 and consideration of the passage of Committee Proposal No. 12, RD. 1, S. 1* on third reading.

Signed by all members of the Committee except Delegates Nozaki and Takemoto.

*For the complete text of the proposal, see Committee Proposal No. 12, page 811.

STANDING COMMITTEE REPORT NO. 87

Your Committee on Style, to which was referred Committee Proposal No. 13, RD. 2, begs leave to report as follows:

The proposal, which the Convention has adopted on second reading, covers the addition of five new sections to the Constitution: Article XI, Section 4, Public Trust; Article XI, Section 5, Office of Hawaiian Affairs; Establishment of Board of Trustees; Article XI, Section 6, Powers of Board of Trustees; Article XI, Section 7, Definition: Hawaiian; Native Hawaiian, and Article XVI, Effective Date for Office of Hawaiian Affairs.

The Convention also proposed amendments to Article XIV, Section 8, and to the title of Article XI.

Your Committee proposes several style changes which are indicated by brackets [for deletions] and underscoring for additions as shown in the committee proposal and report.

Your Committee considered the new title to Article XI and feels no changes are necessary.

Your Committee considered the new section added to Article XI, entitled "Public Trust" and feels no changes are necessary.

Your Committee considered the new sections to Article XI, entitled "OFFICE OF HAWAIIAN AFFAIRS; ESTABLISHMENT OF BOARD OF TRUSTEES" and "POWERS OF BOARD OF TRUSTEES" and proposes the following changes:

"OFFICE OF HAWAIIAN AFFAIRS;
ESTABLISHMENT OF BOARD OF TRUSTEES

"Section 5. There is hereby established an Office of Hawaiian Affairs. The Office of Hawaiian Affairs shall hold title to all the real and personal property now or hereafter set aside or conveyed to it which shall be held in trust for native Hawaiians and Hawaiians. There shall be a board of trustees for the Office of Hawaiian Affairs elected by qualified voters who are Hawaiians, [in accordance with] as provided by law. The board members shall be Hawaiians. There shall be not less than [9] nine members of the board of trustees; provided that each of the following Islands have one representative: Oahu, Kauai, Maui, Molokai and Hawaii. The [Board] board shall select a [chairman] chairperson from its members.

"POWERS OF BOARD OF TRUSTEES

"Section 6. The board of trustees of the Office of Hawaiian Affairs shall exercise power [in accordance with] as provided by law [,: to manage and administer the proceeds from the sale or other disposition of the lands, natural resources, minerals[,] and income derived from whatever sources for native Hawaiians and Hawaiians, including all income and proceeds from that pro rata portion of the trust referred to in [Section 4] section 4 of this article for native Hawaiians; to formulate policy relating to affairs of native Hawaiians and Hawaiians [,: and to exercise control over real and personal property set aside by state, federal[,] or private sources and transferred to [said Board] the board

for native Hawaiians and Hawaiians. The board shall have the power to exercise control over the Office of Hawaiian Affairs through its executive officer, the administrator of the Office of Hawaiian Affairs, who shall be appointed by the board."

Your Committee considered the new Section 7 to Article XI, entitled "Definition: Hawaiian; Native Hawaiian," and feels no changes are necessary.

Your Committee considered the new section to Article XVI entitled "Effective Date for Office of Hawaiian Affairs" and feels no changes are necessary.

Your Committee considered section 8 of Article XIV, entitled "Compliance with Trust," and inserted the word "with" in the first sentence to correct a typographical error, to read:

"Section 8. Any trust provisions which the Congress shall impose, upon the admission of this State, in respect of the lands patented to the State by the United States or the proceeds and income therefrom, shall be complied with by appropriate legislation. Such legislation shall not diminish or limit the benefits of native Hawaiians under Section 4 of Article XI."

The changes recommended are for the purposes of style and clarification and have no further implications.

Changes of particular interest recommended by your committee:

1. Section 5:

- a. To remain consistent, "in accordance with law" was changed to "as provided by law."
- b. The capitalization of "Board" was changed to lower case, as designations of state and county government offices and agencies are generally written in the lower case.
- c. In keeping with the Convention's policy of using nondiscriminatory language in the Constitution, "chairman" was changed to "chairperson" in the last sentence in Section 5, "Office of Hawaiian Affairs; Establishment of Board of Trustees."

2. Section 6:

- a. For clarity, the phrase "of trustees of the Office of Hawaiian Affairs" was inserted after "the board," preceding "shall."
- b. Again to remain consistent, "in accordance with law" was changed to "as provided by law."
- c. For clarity, a colon was inserted after "as provided by law" in the second line of Section 6, and the word "to" was inserted before "formulate policy relating to..." and before "exercised control over...."
- d. Commas have again been deleted preceding conjunctions.

Style Committee Recommendation

Your Committee on Style recommends the adoption of Standing Committee Report No. 87 and consideration of the passage of Committee Proposal No. 13, RD. 2, S. 1* on third reading.

Signed by all members of the Committee except Delegates Burgess, Takehara and Takemoto.

*For the complete text of the proposal, see Committee Proposal No. 13, page 812.

STANDING COMMITTEE REPORT NO. 88

Your Committee on Budget, Accounts and Printing begs leave to report that Stand. Com. Rep. No. 89 has been printed and distributed:

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 89

Your Committee on Hawaiian Affairs begs leave to report as follows:

All hearings and meetings of your Committee were open to the public, and many citizens, groups and organizations representing the community and representatives of the government did present their views on the subject covered by this resolution.

Your Committee decided to adopt the attached resolution requesting the establishment of a study commission to investigate the wrongs committed against, and the extent of the injuries to, the Hawaiian people and to recommend means of redress. Your Committee voted to request the House Committee on Interior and Insular Affairs and the U.S. House of Representatives to act favorably during this session of Congress on Senate Joint Resolution No. 4, which would establish the Hawaiian Native Claims Settlement Study Commission. Your Committee has learned that Senate Joint Resolution No. 4, which passed the U.S. Senate during the 1977 session and which had received a majority vote but not the necessary two-thirds majority by the U.S. House of Representatives on May 23, 1978, has been recommitted to the House Committee on Interior and Insular Affairs by a vote of 180 to 149 on September 8, 1978. Your Committee feels that it is of utmost importance to the Hawaiian people and all the people of the State of Hawaii that the Constitutional Convention of Hawaii of 1978 express its concern and support for Senate Joint Resolution No. 4 to the House Committee on Interior and Insular Affairs and to all members of the U.S. House of Representatives so that there may be favorable action on it during this session.

Your Committee is familiar with the sad history of the Hawaiian people. Your Committee has found many wrongs inflicted upon the Hawaiian people. Your Committee believes that the establishment of the Hawaiian Native Claims Settlement Study Commission according to Senate Joint Resolution No. 4 would be a first step in the thorough investigation of this matter and would allow for the development of recommendations to Congress on the appropriate steps to take in order to accomplish whatever redress is necessary to the Hawaiians for these wrongs. It has now been some 85 years since the original wrongs were committed, and still there has been no progress in this area. Your Committee feels that the Hawaiians and the people of the State of Hawaii trusted the government of the United States to look into these matters; consequently, your Committee is sorely disappointed with the vote to recommit.

Your Committee on Hawaiian Affairs recommends the adoption of Res. No. 24.

Signed by all members of the Committee except Delegate Nozaki.

RESOLUTION NO. 24

REQUESTING THE ESTABLISHMENT OF A STUDY COMMISSION TO INVESTIGATE THE WRONGS COMMITTED AGAINST, AND THE EXTENT OF THE INJURIES TO, THE HAWAIIAN PEOPLE AND TO RECOMMEND MEANS OF REDRESS.

WHEREAS, the people of the State of Hawaii recognize the wrongs committed against the Hawaiian people when, in 1893, the kingdom of Hawaii, the lawful and indigenous government of Hawaii, was unlawfully overthrown by a group of non-Hawaiian residents, all of whom conspired with the United States minister and the Armed Forces of the United States; and

WHEREAS, on December 18, 1893, in a message to the Congress President Cleveland did recognize this wrong in a statement he issued which acknowledged that "by an act of war, committed with the participation of a diplomatic representative of the United States and without the authority of the Congress, the government of a feeble but friendly and confiding people has been overthrown," that "a substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people requires that we endeavor to repair," and that "the United States cannot fail to vindicate its honor and its sense of justice by an earnest effort to make all possible reparation;" and

WHEREAS, a claim for repair of these wrongs to the Hawaiian people was presented to the Government of the United States of America by Queen Liliuokalani, the lawful monarch of Hawaii, and on July 15, 1893 a petition for redress was also presented by the Hawaiian Patriotic League, representing the Hawaiians; and

WHEREAS, in 1898 Hawaii was annexed to the United States, and by such annexation, among other things, the United States acquired ownership of vast landholdings that had been common property of the Hawaiians prior to the overthrow of their government; and

WHEREAS, the Constitutional Convention of 1978 recognizes that the Hawaiian people can never be made whole again for the wrong that was committed; and

WHEREAS, the people of the State of Hawaii have looked to and relied on the federal government to take the steps to investigate the wrongs committed and to provide redress if necessary; and

WHEREAS, Senate Joint Resolution No. 4 was introduced in the Senate of the United States on January 10, 1977 by Mr. Inouye and Mr. Matsunaga; and

WHEREAS, upon approval, Senate Joint Resolution No. 4 will establish a Hawaiian Native Claims Settlement Study Commission to conduct a study of the culture, needs and concerns of Hawaiians; the nature of the wrong committed against, and the extent of the injuries to, the Hawaiians by reason of the actions listed below regarding the overthrow of the indigenous and lawful government of the Hawaiian people; and the various means to remedy such wrongs; and to submit a report of its findings of the means and recommendations to remedy such wrongs to the Congress; and

WHEREAS, Senate Joint Resolution No. 4 passed the Senate of the United States during the 1977 session; and

WHEREAS, on May 23, 1978, a majority of the House of Representatives of the United States voted to support Senate Joint Resolution No. 4, which fell short of the necessary two-thirds vote; and

WHEREAS, on September 8, 1978, Senate Joint Resolution No. 4 was recommitted to the House Committee on Interior and Insular Affairs for further committee work; and

WHEREAS, it is essential to the Hawaiians and all the people of the State of Hawaii that the federal government conduct an investigation of the wrongs committed upon the Hawaiian people, which could be accomplished through the Hawaiian Native Claims Settlement Study Commission; and

WHEREAS, because of the wrongs committed to the Hawaiian people, it is essential to Hawaiians and all people of the State of Hawaii that there be a remedy for these wrongs committed, the recommendation for which could be developed by the Hawaiian Native Claims Settlement Study Commission; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that the House Committee on Interior and Insular Affairs is requested to return Senate Joint Resolution No. 4 to the House of Representatives of the United States for a vote; and

BE IT FURTHER RESOLVED that the House of Representatives of the United States act favorably on Senate Joint Resolution No. 4; and

BE IT FURTHER RESOLVED that duly authenticated copies of this Resolution be transmitted to the President of the United States, the House Committee on Interior and Insular Affairs, the members of the House of Representatives of the United States, the members of Hawaii's delegation to Congress, the President of the Senate of the United States and the Governor of the State of Hawaii.

STANDING COMMITTEE REPORT NO. 90

Your Committee on Budget, Accounts and Printing begs leave to report that Com. Whole Rep. Nos. 16 and 17, Com. P. Nos. 16, RD. 1, and 18, RD. 1, and Res. No. 26 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 91

Your Committee on Budget, Accounts and Printing begs leave to report that Com. Whole Rep. No. 18 and Com. P. No. 17, RD. 1 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 92

Your Committee on Budget, Accounts and Printing begs leave to report that Res. Nos. 27 and 28, Stand. Com. Rep. Nos. 93 and 94, and Com. P. Nos. 14, RD. 2, S. 1, and 18, RD. 2, S. 1 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 93

Your Committee on Style, to which was referred Committee Proposal No. 14, RD. 2, begs leave to report as follows:

The proposal, which the Convention has adopted on second reading, covers Article VI, Sections 2 through 7, and Article XVI, Section 8, of the State Constitution and the addition of the following new sections: Article VI, Disposition of Excess Revenues; Article VI, Council on Revenues; Article VI, Tax Review Commission; Article VI, Income Taxation and Article VII, Transfer of Mandated Programs.

The Convention has proposed amendments to Article VI, Sections 2 through 7, as well as the deletion of Article XVI, Section 8.

Your Committee proposes several style changes which are indicated by brackets [for deletions] and underscoring for additions, as shown in the committee proposal and report.

Your Committee considered the wording of the new section "Disposition of Excess Revenues" and feels no changes are necessary.

Your Committee considered the wording of the new section "Council on Revenues" and proposes the following changes.

"COUNCIL ON REVENUES

"Section . There shall be established by law a council on revenues which shall prepare revenue estimates of the state government and shall report the estimates to the governor and the legislature at times provided by law. The estimates shall be considered by the governor in preparing the budget, recommending appropriations and revenues and controlling expenditures [and by the]. The estimates shall be considered by the legislature in appropriating funds and enacting revenue measures. All revenue estimates [made] submitted by the council to the governor and the legislature shall be made public. If the legislature in appropriating funds or if the governor in preparing the budget or recommending appropriations exceeds estimated revenues due to proposed expenditures, this fact shall be made public including the reasons therefor."

Your Committee considered the wording of the new section "Tax Review Commission" and upon the recommendation of the chairperson of your Committee on Taxation and Finance conformed the name of the commission in the body of the section to the title of the section to read:

"TAX REVIEW COMMISSION

"Section . There shall be a tax review commission [on tax review], which shall be appointed as provided by law on or before July 1, 1980, and every five years thereafter...."

Your Committee reviewed the wording of the new section "Income Taxation" and feels no changes are necessary.

Your Committee reviewed the wording of Article VI, Section 2, and feels no changes are necessary.

Your Committee reviewed the wording of Article VI, Section 3, and proposes the following changes, which have been agreed upon by the chairperson of your Committee on Taxation and Finance and by bond counsel, except where noted.

1. The section is broken into two sections, one entitled "Definitions; Issuance of Indebtedness," which is Section 3, and the other entitled "Debt Limit; Exclusions," as a new section.

2. The first paragraph in Section 3 containing definitions is deleted and set forth again by a numbered paragraph for each definition in alphabetical order, to read as follows:

"DEFINITIONS; ISSUANCE OF INDEBTEDNESS

"Section 3. For the purposes of this article:

1. The term 'bonds' shall include bonds, notes and other instruments of indebtedness.

2. The term 'general obligation bonds' means all bonds for the payment of the principal and interest of which the full faith and credit of the State or a political subdivision are pledged and, unless otherwise indicated, includes reimbursable general obligation bonds.

3. The term 'net revenues' or 'net user tax receipts' means the revenues or receipts derived from a public undertaking, improvement or system remaining after the costs of operation, maintenance and repair of such public undertaking, improvement or system and the required payments of the principal of and interest on all revenue bonds issued therefor have been made.

4. The term 'person' means an individual, firm, partnership, corporation, association, cooperative or other legal entity, governmental body or agency, board, bureau or other instrumentality thereof, or any combination of the foregoing.

5. The term 'rates, rentals and charges' means all revenues and other moneys derived from the operation or lease of a public undertaking, improvement or system, or derived from any payments or return on security under a loan program or a loan thereunder.

6. The term 'reimbursable general obligation bonds' means general obligation bonds issued for a public undertaking, improvement or system [for] from which revenues, or user taxes, or a combination of both, may be derived for the payment of the principal and interest as reimbursement to the general fund and for which reimbursement is required by law, and, in the case of general obligation bonds issued by the State for a political subdivision, general obligation bonds for which the payment of the principal and interest as reimbursement to the general fund is required by law to be made from the revenue of the political subdivision.

7. The term 'revenue bonds' means all bonds payable from the revenues, or user taxes, or any combination of both, of a public undertaking, improvement, system or loan program and any loan made thereunder and secured as may be provided by law.

8. The term 'special purpose revenue bonds' means all bonds payable from rental or other payments made to an issuer by a person pursuant to contract and secured as may be provided by law.

9. The term 'user tax' means a tax on goods or services or on the consumption thereof, the receipts of which are substantially derived from the consumption, use or sale of goods and services in the utilization of the functions or services furnished by a public undertaking, improvement or system."

3. The definition of the term "reimbursable obligation bonds" in paragraph 6, was changed by changing the word "for" to "from" to correct a technical error.

4. The first paragraph after the definitions in Section 3 is changed by setting off the phrase "by a majority vote of the members to which each house is entitled" with commas, to read:

"The legislature, by a majority vote of the members to which each house is entitled, shall authorize the issuance of all general obligation bonds, bonds issued under special improvement statutes and revenue bonds issued by or on behalf of the State and shall prescribe by general law the manner and procedure for such issuance...."

A similar change is made to the phrase "by a two-thirds vote of the members to which each house is entitled" in each place the phrase occurs in the second paragraph of Section 3, reading:

"Special purpose revenue bonds shall only be authorized or issued to finance facilities of or for, or to loan the proceeds of such bonds to assist, manufacturing, processing or industrial enterprises, utilities serving the general public, health care facilities provided to the general public by not-for-profit corporations or low and moderate income government housing programs, each of which is hereinafter referred to in this paragraph as a special purpose entity. The legislature, by a two-thirds vote of the members to which each house is entitled, may enact enabling legislation for the issuance of special purpose revenue bonds separately for each special purpose entity, and, by a two-thirds vote of the members to which each house is entitled and by separate legislative bill, may authorize the State to issue special purpose revenue bonds for each single project or multi-project program of each special purpose entity...."

These changes were not approved by bond counsel but are for grammatical purposes and do not affect the substance of the section.

5. The first paragraph of the new section is changed by changing the comma after the word "State" to a semicolon for consistency, to read:

"DEBT LIMIT; EXCLUSIONS

"Section . General obligation bonds may be issued by the State[,]; provided that such bonds at the time of issuance would not cause the total amount of principal and interest payable in the current or any future fiscal year, whichever is higher, on such bonds and on all outstanding general obligation bonds to exceed...."

6. The third paragraph of the new section is changed by splitting the second sentence into two sentences and by changing the word "paid" to "sold" to correct a technical error. These changes are as follows:

"...The first installment of principal of general obligation bonds and of reimbursable general obligation bonds shall mature not later than five years from the date of issue of such series[, the]. The last installment on general obligation bonds shall mature not later than twenty-five years from the date of such issue and the last installment on general obligation bonds [paid] sold to the federal government, on reimbursable general obligation bonds and on bonds constituting instruments of indebtedness under which the State or a political subdivision incurs a contingent liability as a guarantor shall mature not later than thirty-five years from the date of such issue...."

7. A reference to Section 3 is inserted in the fourth paragraph of the new section which sets forth the exclusions from debt, to read:

"In determining the power of the State to issue general obligation bonds or the funded debt of any political subdivision[,] under section 3, the following shall be excluded...."

8. The exclusions from debt in the new section are changed from alphabetized paragraphs to numbered paragraphs to conform to the rest of the Constitution.

9. The word "or" is inserted after the word "revenue" in paragraph (f), (now numbered 6) of the new section, to read:

"[(f)] 6. Reimbursable general obligation bonds issued for a public undertaking, improvement or system but only to the extent that reimbursements to the general fund are in fact made from the net revenue, or net user tax receipts, or combination of both, as determined for the immediately preceding fiscal year."

10. References to Section 3 are inserted in the last two paragraphs of the new section, to read:

"...For the purposes of section 3 and this section, amounts received from on-street parking may be considered and treated as revenues of a parking undertaking.

"Nothing in section 3 or in this section shall prevent the refunding of any bond at any time."

Your Committee has reviewed the wording of Article VI, Section 4, and proposes changing the capitalization of the word "Section" to lower case, to read:

"...The proposed general fund expenditures in the plan of proposed expenditures, including estimates of the aggregate expenditures of the judicial and legislative branches, submitted by the governor shall not exceed the general fund expenditure ceiling established by the legislature under [Section] section 5 of this article...."

Your Committee has reviewed the wording of Article VI, Section 5, and proposes the following changes for the purposes of clarity and later ordering of sections in Article VI:

**"LEGISLATIVE APPROPRIATIONS; PROCEDURES;
[LAPSING;] EXPENDITURE CEILING**

"Section 5. In each regular session in an odd-numbered year, the legislature shall transmit to the governor an appropriation bill or bills providing for the anticipated total expenditures of the State for the ensuing fiscal biennium.... In any such session in which the legislature submits to the governor a supplemental appropriations bill, no other appropriation bill, except bills recommended by the governor for immediate passage, or to cover the expenses of the legislature, shall be passed on final reading until such supplemental appropriations bill shall have been transmitted to the governor.

"GENERAL FUND EXPENDITURE CEILING

"Notwithstanding any other provision to the contrary, the legislature shall establish a general fund expenditure ceiling which shall limit the rate of growth of general fund appropriations, excluding federal funds received by the general fund, to the estimated rate of growth of the State's economy as provided by law. No appropriations in excess of such ceiling shall be authorized during any legislative session unless the legislature shall, by a two-thirds vote of the members to which each house of the legislature is entitled, set forth the dollar amount and the rate by which the ceiling will be exceeded and the reasons therefor.

"LAPSING OF APPROPRIATIONS

"Section _____. All appropriations for which the source is general obligation bond funds or general funds shall be for specified periods, and no such appropriation shall be made for a period exceeding three years. Any such appropriation or any portion of any such appropriation which is unencumbered at the close of the fiscal period for which the appropriation is made shall lapse; provided that no appropriation for which the source is general obligation bond funds nor any portion of any such appropriation shall lapse[;] if the legislature determines such appropriation or any portion of such appropriation is necessary to qualify for federal aid financing and reimbursement....

"[Notwithstanding any other provision to the contrary, the legislature shall establish a general fund expenditure ceiling which shall limit the rate of growth of general fund appropriations, excluding federal funds received by the general fund, to the estimated rate of growth of the State's economy as provided by law. No appropriations in excess of such ceiling shall be authorized during any legislative session unless the legislature shall by a two-thirds vote of the members to which each house of the legislature is entitled set forth the dollar amount and the rate by which the ceiling will be exceeded and the reasons therefor.]"

Your Committee has reviewed the wording of Article VI, Sections 6 and 7, and feels no changes are necessary.

Your Committee has reviewed the wording of the new section, "Transfer of Mandated Programs," added to Article VII and feels no changes are necessary.

The changes recommended are for the purposes of style, clarity and technical accuracy and have no further implications.

Style Committee Recommendation

Your Committee on Style recommends the adoption of Standing Committee Report No. 93 and consideration of the passage of Committee Proposal No. 14, RD. 2, S. 1* on third reading.

Signed by all members of the Committee except Delegate Penebacker.

*For the complete text of the proposal, see Committee Proposal No. 14, page 814.

STANDING COMMITTEE REPORT NO. 94

Your Committee on Style, to which was referred Committee Proposal No. 18, RD. 2, begs leave to report as follows:

The proposal, which the Convention has adopted on second reading, covers amendments to: Article I, Sections 2 and 8; Article II, Sections 2 and 3; Article III, Sections 7, 8, 9 17 and 19; Article IV, Sections 3, 4 and 5; Article V, Section 5 and Article XIV, Section 13.

Your Committee proposes several style changes which are indicated by brackets [for deletions] and underscoring for additions as shown in the committee report and proposal.

The changes recommended here are for the purposes of style and clarification and have no further implications.

Changes of particular interest recommended by your Committee:

1. The comma was moved inside the quotation mark in the second sentence of Article III, Section 9, to read:

"The term "public office[,] ," for the purposes of this section, shall not include notaries public, reserve police officers or officers of emergency organizations for civilian defense or disaster relief."

2. The comma has been deleted before the conjunction "and" in the last sentence of Article III, Section 17. Also, the capitalization of "section" was changed to lower case, the section reference 11 was changed to 10 to reflect the renumbering of sections done by Committee Proposal No. 8 and "of this article" was inserted for clarity.

The last sentence now reads:

"In computing the number of days designated in this section, the following days shall be excluded: Saturdays, Sundays, holidays[,] and any days in which the legislature is in recess prior to its adjournment as provided in [Section 11.] section 10 of this article."

3. In the first sentence of Article IV, Section 3, "prescribed by law" was changed to "as provided by law," reading:

"The compensation of the governor and of the lieutenant governor shall be [prescribed] as provided by law, but shall not be less than thirty-three thousand five hundred dollars, and twenty-seven thousand five hundred dollars, respectively, a year."

Style Committee Recommendation

Your Committee on Style recommends the adoption of Standing Committee Report No. 94 and consideration of the passage of Committee Proposal No. 18, RD. 2, S. 1* on third reading.

Signed by all members of the Committee except Delegates Teruo Ihara, Kimball, Pulham, Takemoto, Tamayori and Weatherwax.

*For the complete text of the proposal, see Committee Proposal No. 18, page 831.

STANDING COMMITTEE REPORT NO. 95

Your Committee on Budget, Accounts and Printing begs leave to report that Stand. Com. Rep. No. 96 and Com. P. No. 15, RD. 2, S. 1 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 96

Your Committee on Style, to which was referred Committee Proposal No. 15, RD. 2, begs leave to report as follows:

The proposal, which the Convention has adopted on second reading, covers Sections 4, 10, 11 and 12 of Article I, as well as the addition of the following new sections: Grand Jury Counsel and Right to Privacy.

The Convention has proposed amendments to Article I, Sections 4, 10 and 11, and the deletion of Section 12 in its entirety.

Your Committee proposes several style changes which are indicated by brackets [for deletions] and underscoring for additions as shown in the committee proposal and report.

Your Committee considered Article I, Section 4, and proposes the following changes:

"DUE PROCESS AND EQUAL PROTECTION

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

Your Committee considered Article I, Section 10, and feels no changes are necessary.

Your Committee considered Article I, Section 11, and proposes the following changes:

"RIGHTS OF ACCUSED

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

witnesses in [his] the accused's favor; and to have the assistance of counsel for [his] the accused's defense. Juries, where the crime charged is serious, shall consist of twelve persons. The State shall provide counsel for an indigent defendant charged with an offense punishable by imprisonment."

Your Committee considered the two new sections, "Grand Jury Counsel" and "Right to Privacy," and feels no changes are necessary.

The changes recommended are for the purposes of style and clarity, and have no further implications. Changes of particular interest recommended by your Committee:

1. Article I, Section 4: "the person's" was inserted before "civil rights" for clarity and consistency.

2. Article I, Section 11: A comma was deleted after the words "to a speedy and public trial" for clarity.

3. Article I, Section 11: To remain consistent with previous action taken by the Convention concerning the use of nondiscriminatory language in the Constitution, "his" was changed to read "the accused's" and "him" to "the accused."

Style Committee Recommendation

Your Committee on Style recommends the adoption of Standing Committee Report No. 96 and consideration of the passage of Committee Proposal No. 15, RD. 2, S. 1* on third reading.

Signed by all members of the Committee.

*For the complete text of the proposal, see Committee Proposal No. 15, page 825.

STANDING COMMITTEE REPORT NO. 97

Your Committee on Budget, Accounts and Printing begs leave to report that Stand. Com. Rep. Nos. 98 through 100; Com. P. Nos. 16, RD. 2, S. 1, and 17, RD. 2, S. 1; and Res. Nos. 29 through 32 have been printed and distributed.

Signed by Delegates Ledward, Chairperson; Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy, members.

STANDING COMMITTEE REPORT NO. 98

Your Committee on Style, to which was referred Committee Proposal No. 16, RD. 2, begs leave to report as follows:

The proposal, which the Convention has adopted on second reading, covers Article II, Sections 4 and 5, of the State Constitution. The Convention has proposed amendments to Sections 4 and 5 as well as the addition of three new sections: Resignation from Public Office, Campaign Fund and Campaign Spending and Limitation on Campaign Contributions.

Your Committee proposes several style changes, which are indicated by brackets [for deletions] and underscoring for additions, as shown in the committee proposal and report.

The changes recommended are for the purposes of style and consistency and have no further implications.

Changes of particular interest recommended by the Committee:

1. New section, Campaign Fund and Campaign Spending:

"The legislature shall establish a campaign fund to be used for partial public financing of campaigns for public offices of the [state] State and its political subdivisions, as [prescribed] provided by law...."

For consistency, "prescribed by law" was changed to "provided by law" and "state" was capitalized, as it is a proper noun.

2. New section, Limitation on Campaign Contributions:

"Limitations on campaign contributions to any political candidate, or authorized political campaign organization for such candidate, for any elective office within the State shall be [established] provided by law."

To remain consistent, "shall be established by law" now reads "shall be provided by law."

Style Committee Recommendation

Your Committee on Style recommends the adoption of Standing Committee Report No. 98 and consideration of the passage of Committee Proposal No. 16, RD. 2, S. 1* on third reading.

Signed by all members of the Committee except Delegate Pulham.

*For the complete text of the proposal, see Committee Proposal No. 16, page 827.

STANDING COMMITTEE REPORT NO. 99

Your Committee on Submission and Information begs leave to report as follows:

Under the rules of the Convention, your Committee is required to submit to the Convention a report on the following phases of its activities, and begs leave to report action under these categories:

- I. METHOD AND MANNER OF SUBMITTING AMENDMENTS TO THE PEOPLE.
 - II. METHOD OF INFORMING THE PEOPLE ABOUT THE PROPOSED CHANGES IN THE HAWAII CONSTITUTION.
 - III. REPORT TO THE PEOPLE OUTLINING THE RESULTS OF THE CONVENTION'S WORK.
- I. METHOD AND MANNER OF SUBMITTING AMENDMENTS TO THE PEOPLE.
 - a. Article XV of our Constitution sets forth the requirements for ratification of proposed constitutional amendments. To be successful, proposed amendments need the approval of a majority of all the votes tallied on the question, such majority constituting at least 35 percent of the total votes cast.
 - b. Your Committee recommends that the proposed constitutional amendments be submitted to a vote of the electorate at the general election, November 7, 1978.
 - c. Your Committee decided to follow the philosophy of the designers of the 1968 ballot, where the voter was offered a choice of voting: (A) a blanket YES on each of the proposed amendments, (B) a blanket NO on each of the proposed amendments, or (C) a YES on each of the proposed amendments except for those specific proposed questions that the voter marked NO. However, your Committee decided to combine the choices that were listed as Part A and Part B on the 1968 ballot into a single question, Part A, that will allow the voter to vote either YES or NO on all proposed amendments. Part C on the 1968 ballot will be relabeld Part B. Your Committee feels this change is merely technical.

Your Committee considered simply removing that choice referred to on the 1968 ballot as Part B. At one point your Committee felt that it would be desirable to do so because the voter was already provided with the opportunity to vote NO by marking the specific items in Part C. Since passage of proposed amendments requires not only a simple majority but also a majority constituting at least 35 percent of the total vote cast at a general election, the voter can effectively dilute the YES vote by refraining from voting. Moreover, the committee reasoned that most voters would not vote against all of the proposed amendments

since some would be stylistic or technical changes that have no substance. However, when your Committee initially considered this issue, the committee was assuming that the 1978 ballot would be similar to the 1968 ballot in length. In 1968 there were only 23 proposed amendments on the ballot, 2 of which were technical changes. But upon preparation of the 1978 ballot, it became apparent that there would be a substantial increase in the number of proposed amendments submitted to the voters. For the voter wishing to reject all questions, the task of marking every one of the questions could be considered an unfair requirement. Some members of your Committee were also concerned about adverse reaction by the public. Therefore, Part A was designed to afford the voter the opportunity to vote either YES or NO on all amendments.

Your Committee considered the division of questions into as many questions as there are proposed amendments, but decided against this method because of the unwieldy and long ballot which would necessarily result from this approach. Moreover, many of the amendments are sufficiently related to each other so that an artificial division among them might interfere with voter understanding of the issues. For these reasons, your Committee recommends that amendments relating to the same subject be grouped to form questions. Your Committee determined that this method will ensure reasonable voter understanding of the proposed amendments.

In addition, your Committee determined that a concise phrasing of the question will suffice on the ballot. Your Committee felt that, in light of the large number of proposed amendments, it would be better to keep the ballot short. Your Committee did not want a lengthy ballot necessitating two separate ballot cards, as your Committee feared that this would discourage voters from considering all the issues and would lead to voter confusion. Resort to two ballot cards would have required elimination of the blanket question in Part A, thereby increasing the burden of voting substantially for those voters who might want to affirm or reject the entire ballot. Your Committee anticipates that a large number of voters will elect the option in Part A, based on the 1968 figures available. Some members expressed the opinion that most voters, if they are going to vote at all, will have decided in advance how they wish to vote. In addition, every voter will receive, as a part of the official ballot, an informational booklet that will provide a more extensive narrative of every proposed amendment. Also, full texts of the Constitution will be placed at voter units, thereby enabling voters who are not completely prepared an adequate opportunity to examine and review the proposed amendments and the revised Constitution as a whole.

d. Your Committee considered submitting each of the proposed amendments as separate questions with a YES or NO vote. This would result in submitting to the people for ratification not less than 35 questions. Since a major problem to overcome is voter apathy, your Committee was concerned that many voters would not take the time to mark their YES votes but would mark only the question or questions they were opposed to. For this reason your Committee has agreed that a way should be provided to the voter, if he or she wishes, to approve or reject each of the questions by one vote or, if he or she wishes, to vote against one or more of the questions and to approve the balance.

e. Therefore, in accordance with Rule 18(c) of this Convention, your Committee has drafted the attached resolution setting forth the form of ballot to accomplish this end. The proposed amendments to be submitted to the people for ratification are set forth in Part B of the ballot and numbered 1 to 35. The numbers and the proposed amendments will be keyed to an explanatory booklet which will accompany the ballot card and also to a complete text of constitutional changes displayed in each voting unit. The amendments are too complex and lengthy to be listed on the ballot, but the digest in the booklet is designed to identify them and to show their character and purpose. The proposed amendments were formulated with the aid of the Convention attorneys in cooperation with the committee chairs.

f. The manner of counting the number of YES and NO votes on each of the proposed amendments is as follows: if the voter marks YES in Part A, it shall be counted as YES on each of the 35 questions in Part B. If the voter marks NO in Part A, it shall be counted as NO on each of the proposed amendments in Part B. If the voter votes in Part B, each of the proposed amendments marked shall be counted as a NO vote and each of the proposed amendments left unmarked shall be counted as a YES vote.

Voters will be instructed to vote in only Part A or Part B. However, if a voter makes a mark in Part A, either YES or NO, and subsequently also marks in Part B, the voting

in Part B will be counted and Part A will be disregarded. Your Committee decided to adopt this procedure so as to minimize the number of spoiled ballots. Rather than labeling such a ballot spoiled, which would totally eliminate the voter's input, your Committee decided to follow the rule of construction that the specific should take precedence over the general. Thus a Part B response would prevail over Part A. Your Committee feels that it is reasonable to assume that such a voter must have misunderstood the directions. Your Committee decided to have this rule apply to either a YES or NO vote in Part A in order to follow a uniform policy. If a voter fails to mark either Part A or B, no vote shall be tallied.

II. METHOD OF INFORMING THE PEOPLE ABOUT THE PROPOSED CHANGES IN THE HAWAII CONSTITUTION.

a. Your Committee feels that its obligations are to utilize the most effective means of encouraging the public to learn about the proposed changes to the Hawaii Constitution, to provide information fully and clearly, and to inspire a widespread commitment to vote on the issues. The theme of the public information program will be "Do Something Really Important." The program will emphasize the effect of the amendments on the future of the individual citizen and the importance of making thoughtful and reasoned choices.

b. Your Committee received proposals from a number of advertising and public relations firms; on the basis of the presentations and the cost figures, it selected the team of Steven Hirano, Jack Kellner and James Growney to prepare and implement the public information program.

c. The voter information program began on September 1 and will continue through election day, November 7, 1978. Because of the complexity of the Convention's proposals and their number, your Committee felt that more extensive information would be required for this Convention than in 1968. The following is an outline of the major activities in the voter education program:

NEWSLETTER

A newsletter containing general information on the workings of the Convention, its accomplishments and the need for full public participation in the process of rejecting or accepting the amendments will be sent to each registered voter household in the State. The major thrust will be the importance of making enlightened decisions on the proposals.

RADIO AND TELEVISION CAMPAIGN

Radio and television commercials will be placed statewide, including foreign-language programming. The ads will generate the attitude that the good citizen will assume the responsibility for making decisions that have an important impact on everyone. There will be 30-second spots on television and radio. The brevity of 30-second spots precludes effective explanation of issues; they will instead urge the voter to seek more detailed information which will be made available.

NEWSPAPER ADVERTISING

The bulk of the newspaper campaign will reinforce the broadcasting campaign. The print ad will list the hotline telephone number and display the ballot and voting directions. It will also focus on the newspaper supplement, which will appear shortly before the election. The advertising will ensure that the voter will not be surprised by the materials presented at the polling place.

NEWSPAPER SUPPLEMENT

An 8-page supplement will be inserted in the Sunday newspaper of greatest circulation before the general election. The supplement will graphically describe the proposed amendments to the Constitution and their effect on the voters. The supplement will attempt to explain the ramifications of the proposals in clear language and assist the voter in forming an opinion on each issue. It will contain an explanation of voting procedures. The supplement, like all other informational materials distributed by your Committee, will not advance any particular delegate's role in the Convention, nor will the material advance a biased position on the issues.

SPEAKERS BUREAU

A speakers bureau, coordinated through your Committee, will serve organizations that wish informed persons to speak on constitutional issues. Delegates who are willing to participate will be provided with material and assistance. Your Committee feels that this personal contact with knowledgeable spokespersons is vital to the effort to promote interest and understanding among the public.

INFORMATION CENTER AND HOTLINE

The information center will be located in the old Federal Building and will be equipped with resources and staff to assist voters in specific matters or general research. It will contain a variety of appropriate materials. The hotline will answer questions or refer the caller to the proper informant. The center's location and the hotline number will be prominently displayed in the media.

NEIGHBOR ISLAND NEEDS

Special attention will be given to the requirements of the neighbor islands. Meetings with neighbor island delegates will be held to ascertain the special needs of each particular locale to assure that there is thorough and equal distribution of information.

OTHER PROGRAMS

There will be full utilization of all publicity and exposure opportunities. Public television has offered considerable public affairs programming devoted to convention issues. Additional commitments are being sought from commercial radio and television stations. In cooperation with the public affairs departments of radio and television stations, your Committee will provide materials for their use in public service announcements. The participation of the state department of education will be an integral part of the education process.

III. REPORT TO THE PEOPLE OUTLINING THE RESULTS OF THE CONVENTION'S WORK.

Your Committee feels that the program for public education described in Section II of this committee report will offer to the public a comprehensive body of information on the work of the Convention. Those aspects of the program which are specifically designed to report as directed are: the speakers bureau, the newsletter, the newspaper supplement, the information center and hotline, the educational television programming and much of the media advertising.

Accordingly, your Committee on Submission and Information recommends: (1) that Standing Committee Report No. 99 be adopted and (2) that the attached Resolution No. 30 be adopted.

Signed by all members of the Committee except Delegates Chu, Kaapu and Kimball.

RESOLUTION NO. 30

RELATING TO PROVIDING FOR THE SUBMISSION TO THE PEOPLE OF THE STATE OF HAWAII OF THE AMENDMENTS PROPOSED BY THE CONSTITUTIONAL CONVENTION OF HAWAII OF 1978.

WHEREAS, pursuant to Section 2 of Article XV of the Constitution of the State of Hawaii, the duly elected delegates of this Constitutional Convention of the State of Hawaii of 1978 have assembled at Honolulu from the 5th day of July, 1978 for the purpose of proposing amendments to the Constitution; and

WHEREAS, various amendments to the Constitution have been framed by this Constitutional Convention; and

WHEREAS, Section 2 of Article XV of the Constitution of the State of Hawaii requires that the proposed amendments to the Constitution be submitted to the people of the State in the form of the ballot attached hereto for ratification or rejection; now, therefore,

BE IT RESOLVED by the Constitutional Convention of the State of Hawaii of 1978, that the proposed amendments to the Constitution be submitted to the people of the State of Hawaii in the form of the ballot attached hereto for ratification or rejection at the general election to be held on the 7th day of November, 1978. Persons possessing the qualifications to vote for representatives to the legislature of the State of Hawaii shall be entitled to vote on the ratification or rejection of said amendments. Such submission shall be by ballot and shall be conducted and the results thereof determined in conformity with Section 2, Article XV of the Constitution. The ballot for such submission shall be printed and distributed by the lieutenant governor of the State of Hawaii and shall be substantially in the form hereto attached; and

BE IT FURTHER RESOLVED that the lieutenant governor is hereby requested, in the case of any conflicting votes on the same ballot, to recognize the specific vote over the general; and

BE IT FURTHER RESOLVED that the returns of said submission shall be made by the election officers directly to the lieutenant governor, who shall certify the results of the submission to the governor; and

BE IT FURTHER RESOLVED that the lieutenant governor is hereby requested to do whatever is necessary to have the proposed amendments properly submitted to the electorate.

AMENDMENTS 1-34 PROPOSED BY CONSTITUTIONAL CONVENTION

1. 12 MEMBER JURY. (Article

If adopted, this amendment provides that:

- o a person can have a jury trial in a civil case where the amount in question is \$1,000 or more rather than \$100 or more as it now reads.
- o a person shall have a 12 member jury in a criminal jury trial.

2. INDEPENDENT GRAND JURY COUNSEL. (Article

If adopted, this amendment provides:

- o an independent lawyer to advise the grand jury.
- o a way to choose those lawyers, and requires that the legislature set their pay and how long they shall work.

3. RIGHT TO PRIVACY. (Article

If adopted, this amendment:

- o adds a new section on the right to privacy for people to do certain personal things, and controls the use of some personal information about themselves.
- o directs the legislature to carry out this section.

4. OPEN PRIMARY ELECTION. (Article

If adopted, this amendment:

- o allows a person to vote in any election without letting anyone know what party he or she prefers.
- o keeps each person's party preference a secret.

5. RESIGNATION OF CANDIDATES FROM PUBLIC OFFICE.
(Article

1978 CONSTITUTIONAL CONVENTION

SAMPLE: PROPOSED BALLOT FORMAT

FRONT

BACK



STATE OF HAWAII

STATE OF HAWAII

OFFICIAL BALLOT
GENERAL ELECTION
 TUESDAY, NOVEMBER 7, 1978

OFFICIAL BALLOT
GENERAL ELECTION
 TUESDAY, NOVEMBER 7, 1978

AMENDMENTS TO THE STATE
 CONSTITUTION PROPOSED BY THE
 1978 CONSTITUTIONAL CONVENTION

AMENDMENTS TO THE STATE
 CONSTITUTION PROPOSED BY THE
 1978 CONSTITUTIONAL CONVENTION

(OVER)

CONTINUED FROM OTHER SIDE

This stub shall be removed by the Election Official only.

This stub shall be removed by the Election Official only.

Please read instructions and information in the booklet which is part of this ballot. The full text of the proposed amendments on the ballot numbered 1-34, inclusive, is available for inspection in your voting unit.

Please read instructions and information in the booklet which is part of this ballot. The full text of the proposed amendments on the ballot numbered 1-34, inclusive, is available for inspection in your voting unit.

VOTE ONLY IN PART A OR PART B
 DO NOT VOTE IN MORE THAN ONE PART

PART A
 ON ALL PROPOSED AMENDMENTS
 AS LISTED UNDER PART B, I
 VOTE:

YES	+
<input type="checkbox"/>	<input type="checkbox"/>
NO	+
<input type="checkbox"/>	<input type="checkbox"/>

OR

PART B
 I VOTE YES ON EACH OF THE
 PROPOSED AMENDMENTS AS
 LISTED BELOW EXCEPT THAT I
 VOTE NO ON THE FOLLOWING:

1. TWELVE MEMBER JURY	NO	+
2. INDEPENDENT GRAND JURY COUNSEL	<input type="checkbox"/>	<input type="checkbox"/>
3. RIGHT TO PRIVACY	NO	+
4. OPEN PRIMARY ELECTION	NO	+
5. RESIGNATION OF CANDIDATES FOR PUBLIC OFFICE	<input type="checkbox"/>	<input type="checkbox"/>
6. ELECTIONS; PARTIAL PUBLIC FINANCING; SPENDING & CONTRIBUTION LIMITS	NO	+
7. LEGISLATIVE TERMS; FUNCTIONS & PROCEDURES	NO	+
8. REAPPORTIONMENT PROCEDURES	NO	+
9. EXECUTIVE DEPARTMENTS; TERM LIMITS	NO	+
10. COURTS; JUDICIAL SELECTION; DISCIPLINE	NO	+
11. STATE SPENDING LIMIT; TAX REFUND	NO	+
12. DEBT LIMITATION; EXCLUSIONS	NO	+
13. SPECIAL PURPOSE REVENUE BONDS	NO	+

14. REVENUES; BUDGET; POST-AUDIT	<input type="checkbox"/>	<input type="checkbox"/>
15. TAX REVIEW & TAX CONFORMANCE	NO	+
16. COUNTY POWER TO TAX REAL PROPERTY	NO	+
17. PUBLIC HEALTH & WELFARE	NO	+
18. POPULATION GROWTH MANAGEMENT	NO	+
19. BOARD OF EDUCATION	NO	+
20. EDUCATION; HAWAIIAN STUDIES	NO	+
21. UNIVERSITY BOARD OF REGENTS	NO	+
22. WATER RESOURCES; PROTECTION & CONTROL	NO	+
23. ENVIRONMENT & RESOURCE PROTECTION	NO	+
24. LAND MANAGEMENT; AGRICULTURAL LAND	NO	+
25. CONTROL OF MARINE RESOURCES	NO	+
26. RESTRICTIONS ON NUCLEAR ENERGY	NO	+
27. DEPARTMENT OF HAWAIIAN HOME LANDS	NO	+
28. OFFICE OF HAWAIIAN AFFAIRS	NO	+
29. TRADITIONAL & CUSTOMARY RIGHTS	NO	+
30. LIMITS ON ADVERSE POSSESSION	NO	+
31. CODE OF ETHICS	NO	+
32. PREAMBLE; STATE BOUNDARIES & MOTTO	NO	+
33. MISCELLANEOUS REVISIONS	NO	+
34. TECHNICAL & STYLE CHANGES	NO	+

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If adopted, this amendment:

- o makes any elected public officer who wants to run for another office quit before running for any other office if the terms of office are not the same.

6. ELECTIONS; PARTIAL PUBLIC FINANCING; SPENDING AND CONTRIBUTION LIMITS. (Article

If adopted, this amendment provides that the legislature shall:

- o create a campaign fund to pay part of the cost of state and local political campaigns for public office.
- o set a spending limit for all candidates.
- o limit the amount a person may give to any candidate or legal campaign group.

7. LEGISLATIVE TERMS, FUNCTIONS AND PROCEDURES. (Article

If adopted, this amendment:

- o requires the appointment of a legislative salary commission on November 30, 1978 and every 8 years from then on to set legislative salaries, which will go into effect for the following legislature unless the governor or the legislature disapproves.
- o makes the legislature set a deadline for all bills to be introduced and also requires a recess after the deadline of not less than 5 days between the 20th and 40th session day.
- o opens to the public all decision-making meetings of legislative committees.
- o increases the waiting period required between the time when the printed bill is distributed and its third or final reading from 24 hours to 48 hours.
- o staggers the terms of office for senators starting from the 1978 general election so that about half of the senators will be elected at each general election.
- o provides for placement of holdover senators and method of keeping the staggered terms for the senate upon reapportionment.

8. REAPPORTIONMENT PROCEDURES. (Article

If adopted, this amendment:

- o increases the time between reapportionments from 8 to 10 years beginning in 1981.
- o requires the reapportionment commission to also reapportion the United States congressional districts.
- o allows the commission 30 more days (from 120 to 150 days) in which to file its reapportionment plan.
- o provides for related changes.

9. EXECUTIVE DEPARTMENTS; TERM LIMITS. (Article

If adopted, this amendment:

- o puts units with similar purposes and functions in the same executive department.
- o limits the governor and lieutenant governor to two terms in a row beginning this year.

10. COURTS; JUDICIAL SELECTION; DISCIPLINE. (Article

If adopted, this amendment:

- o creates an intermediate court of appeals, and makes district courts a constitutional rather than legislative creation.
- o makes courts limit the time they have to finish their cases.
- o adds a judicial selection commission to recommend judges for the supreme court, court of appeals or circuit court which are then picked by the governor and approved by the senate, or judges for district courts which are picked by the chief justice of the supreme court.
- o removes minimum salaries for judges from the constitution and creates a salary commission.
- o gives the supreme court more power to discipline judges and starts a judicial discipline commission.
- o requires judges to be State of Hawaii residents of at least five years and citizens of the State and the United States who are licensed attorneys.

11. STATE SPENDING LIMIT; TAX REFUND. (Article

If adopted, this amendment:

- o limits the rate of growth of the State general fund expenditures to the estimated rate of growth of the State's economy and applies the limit to the governor's budget and legislative appropriations.
- o provides for a tax refund or tax credit to the State's taxpayers when the State's general fund balance in each of two successive fiscal years exceeds five percent of general fund revenues for each of the two years; prohibits the State from engaging in deficit spending unless the governor declares that the public health, safety or welfare is threatened.
- o provides that if the legislature mandates any county to undertake new programs or to increase the level of services under existing programs, the State will share in costs.
- o prohibits the granting of public funds or property except in accordance with standards prescribed by law.
- o provides for related changes.

12. DEBT LIMITATION; EXCLUSIONS. (Article

If adopted, this amendment:

- o limits the principal and interest on State debt to a percentage of general fund revenues.
- o requires the legislature to find that the debt limit will not be exceeded in authorizing bonds.

- o limits maturities on general obligation bonds to twenty-five years.
- o excludes certain bonds from the State and county debt limits.
- o provides for the automatic cancellation of State appropriations financed by general obligation bond funds or general funds if not encumbered or expended within three years.
- o provides for related changes.

13. SPECIAL PURPOSE REVENUE BONDS. (Article

If adopted, this amendment:

- o allows the legislature, by a two-thirds vote of each house, to pass enabling legislation to authorize issuance of special purpose revenue bonds if the issuance of such bonds is found to be in the public interest by the legislature.
- o allows the issuance of special purpose revenue bonds for manufacturing, processing or industrial enterprise, utilities serving the general public, health care facilities provided to the public by non-profit corporations, and low and moderate income government housing programs.
- o requires a second two-thirds vote of each house of the legislature before bonds can be issued for any project or program.
- o requires that State credit cannot be used directly or indirectly and State shall not be liable for repayment of bonds.
- o allows the legislature to authorize the counties to issue such bonds but requires a two-thirds vote of the county council before such bonds may be issued.
- o excludes such bonds from the State or county debt limits.

14. REVENUES; BUDGET; POST-AUDIT. (Article

If adopted, this amendment:

- o establishes a council on revenues to prepare State revenue estimates and requires the governor and legislature to consider such estimates in developing the State budget and making appropriations.
- o provides for direct submission by the judiciary of its budget to the legislature.
- o clarifies State auditor's duty to include post-audits of programs and performance of State agencies.

15. TAX REVIEW AND TAX CONFORMANCE. (Article

If adopted, this amendment:

- o establishes a tax review commission to evaluate the State's tax structure and recommend revenue and tax policy.
- o allows the legislature to conform all or any portion of the State income tax laws to the federal income tax law.

16. COUNTY POWER TO TAX REAL PROPERTY. (Article

If adopted, this amendment:

- o grants the counties the exclusive power to exercise all functions, powers and duties relating to the taxation of real property.
- o includes a transitional section which provides (1) for effective date on July 1, 1980, (2) for uniform policies and methods of assessing real property by agreement of a majority of the counties or, in the absence of such agreement, by general law, and (3) for dedications of land for specific use for assessment at its value in such use and for real property tax exemptions, both of which shall not be altered for a period of eleven years, except that increases for either may be granted by agreement of a majority of the counties.

17. PUBLIC HEALTH AND WELFARE. (Article

If adopted, this amendment:

- o authorizes the State to provide for (1) public safety, (2) the security of the elderly, (3) preservation of cultural resources, and (4) promotion of a healthful environment.
- o allows flexibility in programs for care of handicapped.
- o gives the legislature power to establish eligibility standards for public assistance.
- o deletes the power to conserve and develop natural beauty, which is shifted to the article on Conservation and Development of Resources.
- o provides for related changes.

18. POPULATION GROWTH MANAGEMENT. (Article

If adopted, this amendment:

- o requires the State and its counties to plan and manage the growth of the population except that each county may plan and manage their growth in a more restrictive manner than the State.

19. BOARD OF EDUCATION. (Article

If adopted, this amendment:

- o provides members of the board of education to be elected in a nonpartisan manner from two at-large school board districts, one district for Oahu and the second district for the neighbor islands. Each school board district will consist of several departmental school districts. Beginning with the 1980 general election each departmental school district will be served by at least one board member.
- o provides that at least one member of the board of education live in each departmental school district.
- o provides that the board of education has jurisdiction, subject to general laws, over the internal organization and management of the public school system.

20. EDUCATION; HAWAIIAN STUDIES. (Article

If adopted, this amendment:

- o prohibits discrimination in public educational institutions on the basis of sex.
- o provides for the promotion of Hawaiian history, culture, and language.

21. UNIVERSITY BOARD OF REGENTS. (Article

If adopted, this amendment:

- o clarifies the board of regents' exclusive jurisdiction, subject to statewide laws, over the internal organization and management of the University of Hawaii.

22. WATER RESOURCES: PROTECTION AND CONTROL. (Article

If adopted, this amendment:

- o obligates the State to protect, control, and regulate the uses of Hawaii's water resources the benefit of the people of Hawaii.
- o requires the legislature to insure that there is a water resources agency to help protect, control, and regulate the water.

23. ENVIRONMENT AND RESOURCE PROTECTION. (Article

If adopted, this amendment:

- o requires the State and counties to conserve and protect the natural beauty and natural resources of Hawaii.
- o requires the State to promote the development and use of these resources if it is consistent with conserving these resources and promoting the self-sufficiency of the State.
- o requires the State to hold all public natural resources in trust for the benefit of the people of Hawaii.
- o gives each person the right to a clean and healthful environment which will be defined by law.
- o gives each person the right to sue to enforce this right but the legislature may limit and regulate this right in a reasonable manner.

24. LAND MANAGEMENT; AGRICULTURAL LAND. (Article

If adopted, this amendment:

- o requires the State to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and assure that agriculturally suitable lands will be available.
- o requires the State to identify which agricultural lands are needed to promote the future of agriculture.
- o requires that lands identified as important for agriculture shall not be used for any other purpose unless certain standards and criteria set by the legislature are met, and approved by a two-thirds vote of the governmental body which is to approve changes in the use of the land.
- o permits the State to acquire interests in real property in order to control development and land use; deems exercise of such power to be for a public use and purpose.

25. CONTROL OF MARINE RESOURCES. (Article

If adopted, this amendment:

- o gives the State the power to manage and control the ocean lands and waters which are located within the boundaries of the State.

- o reserves to the State the right to manage and control ocean lands and waters which are located outside the boundaries of the State as long as federal or international law does not prevent the State from doing so.
- o adds to the list of areas not open to the public those areas where a state-licensed mariculture operation is operating but requires the legislature to establish guidelines for mariculture operations to protect the public's use and enjoyment of the reefs.

26. RESTRICTIONS ON NUCLEAR ENERGY. (Article

If adopted, this amendment:

- o requires anyone wishing to construct a nuclear fission power plant or dispose of radioactive material to receive the approval of two-thirds of the members of each house.

27. DEPARTMENT OF HAWAIIAN HOME LANDS. (Article

If adopted, this amendment:

- o requires the State to fund the department of hawaiian home lands.
- o guarantees that traditional funding continue.
- o allows the department more flexibility.
- o provides for related changes.

28. OFFICE OF HAWAIIAN AFFAIRS. (Article

If adopted, this amendment:

- o establishes an Office of Hawaiian Affairs with an elected board of trustees and provides for an effective date.
- o sets forth the trust corpus and beneficiaries of the Admission Act.
- o provides for related changes.

29. TRADITIONAL AND CUSTOMARY RIGHTS. (Article

If adopted, this amendment:

- o allows descendants of native Hawaiians, subject to state regulation, to exercise rights that have been customarily and traditionally exercised.

30. LIMITS ON ADVERSE POSSESSION. (Article

If adopted, this amendment:

- o eliminates the acquiring of title to real property by adverse possession, except that five acres or less may be claimed by adverse possession, but not more than once in 20 years.

31. CODE OF ETHICS. (Article

If adopted, this amendment:

- o extends ethics codes to constitutional convention delegates and employees.
- o provides that ethics codes must require provisions for financial disclosure.

- o requires an independent commission to supervise ethics codes.
- o requires lobbyist registration.
- o requires candidates for political office to file financial disclosures.

32. PREAMBLE; STATE BOUNDARIES AND MOTTO. (Article

If adopted, this amendment:

- o revises the Preamble.
- o affirms that the State's boundaries include the waters around all the State's islands.
- o picks a State motto and official languages of English and Hawaiian.

33. MISCELLANEOUS REVISIONS. (Article

If adopted, this amendment:

- o would not let persons convicted (not just accused) of subversive activities hold public office.
- o clarifies the time when voters must be asked if they want to have another constitutional convention.
- o says that governmental writing must be in plain language.
- o lets the next constitutional convention start a month earlier, giving them 5 months before the general election instead of 4.

34. TECHNICAL AND STYLE CHANGES.

If adopted, this amendment:

- o changes the Constitution where the subject may now be unconstitutional or unnecessary under the Constitution of the United States.
- o changes style and language.
- o replaces words which sound like they apply to only men or women by words which apply to everyone.
- o makes small changes which are related to the main purposes of the other amendments.

STANDING COMMITTEE REPORT NO. 100

Your Committee on Style, to which was referred Committee Proposal No. 17, RD. 2, begs leave to report as follows:

The proposal, which the Convention has adopted on second reading, covers Article X, Sections 1, 3 and 5; Article XVI, Section 13, and the addition of the following new sections to Article X: Conservation and Development of Resources, Public Land Banking, Agricultural Lands, Water Resources, Environmental Rights and Nuclear Energy.

The Convention has proposed amendments to Article X, Section 3, and the deletion of Article XVI, Section 13, and Article X, Sections 1 and 5, in their entirety.

Your Committee proposes several style changes which are indicated by brackets [for deletions] and underscoring for additions as shown in the committee proposal and report.

Your Committee considered the new Section 1 to Article X and proposes the following changes to the first paragraph:

"Section 1. For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii's natural beauty and all natural resources, including land, water, air, minerals[,] and energy sources[;], and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State."

The changes were made for the purposes of style and consistency.

Your Committee considered Section 3 of Article X, and proposes the following changes:

"Section 3. The State shall have the power to manage and control the marine, seabed and other resources located [inside] within the boundaries of the State, including the archipelagic waters of the State, and reserves to itself all such rights outside [State] state boundaries not specifically limited by federal or international law.

"All fisheries in the sea waters of the State not included in any fish pond, artificial enclosure[,] or state-licensed [mari-culture] mariculture operation shall be free to the public, subject to vested rights and the right of the State to regulate the same[,]; provided that [mari-culture] mariculture operations shall be established under guidelines enacted by the legislature, which shall protect the public's use and enjoyment of the reefs. The State may condemn such vested rights for public use."

The changes were made for grammatical purposes and for consistency.

Your Committee considered the new Section 5 added to Article X and proposes the following changes to the first paragraph:

"Section 5. The State shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency[,] and assure the availability of agriculturally suitable lands. The legislature shall [enact laws that will set forth] provide standards and criteria [applicable] to accomplish the foregoing."

The changes in the first sentence were made for consistency; the changes in the second sentence were for purposes of clarity and meet with the approval of the chairperson of the Committee on Environment, Agriculture, Conservation and Land.

Your Committee considered the second paragraph in the new Section 5 and finds no changes are necessary.

Your Committee considered the new section, Public Land Banking, and proposes the following changes:

"The State shall have the power to acquire interests in real property to control future growth, development and land use within the State. The exercise of such power is deemed to be for a public use and purpose."

The change in the first sentence was made for consistency, and the change in the second sentence for clarity and meets with the approval of the chairperson of the Committee on Environment, Agriculture, Conservation and Land.

Your Committee considered the new section, Water Resources, and feels no changes are necessary to the first paragraph. Your Committee proposes the following changes to the second paragraph:

"The [Legislature] legislature shall provide for a water resources agency which shall[, in accordance with] set, as provided by law, [set] overall water conservation, quality and use policies; define beneficial and reasonable uses; protect ground and surface water resources, watersheds[,] and natural stream environments; establish criteria for water use priorities while assuring appurtenant rights and existing correlative and riparian uses[;] and establish procedures for regulating all uses of Hawaii's water resources."

The above changes were for the purposes of consistency and clarity.

Your Committee considered the new section, Environmental Rights, and proposes the following changes:

"Each person has the right to a clean and healthful environment, as defined by laws relating to environmental quality, including control of pollution [control] and [natural resources] conservation, protection[,] and enhancement[.] of natural resources. Any person may enforce this right against any party, public or private, through appropriate legal proceedings, subject to reasonable limitations and regulation as provided by law."

The above changes were made for the purposes of consistency and clarity and were agreed to by the chairperson of the Committee on Environment, Agriculture, Conservation and Land.

Your Committee considered the new section, Nuclear Energy, and proposes the following deletion of unnecessary words:

"No nuclear fission power plant shall be constructed or radioactive material disposed of in the State [of Hawaii] without the prior approval by a two-thirds vote in each house of the legislature."

The changes recommended are merely for the purposes of style and clarification and have no further implications.

Style Committee Recommendation

Your Committee on Style recommends the adoption of Standing Committee Report No. 100 and consideration of the passage of Committee Proposal No. 17, RD. 2, S. 1* on third reading.

Signed by all members of the Committee except Delegates Burgess, Calvin Ching, Kimball, Ledward, Nozaki, Odanaka, Takehara, Takemoto and Yoshimura.

*For the complete text of the proposal, see Committee Proposal No. 17, page 828.

STANDING COMMITTEE REPORT NO. 101

Your Committee on Budget, Accounts and Printing begs leave to report that Stand. Com. Rep. Nos. 102 through 106; Res. Nos. 26, RD. 1, 28, RD. 1, and 33 through 35; and Exhibits A and B have been printed and distributed.

Signed by Delegates Crozier, Vice-Chairperson; Hayashida, Vice-Chairperson; Hale and Lacy members.

STANDING COMMITTEE REPORT NO. 102

Your Committee on Taxation and Finance, to which was referred Resolution No. 26, relating to the deposit of state moneys among federally insured financial institutions, begs leave to report as follows:

All committee meetings were open to the public, and representatives of organizations and individual persons interested in the above-mentioned matter were invited to present their views at public hearings.

Your Committee recommends the adoption of Resolution No. 26. Your Committee has added clarifying language to the resolution indicating that state funds have been and should continue to be deposited with depositories, whether commercial banks or savings and loan institutions, which are able and willing to provide acceptable collateral for such deposits.

Testimony presented to your Committee showed the following:

1. The care and maintenance of public funds not currently needed to meet the State's obligations are significant concerns. As of June 30, 1977, \$5 million of the State's public funds, or approximately 1.8 percent of such funds, was deposited in strict "demand deposit" accounts from which funds could be drawn at any time; the remaining \$279 million of such public funds, or 98.2 percent of such funds, was invested in "time deposits" with maturity periods ranging from 30 days to 5 years.

2. As of June 30, 1977, only \$900,000 of the State's funds, representing 0.3 percent of the total of public funds held in depositories, was deposited with savings and loan associations, and the remainder of the 99.7 percent of public funds was deposited in commercial banks.

3. The assets of commercial banks in the State as of June 30, 1977, totaled \$3.4 billion, while the total assets of savings and loan associations in the State on that date equaled \$2.4 billion.

4. The primary objective of the savings and loan industry in Hawaii is to provide financing for home mortgages. Such home mortgages have historically proven to be stable and reliable investments.

5. The savings and loan industry, which manages substantial sums of moneys, is a significant segment of the State's financial framework.

Chapter 38 of the Hawaii Revised Statutes, which relates to the deposit of public funds, requires that a depository holding public funds must furnish security for such deposit. The class of security offered is considered as the basis of selection. Residential mortgage loans insured or guaranteed by the United States may be used as security. Due regard is also given to depositories doing business in the State.

The director of finance, who is statutorily charged, with the approval of the governor, with the responsibility of depositing public funds in depositories, has pursued three main objectives in the management of public funds: (1) ensuring the safety and protection of state moneys, (2) ensuring the liquidity or availability of funds to meet state obligations as they become due, and (3) maximizing interest earned on state funds.

Your Committee believes that the present statutory provisions applicable to the deposit of state funds are basically sound. A constitutional amendment relating to the deposit of public funds in financial institutions is not necessary or desirable. However, it is the belief of your Committee that the current practices of the State with respect to the deposit of public funds are inequitable. Such inequitability appears to stem from a concern that federally insured home loan mortgages do not constitute sufficiently secure or liquid collateral.

But your Committee concluded that public funds should be distributed among financial institutions on a more equitable basis. In particular, if sufficiently secure and liquid security, which maximizes the State's returns, is furnished by savings and loan institutions, more public funds should be deposited with such institutions. Federally insured home loan mortgages, the principal asset of savings and loan institutions, also provide collateral which would adequately secure state funds deposited with such institutions. Depositing state funds with savings and loan institutions has the additional benefit of keeping funds in the State, which may then be made available for the financing and construction of homes in Hawaii. Such deposits would have a favorable multiplier effect on the State's economy.

Your Committee recommends that the State actively pursue means by which equitable distribution of public funds among financial institutions may be accomplished within a reasonable period of time.

Your Committee on Taxation and Finance recommends that Resolution No. 26, RD. 1, be adopted.

Signed by all members of the Committee except Delegates DiBianco, Kaapu and Shinno.

RESOLUTION NO. 26, RD. 1

RELATING TO THE CARE AND MAINTENANCE OF STATE MONEYS.

WHEREAS, the care and maintenance of State moneys are of great concern, and substantial sums of public funds are held in depositories until needed to pay for the State's obligations; and

WHEREAS, the assets of commercial banks in the State totalled \$3.4 billion as of June 30, 1977; and the total assets of savings and loan institutions in the State equalled \$2.4 billion on that same date; and

WHEREAS, as of June 30, 1977, only \$900,000 of the State's funds, representing 0.3 percent of the total of public funds held in depositories, was deposited with savings and loan associations, and the remainder, 99.7 percent of public funds, was deposited in commercial banks, which were able and willing to provide acceptable collateral; and

WHEREAS, the State Director of Finance is responsible, with the approval of the Governor, for the deposit of public funds; and the Director of Finance is required to comply with laws relating to such funds and to develop policies related thereto; and

WHEREAS, depositories holding public funds are required to furnish collateral for such deposits; and federally insured residential mortgage loans are one type of such collateral; and

WHEREAS, the savings and loan industry is a significant segment of the State's financial framework; and

WHEREAS, the primary objective of the savings and loan industry is to provide financing for the purchase and construction of homes in the State; and

WHEREAS, federally insured home loan mortgages constitute the principal asset of savings and loan associations, and such mortgages are secure and stable investments; and

WHEREAS, the Constitution of the State of Hawaii addresses many diverse aspects of the State's financial structure, including taxes, the budget, and audit and expenditure controls; and

WHEREAS, the subject of the care and maintenance of public funds is not addressed in the Constitution of the State of Hawaii; now, therefore,

BE IT RESOLVED that public funds should be distributed on a more equitable basis among the State's financial institutions, provided that such deposits are secured with approved collateral; and

BE IT FURTHER RESOLVED that the Director of Finance should examine the State's collateralization requirements for the deposit of public funds to allow more public funds to be deposited with savings and loan institutions, which are able and willing to provide acceptable collateral for such deposits; and

BE IT FURTHER RESOLVED that the State, and in particular the Director of Finance, should actively pursue means to equitably distribute public funds among the financial institutions of the State, including savings and loan associations, within a reasonable period of time; and

BE IT FURTHER RESOLVED that duly authenticated copies of this Resolution be transmitted to the Governor of the State of Hawaii, the members of the State Legislature, and the State Director of Finance.

STANDING COMMITTEE REPORT NO. 103

Your Committee on Style to which was referred Resolution No. 29, entitled: "REQUESTING THE REVISOR OF STATUTES TO EFFECT NECESSARY REARRANGEMENT, RE-NUMBERING AND TECHNICAL CHANGES OF SECTIONS AND ARTICLES WITHIN THE CONSTITUTION AS MAY BE NECESSARY AFTER THE NOVEMBER ELECTIONS," begs leave to report as follows:

The purpose of Resolution No. 29 is to request the revisor of statutes to make any changes necessary to the Constitution as amended by the Constitutional Convention of 1978 if one or some of the proposals are rejected by the people of the State at the November elections.

Your Committee on Style notes that the Convention and the staff of the Convention will not be available after the Convention adjourns and if all of the amendments submitted to the voters are not ratified, those amendments which fail must be deleted from the Constitution prepared by the Convention. The revisor of statutes has the necessary expertise to perform this function, and in fact did so in 1968.

Your Committee on Style concurs with Resolution No. 29 and recommends its adoption.

Signed by all members of the Committee.

RESOLUTION NO. 29

REQUESTING THE REVISOR OF STATUTES TO EFFECT NECESSARY REARRANGEMENT, RENUMBERING AND TECHNICAL CHANGES OF SECTIONS AND ARTICLES WITHIN THE CONSTITUTION AS MAY BE NECESSARY AFTER THE NOVEMBER ELECTIONS.

WHEREAS, various amendments to the State Constitution have been framed by the Constitutional Convention of Hawaii of 1978 for submission to the electorate for ratification or rejection; and

WHEREAS, in the exercise of the electorate's freedom to ratify or reject the several proposals, one or some of the proposals may be rejected by the people of this State; and

WHEREAS, such ratification of some and rejection of others may require rearrangement, renumbering and technical changes of the amendments ratified and parts of the State Constitution affected by such ratification or rejection when the Constitutional Convention is not in session; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that the Revisor of Statutes of Hawaii is respectfully requested by the Constitutional Convention of Hawaii of 1978 to effect such necessary rearrangement, renumbering and technical changes of the sections within the articles of the State Constitution, as may be affected, for proper form and arrangement and proper order in the State Constitution in the event that any or some of the amendments to the State Constitution proposed by the Constitutional Convention of Hawaii of 1978 are not ratified by the electorate; and

BE IT FURTHER RESOLVED that a duly authenticated copy of this Resolution be transmitted to the Revisor of Statutes.

STANDING COMMITTEE REPORT NO. 104

Your Committee on Style, to which were referred all committee proposals to amend the Constitution upon their adoption on third reading, begs leave to report as follows:

Your Committee has examined the proposals for proper form and for arrangement in proper order in the Constitution. In addition, pursuant to Res. No. 22, requesting the Committee on Style to consider all portions of the Constitution as to phraseology, your Committee on Style has examined all portions of the Constitution not otherwise referred to it by committee proposal.

Your Committee submits herewith the final style and technical changes of all proposed amendments as set forth in Exhibits A (attached hereto) and B and made part of this report. Exhibit A sets forth the Constitution as it will appear if all proposals, style and technical changes are ratified. Exhibit B sets forth all substantive, style and technical changes with old material [in brackets] and new material underscored.

In making style and technical changes to the committee proposals and the other portions of the Constitution, certain style rules were adopted by your Committee which are set forth below.

1. Generally, commas before a conjunction have been deleted, except where necessary for clarity or emphasis.
2. The word "State" has been capitalized only when it appears as a noun or a possessive adjective.
3. The word "said" has been deleted and "such" inserted, or a more definite reference such as the words "this" or "that."
4. When referring to a specific act, such as the Hawaiian Homes Commission Act, the word "Act" has been capitalized; otherwise that word is set forth in lower-case lettering.
5. Generally, words have been capitalized sparingly.
6. References in sections to other sections within the same article have been kept in lower case, as in "section 7 of this article." References to sections of other articles have, however, been capitalized as in "Section 7 of Article III."
7. The phrase "as provided by law" has been substituted throughout for the phrases "in accordance with law," "as prescribed by law" and the like.
8. Nondiscriminatory nouns, pronouns and adjectives have been used throughout by substituting the antecedent noun for the pronoun "his," by the use of "chairperson" instead of "chairman" and similar changes.
9. Punctuation marks have been placed within quotation marks.

Your Committee has also made changes in punctuation and grammar to correct errors that were overlooked previously but are now recommended for correction. Your Committee has also corrected typographical errors.

In order to achieve arrangement of the proposed amendments in proper order in the Constitution, your Committee has effected several changes in arrangement of unamended sections as well as amended sections within an article, as well as rearranging the articles within the Constitution. These changes have been made under the authority granted to the Committee on Style by the Convention under Rule 18(b).

It is the judgment of your Committee that none of the changes made by your Committee affect the substance of the proposed amendments or of the Constitution. The placement of the new proposals and the changes in the placement of the unamended sections have been made on the assumption that the people of Hawaii will ratify all the proposed amendments to the Constitution.

Your Committee recommends the following style and technical changes:

PREAMBLE

Your Committee recommends no change to this provision.

FEDERAL CONSTITUTION ADOPTED

Your Committee recommends no change to this provision.

ARTICLE I

BILL OF RIGHTS

Section 1. The semicolon between the words "people and" has been deleted.

Section 3. The present section 21 of this article has been renumbered section 3.

Section 4. The present section 3 of this article has been renumbered section 4 and the comma after the word "press" has been deleted.

Section 5. The present section 4 of this article has been renumbered section 5.

Section 6. The new section "Right to Privacy" has been numbered section 6 of this article.

Section 7. The present section 5 of this article has been renumbered section 7 and the comma after the word "seizures" has been deleted.

Section 8. The present section 6 of this article has been renumbered section 8.

Section 9. The present section 7 of this article, the title of which has been changed to "Enlistment[,]; Segregation," has been renumbered section 9.

Section 10. The present section 8 of this article, the title of which has been changed to "Indictment[,]; Double Jeopardy[,]; Self-Incrimination," has been renumbered section 10.

Section 11. The new section "Grand Jury Counsel" has been numbered section 11 of this article.

Section 12. The present section 9 of this article, the title of which has been changed to "Bail[,]; Excessive Punishment," has been renumbered section 12.

Sections 13 and 14. The present sections 10 and 11 of this article have been renumbered sections 13 and 14.

Section 15. The present section 13 of this article has been renumbered section 15. The first sentence has been changed to read: "The privilege of the writ of habeas corpus shall not be suspended[,] unless, when in the case of rebellion or invasion, the public safety may require it."

Sections 16 and 17. The present sections 14 and 15 of this article have been renumbered sections 16 and 17.

Section 18. The present section 16 of this article has been renumbered section 18 and the word "prescribed" has been changed to "provided."

Sections 19, 20, 21 and 22. The present sections 17, 18, 19 and 20 of this article have been renumbered sections 19, 20, 21 and 22.

ARTICLE II

SUFFRAGE AND ELECTIONS

Section 1. The words "as provided by" have been substituted for "in accordance with."

Section 4. The title has been changed to "Registration[,]; Voting" and the semicolon has been deleted in the first sentence. The second sentence has been changed by substituting the word "a" for the word "their."

Section 5. The new section, the title of which has been amended to "Campaign Fund [and Campaign], Spending Limit," has been numbered section 5 of this article.

Section 6. The new section, the title of which has been changed to "[Limitation on] Campaign Contributions Limits," has been numbered section 6 of this article.

Section 7. The new section "Resignation from Public Office" has been numbered section 7 of this article.

Section 8. The present section 5 of this article has been renumbered section 8 and the words "as provided by" have been substituted for "in accordance with."

Section 9. The present section 6 of this article has been renumbered section 9 and the words "as provided by" have been substituted for "in accordance with."

Section 10. The present section 7 of this article has been renumbered section 10.

ARTICLE III

THE LEGISLATURE

Section 2. The title of this section has been changed, "[Senate; Composition] Composition of Senate."

Section 3. The title of this section has been changed, "[House of Representatives; Composition] Composition of House of Representatives."

Section 5. The word "prescribed" has been changed to "provided" for consistency.

Section 12. The end of the last sentence in the section has been changed to read: "days [under Section 10.] as provided in section 10 of this article."

Section 19. The words "as provided by" have been substituted for "according to" at the end of the last paragraph.

ARTICLE IV

REAPPORTIONMENT

The new article "Reapportionment" has been numbered Article IV.

Section 2. The phrase "shall chair the commission" at the end of this first paragraph has been changed to "shall serve as chairperson of the commission." A comma has been inserted after the word "certified" in the first sentence of the fifth paragraph.

Section 4. A colon has been inserted after the word "namely".

Section 5. The words "when practicable" have been set off by commas in paragraph 5.

Section 6. A comma has been inserted after the word "designation" in the second sentence of the first paragraph. The reference to Article XVI has been changed to XVIII in paragraph 3 to reflect renumbering of articles and the comma has been deleted between the words "article and."

ARTICLE V

THE EXECUTIVE

The present Article IV is renumbered Article V.

Section 1. The phrase "in accordance with" is changed to "as provided by" in the second paragraph.

Section 2. The comma after the words "lieutenant governor" is deleted in the first sentence and after the word "manner" in the second sentence. The words "may be" are reinserted before the words "provided by" to correct a technical error.

Section 6. The comma after the words "principal executive officer" is deleted in the third sentence of the third paragraph. The words "provided for" are substituted for the word "made" in the first sentence of the fourth paragraph. The word "as" is substituted for the words "in a manner" in the last sentence in the fourth paragraph. The comma after the word "shall" is deleted and a comma and the word "expire" are substituted therefor, while the word "expire" occurring later in the sentence is deleted in the first sentence in the fifth paragraph. The semicolon after the word "appointment" is changed to a comma in the last paragraph.

ARTICLE VI

THE JUDICIARY

The present Article V has been renumbered Article VI.

Section 2. The title of this section has been changed to read "Supreme Court; Intermediate Appellate Court; Circuit Courts" to reflect its substance.

Section 4. The new section, the title of which has been changed to "[The] Judicial Selection Commission," has been numbered section 4 of this article and the title has been changed for consistency.

Sections 5, 6 and 7. The present sections 4, 5 and 6 of this article are renumbered sections 5, 6 and 7.

ARTICLE VII

TAXATION AND FINANCE

The present Article VI has been renumbered Article VII.

Section 2. The new section "Income Taxation" has been numbered section 2 of this article.

Section 3. The new section "Tax Review Commission" has been numbered section 3 of this article.

Section 4. The present section 2 of this article has been renumbered section 4. The reference to Section 3 of Article I has been changed to Section 4 of Article I to reflect the renumbering.

Section 5. The present section 6 of this article has been renumbered section 5.

Section 6. The new section "Disposition of Excess Revenues" has been numbered section 6 of this article.

Section 7. The new section "Council on Revenues" has been numbered section 7 of this article.

Section 8. The present section 4 of this article has been renumbered section 8. The reference to section 5 of this article in the last sentence of this section has been changed to a reference to section 9 to reflect renumbering of the sections of the article.

Section 9. The present section 5 of this article has been renumbered section 9.

Section 10. The present section 7 of this article has been renumbered section 10.

Section 11. The new section "Lapsing of Appropriations" has been numbered section 11 of this article.

Section 12. The present section 3 of this article was split into two sections. The first part, entitled "Definitions; Issuance of Indebtedness," has been numbered section 12 of this article.

Section 13. The second part of the present section 3 of this article, entitled "Debt Limit; Exclusions," has been numbered section 13. References in this section to section 3 have been changed to section 12 in the fourth paragraph, the next to last and the last paragraphs.

ARTICLE VIII

LOCAL GOVERNMENT

The present Article VII has been renumbered Article VIII.

Section 1. The title of this section has been changed as follows: "[Political Subdivisions;] Creation[,]; Powers of Political Subdivisions."

Section 2. This section has been changed by inserting the word "the" between the words "have power" and by substituting the word "provided" for "prescribed" in the first sentence. The word "such" has been substituted for the words "the prescribed" at the beginning of the second sentence.

Section 3. The first sentence has been changed by inserting a comma between the words "State except" and the semicolon between the words "subdivisions except" has been changed to a comma and the word "and" has been reinserted.

Section 5. The new section "Transfer of Mandated Programs" has been numbered section 5 of this article.

Section 6. The present section 5 has been renumbered section 6 of this article and the word "state-wide" has been changed to "statewide" in the title and the body of the section.

ARTICLE IX

PUBLIC HEALTH AND WELFARE

The present Article VIII has been renumbered Article IX.

Section 4. The new section "Economic Security of the Elderly" has been numbered section 4 of this article.

Section 5. The present section 4 in this article has been renumbered section 5 and the title of the section has been changed to read "Housing, Slum Clearance, Development and Rehabilitation [and Housing]" to more accurately reflect the subject matter of this section which was amended in 1976. The word "the" has been inserted between the words "have power" in the first sentence. The section has been split into two sentences, to contain the power provisions in one sentence and the exercise of the power provisions in the last sentence.

Section 6. The new section "Management of State Population Growth" has been numbered section 6 of this article. The comma after the word "welfare" has been changed to a semicolon.

Section 7. The present section 5 in this article has been renumbered section 7.

Section 8. The new section "Preservation of a Healthful Environment" has been numbered section 8 of this article. The word "preservation" in the section has been changed to "prevention" to correct a typographical error.

Section 9. The new section "Cultural Resources" has been numbered section 9 of this article.

Section 10. The new section "Public Safety" has been numbered section 10 of this article. The phrase "Let every elderly person, woman and child, lie [on] by the [road] roadside in safety" was corrected as it now appears.

ARTICLE X

EDUCATION

The present Article IX has been renumbered Article X.

Section 2. The phrase "as provided by" in the first sentence has been set off by commas.

Section 3. The word "the" has been inserted between the words "have power." The comma after the word "board" and before "except" has been changed to a semicolon.

Section 4. The two new sections designated "Hawaiian Education Program" have been placed in this article as section 4. The two sections under this program have been

combined into one section and the new section "Hawaiian Studies" has been merged with this section as it is identical with the first paragraph of this section.

Section 5. The present section 4 in this article has been renumbered section 5. The words "according to" have been changed to "as provided by" in the last sentence.

Section 6. The present section 5 in this article has been renumbered section 6. The word "the" has been inserted between the words "have power" in the third sentence and the comma after the word "board" and before "except" has been changed to a semicolon in the third sentence.

ARTICLE XI

CONSERVATION, CONTROL AND DEVELOPMENT OF RESOURCES

The present Article X has been renumbered Article XI. The title of this article has been changed to read: "Conservation, Control and Development of Resources."

Section 2. The title has been changed to "[Natural Resources;] Management and Disposition of Natural Resources" and the word "provided" has been substituted for "authorized" in the first paragraph.

Section 3. The new section "Agricultural Lands" originally numbered section 5 has been renumbered section 3 of this article.

Section 4. The new section "Public Land Banking" has been numbered section 4 of this article.

Section 5. The present section 4 of this article has been renumbered section 5 and the word "or" inserted before the words "a political subdivision" at the end of the section.

Section 6. The present section 3 has been numbered section 6 of this article.

Section 7. The new section "Water Resources" has been numbered section 7 of this article. The phrase "as provided by law" has been moved between the words "which shall" and deleted after the word "set" in the first sentence of the second paragraph.

Section 8. The new section "Nuclear Energy" has been numbered section 8 of this article.

Section 9. The new section "Environmental Rights" has been numbered section 9 of this article.

ARTICLE XII

HAWAIIAN AFFAIRS

The present Article XI has been renumbered Article XII.

Section 1. The "(A)" and "(B)" have been deleted. The comma after the word "legislature" in the third sentence of the first paragraph has been deleted. The reference to "1(B)" in the second sentence of the second paragraph has been deleted.

Section 2. The title of the present section 2 has been changed to "Acceptance of Compact [with the United States]" and the capitalization of the word "section" and the word "act" the second time that word appears in the first sentence has been changed to lower case.

Section 3. The title of the present section 3 has been changed to "[Amendment and Repeal] Compact Adoption; Procedures after Adoption." The capitalization of the words "constitution," "section" and "state" have been changed to lower case throughout the section. The word "said" has been changed to "this" or "such" as most appropriate. The second sentence which begins with the words "Provided, That" has been made a part of the first sentence by deleting those words and the period and inserting "; provided that" to more clearly identify that part of the section as a proviso to the first part. Commas have

been inserted after "subsection (b)" and deleted after "Hawaiian home-operating fund." Finally, "land" has been changed to "lands."

Section 4. The new section 4 "Public Trust" has been changed by changing the reference to Article XIV, Section 8, to a reference to Article XVI, Section 7, to reflect the renumbering of articles and sections, and a comma has been inserted after the number 7.

Section 8. The new section "Traditional and Customary Rights" originally placed in Article XVI has been moved to this article and numbered section 8.

The sections of the Hawaiian Homes Commission Act of 1920, as amended, as further amended by the 1978 Constitutional Convention as provisions of the State Constitution pursuant to this article, have been set forth at the end of this article for display purposes. They have been set forth in full for readability.

Section 212. The reference in the third sentence to the "board of Hawaiian home lands" has been changed to the "board of land and natural resources."

Section 213. Commas and semicolons before conjunctions in a series of three or more items have been deleted throughout. In subsection (a) (1) the comma has been moved inside the quotation marks around the words "additional receipts." In subsection (b) (8) the reference to "Article XI, section 1(B)" has been changed to "Article XII, section 1" to reflect numbering changes. Further, in that same subsection a comma has been inserted after the words "state receipts."

Section 221. Subsection (c) has been changed by deleting "667 to 668, inclusive, of the Revised Laws of Hawaii 1915 [Hawaii Revised Statutes sections]," by deleting the bracket after "101-34," and by inserting after "101-34" the words "Hawaii Revised Statutes" set off by commas. Subsection (e) has been changed by deleting the comma after the words "contract for" the second time they appear.

ARTICLE XIII

ORGANIZATION; COLLECTIVE BARGAINING

The present Article XII has been renumbered Article XIII.

Section 2. The word "prescribed" has been replaced with the word "provided" at the end of the section.

ARTICLE XIV

CODE OF ETHICS

The new article "Code of Ethics" has been numbered Article XIV. The article has been changed by deleting commas which appear before a conjunction in a series of words: that is, after the words "conduct" and "subdivision" in the first paragraph and "disclosure" and "office" in the third paragraph. The comma has also been deleted between the words "ethics" and "which" in the second sentence of the first paragraph.

ARTICLE XV

STATE BOUNDARIES; CAPITAL; FLAG; LANGUAGE AND MOTTO

The present Article XIII has been renumbered Article XV and the title has been changed to read "State Boundaries; Capital; Flag; Language and motto" to merge the two committee proposals amending the title of the article.

Section 1. The phrase "this Act" has been changed to "the Admission Act," to more accurately reflect the act reference. The comma before the word "but" has been changed to a semicolon, the word "said" has been changed to "this" and the comma after "Island" has been deleted.

Section 2. The capitalization of the word "Island" has been changed to lower case.

Section 4. The new section "Official Languages" has been placed in this article as section 4.

Section 5. The new section "Motto" has been renumbered from section 4 to section 5 and so placed in this article.

ARTICLE XVI

GENERAL AND MISCELLANEOUS PROVISIONS

The present Article XIV has been renumbered Article XVI.

Section 4. The word "provide" has been substituted for the word "prescribe" in the last sentence.

Section 5. The present section 6 of this article, renumbered earlier as section 5, has been changed by breaking the last part of the compound sentence into a separate sentence reading: "Funds may be appropriated to effect such cooperation."

Section 7. The present section 8 of this article, renumbered earlier as section 7, has been changed by changing the reference to Article XI to Article XII to reflect the renumbering of articles.

Section 8. The present section 9 of this article, renumbered earlier as section 8, has been changed by substituting the word "the" for the word "said."

Section 9. The present section 10 of this article, renumbered earlier as section 9, has been changed by changing the title to read: "[Federal Property; Tax Exemption] Tax Exemption of Federal Property."

Section 11. The present section 12 of this article, renumbered earlier as section 10, has been changed by substituting the word "such" for the word "said" and by making the following change, "act or resolution which preserve [for the State] judicial rights and powers for the State are hereby accepted."

Section 12. The new section "Quieting Title" originally to be placed in Article I has instead been numbered section 12 of this article.

Section 13. The new section "Plain Language" originally to be placed as section 16 of this article has been numbered section 13 of this article.

Sections 14, 15 and 16 are the renumbered sections 13, 14 and 15 of this article in the present constitution. They had earlier been renumbered as sections 12, 13 and 14 of this article, but the placement of two new sections in this article required their further renumbering. The title of section 16 has been changed as follows: "Provisions Are Self-Executing."

ARTICLE XVII

REVISION AND AMENDMENT

The present Article XV has been renumbered Article XVII.

Section 2. The third paragraph has been changed by substituting a reference to Article XVI for Article XIV to reflect the renumbering of articles.

Section 3. The capitalization of the word "section" in the last paragraph has been changed to lower case.

ARTICLE XVIII

SCHEDULE

The present Article XVI has been renumbered Article XVIII.

Section 3. The present section 7 has been renumbered section 3. The reference in the section to Article III, Section 10, has been changed to Article III, Section 9, to reflect renumbering of the sections in that article.

Section 4. The new section "Effective Date for Term Limitations for Governor and Lieutenant Governor" has been numbered section 4 of this article. The reference in the section to Article IV has been changed to Article V to reflect renumbering of the articles.

Section 5. The new section "Judiciary: Transition; Effective Date" has been numbered section 5 of this article. The references in the section to Article V have been changed to Article VI to reflect renumbering of the articles.

Section 6. The new section, the title of which has been changed to "Effective Date and Application of [Article VII, Section 3] Real Property Tax Transfer" numbered section 6 of this article. The references to Article VII have been changed to Article VIII to reflect renumbering of the articles. A comma has been inserted between the words "amendment and" in the second sentence. A new paragraph has been formed in the section starting with the fourth sentence. The phrase in the proviso in the fourth sentence "or the additions of new and further exemptions or dedications of lands" has been set off with commas.

Section 7. The new section "1978 Board of Education Elections" has been numbered section 7 of this article.

Section 8. The new section "Effective Date for Office of Hawaiian Affairs" has been numbered section 8 of this article. References to Article XI have been changed to Article XII to reflect renumbering of articles.

Section 9. The present section 9 "Effective Date and Application of Article VII, Section 2" has been deleted as having been carried out and having no further effect. The present section 10 has been renumbered section 9 of this article.

Section 10. The present section 11 of this article has been renumbered section 10.

Section 11. The present section 12 of this article has been renumbered section 11.

Your Committee recommends (1) agreement upon the final form of the proposed amendments to the Constitution as set forth in Exhibit A and Exhibit B; (2) for such event that any or some of the proposed amendments are not ratified, that the Convention request of the Revisor of Statutes of Hawaii to make such necessary rearrangement, renumbering and technical changes of the sections and articles of the Constitution as may be affected for proper form and arrangement in proper order in the Constitution; and (3) adoption of Standing Committee Report No. 104.

Exhibit A of the Constitution of the State of Hawaii follows.

Signed by all members of the Committee except Delegates Burgess, Odanaka and Takemoto.

EXHIBIT A

THE CONSTITUTION OF THE STATE OF HAWAII

PREAMBLE

We, the people of Hawaii, grateful for Divine Guidance, and mindful of our Hawaiian heritage and uniqueness as an island State, dedicate our efforts to fulfill the philosophy decreed by the Hawaii State motto, "Ua mau ke ea o ka aina i ka pono."

We reserve the right to control our destiny, to nurture the integrity of our people and culture, and to preserve the quality of life that we desire.

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

FEDERAL CONSTITUTION ADOPTED

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

ARTICLE I

BILL OF RIGHTS

POLITICAL POWER

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

RIGHTS OF INDIVIDUALS

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

EQUALITY OF RIGHTS

Section 3. Equality of rights under the law shall not be denied or abridged by the State on account of sex. The legislature shall have the power to enforce, by appropriate legislation, the provisions of this section.

FREEDOM OF RELIGION, SPEECH, PRESS,
ASSEMBLY AND PETITION

Section 4. No law shall be enacted respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press or the right of the people peaceably to assemble and to petition the government for a redress of grievances.

DUE PROCESS AND EQUAL PROTECTION

Section 5. No person shall be deprived of life, liberty or property without due process of law, nor be denied the equal protection of the laws, nor be denied the enjoyment of the person's civil rights or be discriminated against in the exercise thereof because of race, religion, sex or ancestry.

RIGHT TO PRIVACY

Section 6. The right of the people to privacy is recognized and shall not be infringed without the showing of a compelling state interest. The legislature shall take affirmative steps to implement this right.

SEARCHES, SEIZURES AND INVASION
OF PRIVACY

Section 7. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches, seizures and invasions of privacy shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized or the communications sought to be intercepted.

RIGHTS OF CITIZENS

Section 8. No citizen shall be disfranchised, or deprived of any of the rights or privileges secured to other citizens, unless by the law of the land.

ENLISTMENT; SEGREGATION

Section 9. No citizen shall be denied enlistment in any military organization of this State nor be segregated therein because of race, religious principles or ancestry.

INDICTMENT; DOUBLE JEOPARDY; SELF-INCRIMINATION

Section 10. No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the armed forces when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy; nor shall any person be compelled in any criminal case to be a witness against oneself.

GRAND JURY COUNSEL

Section 11. Whenever a grand jury is impaneled, there shall be an independent counsel appointed as provided by law to advise the members of the grand jury regarding matters brought before it. Independent counsel shall be selected from among those persons licensed to practice law by the supreme court of the State and shall not be a public employee. The term and compensation for independent counsel shall be as provided by law.

BAIL; EXCESSIVE PUNISHMENT

Section 12. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted. The court may dispense with bail if reasonably satisfied that the defendant or witness will appear when directed, except for a defendant charged with an offense punishable by life imprisonment.

TRIAL BY JURY, CIVIL CASES

Section 13. In suits at common law where the value in controversy shall exceed one thousand dollars, the right of trial by jury shall be preserved. The legislature may provide for a verdict by not less than three-fourths of the members of the jury.

RIGHTS OF ACCUSED

Section 14. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the district wherein the crime shall have been committed, which district shall have been previously ascertained by law, or of such other district to which the prosecution may be removed with the consent of the accused; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against the accused; to have compulsory process for obtaining witnesses in the accused's favor; and to have the assistance of counsel for the accused's defense. Juries, where the crime charged is serious, shall consist of twelve persons. The State shall provide counsel for an indigent defendant charged with an offense punishable by imprisonment.

HABEAS CORPUS AND SUSPENSION OF LAWS

Section 15. The privilege of the writ of habeas corpus shall not be suspended unless, when in cases of rebellion or invasion, the public safety may require it.

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

SUPREMACY OF CIVIL POWER

Section 16. The military shall be held in strict subordination to the civil power.

RIGHT TO BEAR ARMS

Section 17. A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

QUARTERING OF SOLDIERS

Section 18. No soldier or member of the militia shall, in time of peace, be quartered in any house, without the consent of the owner or occupant, nor in time of war, except in a manner provided by law.

IMPRISONMENT FOR DEBT

Section 19. There shall be no imprisonment for debt.

EMINENT DOMAIN

Section 20. Private property shall not be taken or damaged for public use without just compensation.

LIMITATIONS OF SPECIAL PRIVILEGES

Section 21. The power of the State to act in the general welfare shall never be impaired by the making of any irrevocable grant of special privileges or immunities.

CONSTRUCTION

Section 22. The enumeration of rights and privileges shall not be construed to impair or deny others retained by the people.

ARTICLE II

SUFFRAGE AND ELECTIONS

QUALIFICATIONS

Section 1. Every citizen of the United States who shall have attained the age of eighteen years, have been a resident of this State not less than one year next preceding the election and be a voter registered as provided by law, shall be qualified to vote in any state or local election.

DISQUALIFICATION

Section 2. No person who is non compos mentis shall be qualified to vote. No person convicted of a felony shall be qualified to vote except upon the person's final discharge or earlier as provided by law.

RESIDENCE

Section 3. No person shall be deemed to have gained or lost residence simply because of the person's presence or absence while employed in the service of the United States, or while engaged in navigation or while a student at any institution of learning.

REGISTRATION; VOTING

Section 4. The legislature shall provide for the registration of voters and for absentee voting and shall prescribe the method of voting at all elections. Secrecy of voting shall be preserved; provided that no person shall be required to declare a party preference or nonpartisanship as a condition of voting in any primary or special primary election. Secrecy of voting and choice of political party affiliation or nonpartisanship shall be preserved.

CAMPAIGN FUND, SPENDING LIMIT

Section 5. The legislature shall establish a campaign fund to be used for partial public financing of campaigns for public offices of the State and its political subdivisions, as provided by law. The legislature shall provide a limit on the campaign spending of candidates.

CAMPAIGN CONTRIBUTIONS LIMITS

Section 6. Limitations on campaign contributions to any political candidate, or authorized political campaign organization for such candidate, for any elective office within the State shall be provided by law.

RESIGNATION FROM PUBLIC OFFICE

Section 7. Any elected public officer shall resign from that office before being eligible as a candidate for another public office, if the term of the office sought begins before the end of the term of the office held.

GENERAL, SPECIAL AND PRIMARY ELECTIONS

Section 8. General elections shall be held on the first Tuesday after the first Monday in November in all even-numbered years. Special and primary elections may be held as provided by law; provided that in no case shall any primary election precede a general election by less than forty-five days.

PRESIDENTIAL PREFERENCE PRIMARY

Section 9. A presidential preference primary may be held as provided by law.

CONTESTED ELECTIONS

Section 10. Contested elections shall be determined by a court of competent jurisdiction in such manner as shall be provided by law.

ARTICLE III

THE LEGISLATURE

LEGISLATIVE POWER

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

COMPOSITION OF SENATE

Section 2. The senate shall be composed of twenty-five members, who shall be elected by the qualified voters of the respective senatorial districts. The senatorial districts and the number of senators to be elected from each shall be as set forth in the reapportionment plan as established by the reapportionment commission.

COMPOSITION OF HOUSE OF REPRESENTATIVES

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

ELECTION OF MEMBERS; TERM

Section 4. The members of the legislature shall be elected at general elections. The term of office of members of the house of representatives shall be two years beginning with their election and ending on the day of the next general election, and the term of office of members of the senate shall be four years beginning with their election and ending on the day of the second general election after their election.

VACANCIES

Section 5. Any vacancy in the legislature shall be filled for the unexpired term in such manner as may be provided by law, or, if no provision be made by law, by appointment by the governor for the unexpired term.

QUALIFICATIONS OF MEMBERS

Section 6. No person shall be eligible to serve as a member of the senate unless the person shall have been a resident of the State for not less than three years, have attained the age of majority and be a qualified voter of the senatorial district from which the person seeks to be elected. No person shall be eligible to serve as a member of the house of representatives unless the person shall have been a resident of the State for not less than three years, have attained the age of majority and be a qualified voter of the representative district from which the person seeks to be elected.

PRIVILEGES OF MEMBERS

Section 7. No member of the legislature shall be held to answer before any other tribunal for any statement made or action taken in the exercise of the member's legislative functions; and members of the legislature shall, in all cases except felony or breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to and returning from the same.

DISQUALIFICATIONS OF MEMBERS

Section 8. No member of the legislature shall hold any other public office under the State, nor shall the member, during the term for which the member is elected or appointed, be elected or appointed to any public office or employment which shall have been created, or the emoluments whereof shall have been increased, by legislative act during such term. The term "public office," for the purposes of this section, shall not include notaries public, reserve police officers or officers of emergency organizations for civilian defense or disaster relief. The legislature may prescribe further disqualifications.

SALARY; ALLOWANCES; COMMISSION ON
LEGISLATIVE SALARY

Section 9. The members of the legislature shall receive allowances reasonably related to expenses as provided by law, and a salary prescribed pursuant to this section.

There shall be a commission on legislative salary, which shall be appointed by the governor on or before November 30, 1978, and every eight years thereafter. Not later than the fortieth legislative day of the 1979 regular legislative session and every eight years thereafter, the commission shall submit to the legislature and the governor recommendations for a salary plan for members of the legislature, and then dissolve. The salary plan submitted shall become effective as provided in the plan unless the legislature disapproves the plan by adoption of a concurrent resolution prior to adjournment sine die of the legislative session in which the plan is submitted or the governor disapproves the plan by a message of disapproval transmitted to the legislature prior to such adjournment. Any change in salary which becomes effective shall not apply to the legislature to which the recommendation for the change in salary was submitted.

SESSIONS

Section 10. The legislature shall convene annually in regular session at 10:00 o'clock a.m. on the third Wednesday in January.

At the written request of two-thirds of the members to which each house is entitled, the presiding officers of both houses shall convene the legislature in special session. The governor may convene both houses or the senate alone in special session.

Regular sessions shall be limited to a period of sixty days, and special sessions shall be limited to a period of thirty days. Any session may be extended a total of not more than fifteen days. Such extension shall be granted by the presiding officers of both houses at the written request of two-thirds of the members to which each house is entitled or may be granted by the governor.

Each regular session shall be recessed for not less than five days at some period between the twentieth and fortieth days of the regular session. The legislature shall determine the dates of the mandatory recess by concurrent resolution. Any session may be recessed by concurrent resolution adopted by a majority of the members to which each house is entitled. Saturdays, Sundays, holidays, the days in mandatory recess and any days in recess pursuant to a concurrent resolution shall be excluded in computing the number of days of any session.

All sessions shall be held in the capital of the State. In case the capital shall be unsafe, the governor may direct that any session be held at some other place.

ADJOURNMENT

Section 11. Neither house shall adjourn during any session of the legislature for more than three days, or sine die, without the consent of the other.

ORGANIZATION; DISCIPLINE; RULES;
PROCEDURE

Section 12. Each house shall be the judge of the elections, returns and qualifications of its own members and shall have, for misconduct, disorderly behavior or neglect of duty of any member, power to punish such member by censure or, upon a two-thirds vote of all the members to which such house is entitled, by suspension or expulsion of such member. Each house shall choose its own officers, determine the rules of its proceedings and keep a journal. The ayes and noes of the members on any question shall, at the desire of one-fifth of the members present, be entered upon the journal.

Twenty days after a bill has been referred to a committee in either house, the bill may

be recalled from such committee by the affirmative vote of one-third of the members to which such house is entitled.

Every meeting of a committee in either house or of a committee comprised of a member or members from both houses held for the purpose of making decision on matters referred to the committee shall be open to the public.

By rule of its proceedings, applicable to both houses, each house shall provide for the date by which all bills to be considered in a regular session shall be introduced. This date shall be after the nineteenth day of the session and shall precede the commencement of the mandatory recess of not less than five days as provided in section 10 of this article.

QUORUM; COMPULSORY ATTENDANCE

Section 13. A majority of the number of members to which each house is entitled shall constitute a quorum of such house for the conduct of ordinary business, of which quorum a majority vote shall suffice; but the final passage of a bill in each house shall require the vote of a majority of all the members to which such house is entitled, taken by ayes and noes and entered upon its journal. A smaller number than a quorum may adjourn from day to day and may compel the attendance of absent members in such manner and under such penalties as each house may provide.

BILLS; ENACTMENT

Section 14. No law shall be passed except by bill. Each law shall embrace but one subject, which shall be expressed in its title. The enacting clause of each law shall be, "Be it enacted by the legislature of the State of Hawaii."

PASSAGE OF BILLS

Section 15. No bill shall become law unless it shall pass three readings in each house on separate days. No bill shall pass third or final reading in either house unless printed copies of the bill in the form to be passed shall have been made available to the members of that house for at least forty-eight hours.

Every bill when passed by the house in which it originated, or in which amendments thereto shall have originated, shall immediately be certified by the presiding officer and clerk and sent to the other house for consideration.

Any bill pending at the final adjournment of a regular session in an odd-numbered year shall carry over with the same status to the next regular session. Before the carried-over bill is enacted, it shall pass at least one reading in the house in which the bill originated.

APPROVAL OR VETO

Section 16. Every bill which shall have passed the legislature shall be certified by the presiding officers and clerks of both houses and shall thereupon be presented to the governor. If the governor approves it, the governor shall sign it and it shall become law. If the governor does not approve such bill, the governor may return it, with the governor's objections to the legislature. Except for items appropriated to be expended by the judicial and legislative branches, the governor may veto any specific item or items in any bill which appropriates money for specific purposes by striking out or reducing the same; but the governor shall veto other bills, if at all, only as a whole.

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

RECONSIDERATION AFTER ADJOURNMENT

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

become law only if the governor shall sign it within ten days after presentation.

In computing the number of days designated in this section, the following days shall be excluded: Saturdays, Sundays, holidays and any days in which the legislature is in recess prior to its adjournment as provided in section 10 of this article.

PROCEDURES UPON VETO

Section 17. Upon the receipt of a veto message from the governor, each house shall enter the same at large upon its journal and proceed to reconsider the vetoed bill, or the item or items vetoed, and again vote upon such bill, or such item or items, by ayes and noes, which shall be entered upon its journal. If after such reconsideration such bill, or such item or items, shall be approved by a two-thirds vote of all members to which each house is entitled, the same shall become law.

PUNISHMENT OF NONMEMBERS

Section 18. Each house may punish by fine, or by imprisonment not exceeding thirty days, any person not a member of either house who shall be guilty of disrespect of such house by any disorderly or contemptuous behavior in its presence or that of any committee thereof; or who shall, on account of the exercise of any legislative function, threaten harm to the body or estate of any of the members of such house; or who shall assault, arrest or detain any witness or other person ordered to attend such house, on the witness' or other person's way going to or returning therefrom; or who shall rescue any person arrested by order of such house.

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

IMPEACHMENT

Section 19. The governor and lieutenant governor, and any appointive officer for whose removal the consent of the senate is required, may be removed from office upon conviction of impeachment for such causes as may be provided by law.

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

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

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

ARTICLE IV

REAPPORTIONMENT

REAPPORTIONMENT YEARS

Section 1. The year 1973, the year 1981, and every tenth year thereafter shall be reapportionment years.

REAPPORTIONMENT COMMISSION

Section 2. A reapportionment commission shall be constituted on or before March 1 of each reapportionment year and whenever reapportionment is required by court order. The commission shall consist of nine members. The president of the senate and the speaker of the house of representatives shall each select two members. Members of each house belonging to the party or parties different from that of the president or the speaker shall designate one of their number for each house and the two so designated shall each select two members of the commission. The eight members so selected shall, promptly after selection, be certified by the selecting authorities to the chief election officer and shall within thirty days thereafter select, by a vote of six members, and promptly certify to the chief election

officer the ninth member who shall serve as chairperson of the commission.

Each of the four officials designated above as selecting authorities for the eight members of the commission shall, at the time of the commission selections, also select one person from each basic island unit to serve on an apportionment advisory council for that island unit. The councils shall remain in existence during the life of the commission and each shall serve in an advisory capacity to the commission for matters affecting its island unit.

A vacancy in the commission or a council shall be filled by the initial selecting authority within fifteen days after the vacancy occurs. Commission and council positions and vacancies not filled within the times specified shall be filled promptly thereafter by the supreme court.

The commission shall act by majority vote of its membership and shall establish its own procedures, except as may be provided by law.

Not more than one hundred fifty days from the date on which its members are certified, the commission shall file with the chief election officer a reapportionment plan for the state legislature and a reapportionment plan for the United States congressional districts which shall become law after publication as provided by law. Members of the commission shall hold office until each reapportionment plan becomes effective or until such time as may be provided by law.

No member of the reapportionment commission or an apportionment advisory council shall be eligible to become a candidate for election to either house of the legislature or to the United States House of Representatives in either of the first two elections under any such reapportionment plan.

Commission and apportionment advisory council members shall be compensated and reimbursed for their necessary expenses as provided by law.

The chief election officer shall be secretary of the commission without vote and, under the direction of the commission, shall furnish all necessary technical services. The legislature shall appropriate funds to enable the commission to carry out its duties.

CHIEF ELECTION OFFICER

Section 3. The legislature shall provide for a chief election officer of the State, whose responsibilities shall be as provided by law and shall include the supervision of state elections, the maximization of registration of eligible voters throughout the State and the maintenance of data concerning registered voters, elections, apportionment and districting.

APPORTIONMENT AMONG BASIC ISLAND UNITS

Section 4. The commission shall allocate the total number of members of each house of the state legislature being reapportioned among the four basic island units, namely: (1) the island of Hawaii, (2) the islands of Maui, Lanai, Molokai and Kahoolawe, (3) the island of Oahu and all other islands not specifically enumerated, and (4) the islands of Kauai and Niihau, on the basis of the number of voters registered in the last preceding general election in each of the basic island units and computed by the method known as the method of equal proportions; except that no basic island unit shall receive less than one member in each house.

APPORTIONMENT WITHIN BASIC ISLAND UNITS

Section 5. Upon the determination of the total number of members of each house of the state legislature to which each basic island unit is entitled, the commission shall apportion the members among the districts therein and shall redraw district lines where necessary in such manner that for each house the average number of registered voters per member in each district is as nearly equal to the average for the basic island unit as practicable.

In effecting such redistricting, the commission shall be guided by the following criteria:

1. No district shall extend beyond the boundaries of any basic island unit.
2. No district shall be so drawn as to unduly favor a person or political faction.
3. Except in the case of districts encompassing more than one island, districts shall be contiguous.
4. Insofar as practicable, districts shall be compact.

5. Where possible, district lines shall follow permanent and easily recognized features, such as streets, streams and clear geographical features, and, when practicable, shall coincide with census tract boundaries.

6. Where practicable, representative districts shall be wholly included within senatorial districts.

7. Not more than four members shall be elected from any district.

8. Where practicable, submergence of an area in a larger district wherein substantially different socio-economic interests predominate shall be avoided.

9. No consideration shall be given to holdover senators in effecting redistricting.

PLACEMENT OF HOLDOVER SENATORS

Section 6. If a senator is serving a term which will extend past the general election at which an apportionment plan becomes effective, the reapportionment commission shall designate in the plan the senatorial district the senator shall represent for the remaining period of the senator's term. In making such designation, the senator need not live in the senatorial district which the senator is designated as representing during the remainder of the term which extends past the general election for which the reapportionment plan becomes effective; provided the reapportionment commission shall consider the following criteria:

1. The senatorial district from which the senator was elected.
2. The senatorial district in which the senator will reside under the reapportionment plan.
3. The requirement of continuing the staggered terms of senators in each district as established by Section 2 of Article XVIII, the next section in this article and the number of senators in a senatorial district under the reapportionment plan of the commission.

RETENTION OF STAGGERED TERMS FOR THE SENATE

Section 7. The senate shall be composed of senators who serve staggered terms of office as follows: senatorial districts with one member, the term of office shall end as provided by the constitution; senatorial districts with two members, each member shall serve a term ending on the date of a different general election; senatorial districts with three members, (A) two members shall serve a term ending on the date of the same general election and (B) one member shall serve a term ending on the date of a general election different than the other two members; senatorial districts with four members, (A) two members shall serve a term ending on the date of the same general election and (B) two members shall serve a term ending on the date of a general election different than the other two members.

If, in the first or second general election in which senators are elected after a reapportionment, the number of senators in a senatorial district whose terms would end on a date of a general election will be more than that set forth in the above paragraph, then at such general election the members of the senate shall be divided into two classes. The members of the first class shall hold office for a term of four years beginning with their election and ending on the day of the second general election held thereafter. The first class shall consist of that number of persons with the highest number of votes necessary to fulfill item (B) in the above paragraph for senatorial districts with three or four members or one person in senatorial districts with two members. The remaining persons shall constitute the second class and shall hold office for a term of two years beginning with their election and ending on the day of the next general election held thereafter.

CONGRESSIONAL REDISTRICTING FOR UNITED STATES HOUSE OF REPRESENTATIVES

Section 8. The commission shall, at such times as may be required by this article and as may be required by law of the United States, redraw congressional district lines for the districts from which the members of the United States House of Representatives allocated to this State by Congress are elected.

MANDAMUS AND JUDICIAL REVIEW

Section 9. Original jurisdiction is vested in the supreme court of the State to be exercised on the petition of any registered voter whereby it may compel, by mandamus or otherwise, the appropriate person or persons to perform their duty or to correct any error made in a reapportionment plan, or it may take such other action to effectuate the purposes of this

section as it may deem appropriate. Any such petition shall be filed within forty-five days of the date specified for any duty or within forty-five days after the filing of a reapportionment plan.

ARTICLE V

THE EXECUTIVE

ESTABLISHMENT OF THE EXECUTIVE

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

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

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

No person shall be elected to the office of governor for more than two consecutive full terms.

No person shall be eligible for the office of governor unless the person shall be a qualified voter, have attained the age of thirty years and have been a resident of this State for five years immediately preceding the person's election.

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

LIEUTENANT GOVERNOR

Section 2. There shall be a lieutenant governor who shall have the same qualifications as the governor. The lieutenant governor shall be elected at the same time, for the same term and in the same manner as the governor; provided that the votes cast in the general election for the nominee for governor shall be deemed cast for the nominee for lieutenant governor of the same political party. No person shall be elected to the office of lieutenant governor for more than two consecutive full terms. The lieutenant governor shall perform such duties as may be provided by law.

COMPENSATION: GOVERNOR, LIEUTENANT GOVERNOR

Section 3. The compensation of the governor and of the lieutenant governor shall be as provided by law, but shall not be less than thirty-three thousand five hundred dollars, and twenty-seven thousand five hundred dollars, respectively, a year. Such compensation shall not be increased or decreased for their respective terms, unless by general law applying to all salaried officers of the State. When the lieutenant governor succeeds to the office of the governor, the lieutenant governor shall receive the compensation for that office.

SUCCESSION TO GOVERNORSHIP; ABSENCE OR DISABILITY OF GOVERNOR

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

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

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

EXECUTIVE POWERS

Section 5. The governor shall be responsible for the faithful execution of the laws. The governor shall be commander in chief of the armed forces of the State and may call out such forces to execute the laws, suppress or prevent insurrection or lawless violence or

repel invasion. The governor shall, at the beginning of each session, and may, at other times, give to the legislature information concerning the affairs of the State and recommend to its consideration such measures as the governor shall deem expedient.

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

The governor shall appoint an administrative director to serve at the governor's pleasure.

EXECUTIVE AND ADMINISTRATIVE OFFICES AND DEPARTMENTS

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

Each principal department shall be under the supervision of the governor and, unless otherwise provided in this constitution or by law, shall be headed by a single executive. Such single executive shall be nominated and, by and with the advice and consent of the senate, appointed by the governor. That person shall hold office for a term to expire at the end of the term for which the governor was elected, unless sooner removed by the governor; except that the removal of the chief legal officer of the State shall be subject to the advice and consent of the senate.

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

The governor shall nominate and, by and with the advice and consent of the senate, appoint all officers for whose election or appointment provision is not otherwise provided for by this constitution or by law. If the manner of removal of an officer is not prescribed in this constitution, removal shall be as provided by law.

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

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

Every officer appointed under the provisions of this section shall be a citizen of the United States and shall have been a resident of this State for at least one year immediately preceding that person's appointment, except that this residency requirement shall not apply to the president of the University of Hawaii.

ARTICLE VI

THE JUDICIARY

JUDICIAL POWER

Section 1. The judicial power of the State shall be vested in one supreme court, one intermediate appellate court, circuit courts, district courts and in such other courts as the legislature may from time to time establish. The several courts shall have original and appellate jurisdiction as provided by law and shall establish time limits for disposition of cases in accordance with their rules.

SUPREME COURT; INTERMEDIATE
APPELLATE COURT; CIRCUIT COURTS

Section 2. The supreme court shall consist of a chief justice and four associate justices. The chief justice may assign a judge or judges of the intermediate appellate court or a circuit court to serve temporarily on the supreme court, a judge of the circuit court to serve temporarily on the intermediate appellate court and a judge of the district court to serve temporarily on the circuit court. As provided by law, retired justices of the supreme court also may serve temporarily on the supreme court at the request of the chief justice. In case of a vacancy in the office of chief justice, or if the chief justice is ill, absent or otherwise unable to serve, an associate justice designated in accordance with the rules of the supreme court shall serve temporarily in place of the chief justice.

APPOINTMENT OF JUSTICES AND JUDGES

Section 3. The governor shall, with the consent of the senate, fill a vacancy in the office of the chief justice, supreme court, intermediate appellate court and circuit courts, by appointing a person from a list of not less than six nominees for the vacancy, presented to the governor by the judicial selection commission.

If the governor fails to make any appointment within thirty days of presentation, or within ten days of the senate's rejection of any previous appointment, the appointment shall be made by the judicial selection commission from the list with the consent of the senate. If the senate fails to reject any appointment within thirty days thereof, it shall be deemed to have given its consent to such appointment. If the senate shall reject any appointment, the governor shall make another appointment from the list within ten days thereof. The same appointment and consent procedure shall be followed until a valid appointment has been made, or failing this, the commission shall make the appointment from the list, without senate consent.

The chief justice shall fill a vacancy in the district courts by appointing a person from a list of not less than six nominees for the vacancy presented by the judicial commission. If the chief justice fails to make the appointment within thirty days of presentation, the appointment shall be made by the judicial selection commission from the list. The chief justice shall appoint per diem district court judges as provided by law.

QUALIFICATIONS FOR APPOINTMENT

Justices and judges shall be residents and citizens of the State and of the United States, and licensed to practice law by the supreme court. A justice of the supreme court, a judge of the intermediate appellate court and a judge of the circuit court shall have been so licensed for a period of not less than ten years preceding nomination. A judge of the district court shall have been so licensed for a period of not less than five years preceding nomination.

No justice or judge shall, during the term of office, engage in the practice of law, or run for or hold any other office or position of profit under the United States, the State or its political subdivisions.

TENURE; COMPENSATION; RETIREMENT

The term of office of justices and judges of the supreme court, intermediate appellate court and circuit courts shall be ten years. Judges of district courts shall hold office for the periods as provided by law. At least six months prior to the expiration of a justice's or judge's term of office, every justice and judge shall petition the judicial selection commission to be retained in office or shall inform the commission of an intention to retire. If the judicial selection commission determines that the justice or judge should be retained in office, the commission shall renew the term of office of such justice or judge for the period as provided by this section or by law.

There shall be a salary commission to review and recommend salaries for justices and judges of all state courts. Justices and judges shall have salaries as provided by law. Their compensation shall not be decreased during their respective terms of office, unless by general law applying to all salaried officers of the State. They shall be retired upon attaining the age of seventy years. They shall be included in any retirement law of the State.

JUDICIAL SELECTION COMMISSION

Section 4. There shall be a judicial selection commission that shall consist of nine members. The governor shall appoint three members to the commission. No more than one of the three members shall be a licensed attorney. The president of the senate and the speaker of the house of representatives shall each respectively appoint one member to the commission. The chief justice of the supreme court shall appoint two members to the commission. No more than one of the two members shall be a licensed attorney. Members in good standing of the

bar of the State shall elect two of their number to the commission in an election conducted by the supreme court or its delegate. No more than four members of the commission shall be licensed attorneys.

The commission shall be selected and shall operate in a wholly nonpartisan manner. After the initial formation of the commission, elections and appointments to the commission shall be for staggered terms of six years each. No member of the commission shall serve for more than one full six-year term on the commission.

Each member of the judicial selection commission shall be a resident of the State and a citizen of the United States. No member shall run for or hold any other elected office under the United States, the State or its political subdivisions. No member shall take an active part in political management or in political campaigns. No member shall be eligible for appointment to judicial office of the State so long as the person is a member of the judicial commission and for a period of three years thereafter.

No act of the judicial selection commission shall be valid except by concurrence of the majority of its voting members.

The judicial selection commission shall select one of its members to serve as chairperson. The commission shall promulgate rules which shall have the force and effect of law. The deliberations of the commission shall be confidential.

The legislature shall provide for the staff and operating expenses of the judicial selection commission in a separate budget. No member of the judicial selection commission shall receive any compensation for commission services, but shall be allowed necessary expenses for travel, board and lodging incurred in the performance of commission duties.

The judicial selection commission shall be attached to the judiciary branch of the state government for purposes of administration.

RETIREMENT; REMOVAL; DISCIPLINE

Section 5. The supreme court shall have the power to reprimand, discipline, suspend with or without salary, retire or remove from office any justice or judge for misconduct or disability, as provided by rules adopted by the supreme court.

The supreme court shall create a commission on judicial discipline which shall have authority to investigate and conduct hearings concerning allegations of misconduct or disability and to make recommendations to the supreme court concerning reprimand, discipline, suspension, retirement or removal of any justice or judge.

ADMINISTRATION

Section 6. The chief justice of the supreme court shall be the administrative head of the courts. The chief justice may assign judges from one circuit court to another for temporary service. With the approval of the supreme court, the chief justice shall appoint an administrative director to serve at the chief justice's pleasure.

RULES

Section 7. The supreme court shall have power to promulgate rules and regulations in all civil and criminal cases for all courts relating to process, practice, procedure and appeals, which shall have the force and effect of law.

ARTICLE VII

TAXATION AND FINANCE

TAXING POWER INALIENABLE

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

INCOME TAXATION

Section 2. In enacting any law imposing a tax on or measured by income, the legislature may define income by reference to provisions of the laws of the United States as they may be or become effective at any time or from time to time, whether retrospective or prospective in their operation. The legislature may provide that amendments to such laws of the United States shall become the law of the State upon their becoming the law of the United

States. The legislature shall in any such law set the rate or rates of such tax. The legislature may in so defining income make exceptions, additions or modifications to any provisions of the laws of the United States so referred to and provide for retrospective exceptions or modifications to those provisions which are retrospective.

TAX REVIEW COMMISSION

Section 3. There shall be a tax review commission, which shall be appointed as provided by law on or before July 1, 1980, and every five years thereafter. The commission shall submit to the legislature an evaluation of the State's tax structure, recommend revenue and tax policy and then dissolve.

APPROPRIATIONS FOR PRIVATE PURPOSES PROHIBITED

Section 4. No tax shall be levied or appropriation of public money or property made, nor shall the public credit be used, directly or indirectly, except for a public purpose. No grant shall be made in violation of Section 4 of Article I of this constitution. No grant of public money or property shall be made except pursuant to standards provided by law.

EXPENDITURE CONTROLS

Section 5. Provision for the control of the rate of expenditures of appropriated state moneys, and for the reduction of such expenditures under prescribed conditions, shall be made by law.

No public money shall be expended except pursuant to appropriations made by law. General fund expenditures for any fiscal year shall not exceed the State's current general fund revenues and unencumbered cash balances, except when the governor publicly declares the public health, safety or welfare is threatened as provided by law.

DISPOSITION OF EXCESS REVENUES

Section 6. Whenever the state general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years, the legislature in the next regular session shall provide for a tax refund or tax credit to the taxpayers of the State, as provided by law.

COUNCIL ON REVENUES

Section 7. There shall be established by law a council on revenues which shall prepare revenue estimates of the state government and shall report the estimates to the governor and the legislature at times provided by law. The estimates shall be considered by the governor in preparing the budget, recommending appropriations and revenues and controlling expenditures. The estimates shall be considered by the legislature in appropriating funds and enacting revenue measures. All revenue estimates submitted by the council to the governor and the legislature shall be made public. If the legislature in appropriating funds or if the governor in preparing the budget or recommending appropriations exceeds estimated revenues due to proposed expenditures, this fact shall be made public including the reasons therefor.

THE BUDGET

Section 8. Within such time prior to the opening of each regular session in an odd-numbered year as may be provided by law, the governor shall submit to the legislature a budget in a form provided by law setting forth a complete plan of proposed expenditures of the executive branch, estimates as provided by law of the aggregate expenditures of the judicial and legislative branches, and anticipated receipts of the State for the ensuing fiscal biennium, together with such other information as the legislature may require. A complete plan of proposed expenditures of the judicial branch for the ensuing fiscal biennium shall be submitted by the chief justice to the legislature in a form and within such time prior to the opening of each regular session in an odd-numbered year as shall be provided by law. The budget prepared by the governor and the plan of proposed expenditures prepared by the chief justice shall also be submitted in bill form. The governor shall also, upon the opening of each such session, submit bills to provide for such proposed expenditures and for any recommended additional revenues or borrowings by which the proposed expenditures are to be met. The proposed general fund expenditures in the plan of proposed expenditures, including estimates of the aggregate expenditures of the judicial and legislative branches, submitted by the governor shall not exceed the general fund expenditure ceiling established by the legislature under section 9 of this article; provided that proposed general fund expenditures in the plan may exceed such ceiling if the governor sets forth the dollar amount and the rate by which the ceiling will be exceeded and the reasons therefor.

LEGISLATIVE APPROPRIATIONS; PROCEDURES; EXPENDITURE CEILING

Section 9. In each regular session in an odd-numbered year, the legislature shall transmit to the governor an appropriation bill or bills providing for the anticipated total expenditures of the State for the ensuing fiscal biennium. In such session, no appropriation bill, except bills recommended by the governor for immediate passage, or to cover the expenses of the legislature, shall be passed on final reading until the bill authorizing operating expenditures for the ensuing fiscal biennium, to be known as the general appropriations bill, shall have been transmitted to the governor.

In each regular session in an even-numbered year, at such time as may be provided by law, the governor may submit to the legislature a bill to amend any appropriation for operating expenditures of the current fiscal biennium, to be known as the supplemental appropriations bill, and bills to amend any appropriations for capital expenditures of the current fiscal biennium, and at the same time the governor shall submit a bill or bills to provide for any added revenues or borrowings that such amendments may require. In each regular session in an even-numbered year, bills may be introduced in the legislature to amend any appropriation act or bond authorization act of the current fiscal biennium or prior fiscal periods. In any such session in which the legislature submits to the governor a supplemental appropriations bill, no other appropriation bill, except bills recommended by the governor for immediate passage, or to cover the expenses of the legislature, shall be passed on final reading until such supplemental appropriations bill shall have been transmitted to the governor.

GENERAL FUND EXPENDITURE CEILING

Notwithstanding any other provision to the contrary, the legislature shall establish a general fund expenditure ceiling which shall limit the rate of growth of general fund appropriations, excluding federal funds received by the general fund, to the estimated rate of growth of the State's economy as provided by law. No appropriations in excess of such ceiling shall be authorized during any legislative session unless the legislature shall, by a two-thirds vote of the members to which each house of the legislature is entitled, set forth the dollar amount and the rate by which the ceiling will be exceeded and the reasons therefor.

AUDITOR

Section 10. The legislature, by a majority vote of each house in joint session, shall appoint an auditor who shall serve for a period of eight years and thereafter until a successor shall have been appointed. The legislature, by a two-thirds vote of the members in joint session, may remove the auditor from office at any time for cause. It shall be the duty of the auditor to conduct post-audits of the transactions, accounts, programs and performance of all departments, offices and agencies of the State and its political subdivisions, to certify to the accuracy of all financial statements issued by the respective accounting officers and to report the auditor's findings and recommendations to the governor and to the legislature at such times as shall be provided by law. The auditor shall also make such additional reports and conduct such other investigations as may be directed by the legislature.

LAPSING OF APPROPRIATIONS

Section 11. All appropriations for which the source is general obligation bond funds or general funds shall be for specified periods, and no such appropriation shall be made for a period exceeding three years. Any such appropriation or any portion of any such appropriation which is unencumbered at the close of the fiscal period for which the appropriation is made shall lapse; provided that no appropriation for which the source is general obligation bond funds nor any portion of any such appropriation shall lapse if the legislature determines such appropriation or any portion of such appropriation is necessary to qualify for federal aid financing and reimbursement. Where general obligation bonds have been authorized for an appropriation, the amount of the bond authorization shall be reduced in an amount equal to the amount lapsed.

Any appropriation for which the source is general obligation bond funds or general funds or any portion of any such appropriation which is effective on the date of ratification of this amendment and which is unencumbered on June 30, 1980 shall lapse on that date unless earlier lapsed by law; provided that no appropriation for which the source is general obligation bond funds nor any portion of any such appropriation shall lapse if the legislature determines such appropriation or any portion of such appropriation is necessary to qualify for federal aid financing and reimbursement. Where general obligation bonds have been authorized for an appropriation, the amount of the bond authorization shall be reduced in an amount equal to the amount lapsed on June 30, 1980.

DEFINITIONS; ISSUANCE OF INDEBTEDNESS

Section 12. For the purposes of this article:

1. The term "bonds" shall include bonds, notes and other instruments of indebtedness.
2. The term "general obligation bonds" means all bonds for the payment of the principal and interest of which the full faith and credit of the State or a political subdivision are pledged and, unless otherwise indicated, includes reimbursable general obligation bonds.
3. The term "net revenues" or "net user tax receipts" means the revenues or receipts derived from a public undertaking, improvement or system remaining after the costs of operation, maintenance and repair of such public undertaking, improvement or system and the required payments of the principal of and interest on all revenue bonds issued therefor have been made.
4. The term "person" means an individual, firm, partnership, corporation, association, cooperative or other legal entity, governmental body or agency, board, bureau or other instrumentality thereof, or any combination of the foregoing.
5. The term "rates, rentals and charges" means all revenues and other moneys derived from the operation or lease of a public undertaking, improvement or system, or derived from any payments or return on security under a loan program or a loan thereunder.
6. The term "reimbursable general obligation bonds" means general obligation bonds issued for a public undertaking, improvement or system from which revenues, or user taxes, or a combination of both, may be derived for the payment of the principal and interest as reimbursement to the general fund and for which reimbursement is required by law, and, in the case of general obligation bonds issued by the State for a political subdivision, general obligation bonds for which the payment of the principal and interest as reimbursement to the general fund is required by law to be made from the revenue of the political subdivision.
7. The term "revenue bonds" means all bonds payable from the revenues, or user taxes, or any combination of both, of a public undertaking, improvement, system or loan program and any loan made thereunder and secured as may be provided by law.
8. The term "special purpose revenue bonds" means all bonds payable from rental or other payments made to an issuer by a person pursuant to contract and secured as may be provided by law.
9. The term "user tax" means a tax on goods or services or on the consumption thereof, the receipts of which are substantially derived from the consumption, use or sale of goods and services in the utilization of the functions or services furnished by a public undertaking, improvement or system.

The legislature, by a majority vote of the members to which each house is entitled, shall authorize the issuance of all general obligation bonds, bonds issued under special improvement statutes and revenue bonds issued by or on behalf of the State and shall prescribe by general law the manner and procedure for such issuance. The legislature by general law shall authorize political subdivisions to issue general obligation bonds, bonds issued under special improvement statutes and revenue bonds and shall prescribe the manner and procedure for such issuance. All such bonds issued by or on behalf of a political subdivision shall be authorized by the governing body of such political subdivision.

Special purpose revenue bonds shall only be authorized or issued to finance facilities of or for, or to loan the proceeds of such bonds to assist, manufacturing, processing or industrial enterprises, utilities serving the general public, health care facilities provided to the general public by not-for-profit corporations or low and moderate income government housing programs, each of which is hereinafter referred to in this paragraph as a special purpose entity. The legislature, by a two-thirds vote of the members to which each house is entitled, may enact enabling legislation for the issuance of special purpose revenue bonds separately for each special purpose entity, and, by a two-thirds vote of the members to which each house is entitled and by separate legislative bill, may authorize the State to issue special purpose revenue bonds for each single project or multi-project program of each special purpose entity; provided that the issuance of such special purpose revenue bonds is found to be in the public interest by the legislature. The legislature may enact enabling legislation to authorize political subdivisions to issue special purpose revenue bonds. If so authorized, a political subdivision by a two-thirds vote of the members to which its governing body is entitled and by separate ordinance may authorize the issuance of special purpose revenue bonds for each single project or multi-project program of each special purpose entity; provided that the issuance of such special purpose revenue bonds is found to be in the public interest by the governing body of the political subdivision. No special purpose revenue bonds shall be secured directly or indirectly by the general credit of the issuer or by any revenues or taxes of the issuer other than receipts derived from payments by a person under

contract or from any security for such contract or special purpose revenue bonds and no moneys other than such receipts shall be applied to the payment thereof. The governor shall provide the legislature in November of each year with a report on the cumulative amount of all special purpose revenue bonds authorized and issued, and such other information as may be necessary.

DEBT LIMIT; EXCLUSIONS

Section 13. General obligation bonds may be issued by the State; provided that such bonds at the time of issuance would not cause the total amount of principal and interest payable in the current or any future fiscal year, whichever is higher, on such bonds and on all outstanding general obligation bonds to exceed: a sum equal to twenty percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance until June 30, 1982; and thereafter, a sum equal to eighteen and one-half percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance. Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance. Any bond issue by or on behalf of the State may exceed the debt limit if an emergency condition is declared to exist by the governor and concurred to by a two-thirds vote of the members to which each house of the legislature is entitled. For the purpose of this paragraph, general fund revenues of the State shall not include moneys received as grants from the federal government and receipts in reimbursement of any reimbursable general obligation bonds which are excluded as permitted by this section.

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

All general obligation bonds for a term exceeding two years shall be in serial form maturing in substantially equal installments of principal, or maturing in substantially equal installments of both principal and interest. The first installment of principal of general obligation bonds and of reimbursable general obligation bonds shall mature not later than five years from the date of issue of such series. The last installment on general obligation bonds shall mature not later than twenty-five years from the date of such issue and the last installment on general obligation bonds sold to the federal government, on reimbursable general obligation bonds and on bonds constituting instruments of indebtedness under which the State or a political subdivision incurs a contingent liability as a guarantor shall mature not later than thirty-five years from the date of such issue. The interest and principal payments of general obligation bonds shall be a first charge on the general fund of the State or political subdivision, as the case may be.

In determining the power of the State to issue general obligation bonds or the funded debt of any political subdivision under section 12, the following shall be excluded:

1. Bonds that have matured, or that mature in the then current fiscal year, or that have been irrevocably called for redemption and the redemption date has occurred or will occur in the then fiscal year, or for the full payment of which moneys or securities have been irrevocably set aside.

2. Revenue bonds, if the issuer thereof is obligated by law to impose rates, rentals and charges for the use and services of the public undertaking, improvement or system or the benefits of a loan program or a loan thereunder or to impose a user tax, or to impose a combination of rates, rentals and charges and user tax, as the case may be, sufficient to pay the cost of operation, maintenance and repair, if any, of the public undertaking, improvement or system or the cost of maintaining a loan program or a loan thereunder and the required payments of the principal of and interest on all revenue bonds issued for the public undertaking, improvement or system or loan program, and if the issuer is obligated to deposit such revenues or tax or a combination of both into a special fund and to apply the same to such payments in the amount necessary therefor.

3. Special purpose revenue bonds, if the issuer thereof is required by law to contract with a person obligating such person to make rental or other payments to the issuer in an amount at least sufficient to make the required payment of the principal of and interest on such special purpose revenue bonds.

4. Bonds issued under special improvement statutes when the only security for such bonds is the properties benefited or improved or the assessments thereon.

5. General obligation bonds issued for assessable improvements, but only to the extent that reimbursements to the general fund for the principal and interest on such bonds are in fact made from assessment collections available therefor.

6. Reimbursable general obligation bonds issued for a public undertaking, improvement or system but only to the extent that reimbursements to the general fund are in fact made from the net revenue, or net user tax receipts, or combination of both, as determined for the immediately preceding fiscal year.

7. Reimbursable general obligation bonds issued by the State for any political subdivision, whether issued before or after the effective date of this section, but only for as long as reimbursement by the political subdivision to the State for the payment of principal and interest on such bonds is required by law; provided that in the case of bonds issued after the effective date of this section, the consent of the governing body of the political subdivision has first been obtained; and provided further that during the period that such bonds are excluded by the State, the principal amount then outstanding shall be included within the funded debt of such political subdivision.

8. Bonds constituting instruments of indebtedness under which the State or any political subdivision incurs a contingent liability as a guarantor, but only to the extent the principal amount of such bonds does not exceed seven percent of the principal amount of outstanding general obligation bonds not otherwise excluded under this section; provided that the State or political subdivision shall establish and maintain a reserve in an amount in reasonable proportion to the outstanding loans guaranteed by the State or political subdivision as provided by law.

9. Bonds issued by or on behalf of the State or by any political subdivision to meet appropriations for any fiscal period in anticipation of the collection of revenues for such period or to meet casual deficits or failures of revenue, if required to be paid within one year, and bonds issued by or on behalf of the State to suppress insurrection, to repel invasion, to defend the State in war or to meet emergencies caused by disaster or act of God.

The total outstanding indebtedness of the State or funded debt of any political subdivision and the exclusions therefrom permitted by this section shall be made annually and certified by law or as provided by law. For the purposes of section 12 and this section, amounts received from on-street parking may be considered and treated as revenues of a parking undertaking.

Nothing in section 12 or in this section shall prevent the refunding of any bond at any time.

ARTICLE VIII

LOCAL GOVERNMENT

CREATION; POWERS OF POLITICAL SUBDIVISIONS

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

LOCAL SELF-GOVERNMENT; CHARTER

Section 2. Each political subdivision shall have the power to frame and adopt a charter for its own self-government within such limits and under such procedures as may be provided by general law. Such procedures, however, shall not require the approval of a charter by a legislative body.

Charter provisions with respect to a political subdivision's executive, legislative and administrative structure and organization shall be superior to statutory provisions, subject to the authority of the legislature to enact general laws allocating and reallocating powers and functions.

A law may qualify as a general law even though it is inapplicable to one or more counties by reason of the provisions of this section.

TAXATION AND FINANCE

Section 3. The taxing power shall be reserved to the State, except so much thereof as may be delegated by the legislature to the political subdivision, and except that all functions, powers and duties relating to the taxation of real property shall be exercised exclusively by the counties, with the exception of the county of Kalawao. The legislature shall

have the power to apportion state revenues among the several political subdivisions.

MANDATES; ACCRUED CLAIMS

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

TRANSFER OF MANDATED PROGRAMS

Section 5. If any new program or increase in the level of service under an existing program shall be mandated to any of the political subdivisions by the legislature, it shall provide that the State share in the cost.

STATEWIDE LAWS

Section 6. This article shall not limit the power of the legislature to enact laws of statewide concern.

ARTICLE IX

PUBLIC HEALTH AND WELFARE

PUBLIC HEALTH

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

CARE OF HANDICAPPED PERSONS

Section 2. The State shall have the power to provide for the treatment and rehabilitation of handicapped persons.

PUBLIC ASSISTANCE

Section 3. The State shall have the power to provide financial assistance, medical assistance and social services for persons who are found to be in need of and are eligible for such assistance and services as provided by law.

ECONOMIC SECURITY OF THE ELDERLY

Section 4. The State shall have the power to provide for the security of the elderly by establishing and promoting programs to assure their economic and social well-being.

HOUSING, SLUM CLEARANCE, DEVELOPMENT AND REHABILITATION

Section 5. The State shall have the power to provide for, or assist in, housing, slum clearance and the development or rehabilitation of substandard areas. The exercise of such power is deemed to be for a public use and purpose.

MANAGEMENT OF STATE POPULATION GROWTH

Section 6. The State and its political subdivisions, as provided by general law, shall plan and manage the growth of the population to protect and preserve the public health and welfare; except that each political subdivision, as provided by general law, may plan and manage the growth of its population in a more restrictive manner than the State.

PUBLIC SIGHTLINESS AND GOOD ORDER

Section 7. The State shall have the power to conserve and develop objects and places of historic or cultural interest and provide for public sightliness and physical good order. For these purposes private property shall be subject to reasonable regulation.

PRESERVATION OF A HEALTHFUL ENVIRONMENT

Section 8. The State shall have the power to promote and maintain a healthful environment, including the prevention of any excessive demands upon the environment and the State's resources.

CULTURAL RESOURCES

Section 9. The State shall have the power to preserve and develop the cultural, creative and traditional arts of its various ethnic groups.

PUBLIC SAFETY

Section 10. The law of the splintered paddle, mamala-hoe kanawai, decreed by Kamehameha I - Let every elderly person, woman and child lie by the roadside in safety - shall be a unique and living symbol of the State's concern for public safety.

The State shall have the power to provide for the safety of the people from crimes against persons and property.

ARTICLE X

EDUCATION

PUBLIC EDUCATION

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

BOARD OF EDUCATION

Section 2. There shall be a board of education composed of members who shall be elected in a nonpartisan manner by qualified voters, as provided by law, from two at-large school board districts. The first school board district shall be comprised of the island of Oahu and all other islands not specifically enumerated. The second school board district shall be comprised of the islands of Hawaii, Maui, Lanai, Molokai, Kahoolawe, Kauai and Niihau. Each at-large school board district shall be divided into departmental school districts, as may be provided by law. There shall be at least one member residing in each departmental school district.

POWER OF THE BOARD OF EDUCATION

Section 3. The board of education shall have the power, as provided by law, to formulate policy and to exercise control over the public school system through its executive officer, the superintendent of education, who shall be appointed by the board; except that the board shall have jurisdiction over the internal organization and management of the public school system, as provided by law, and shall exercise its jurisdiction in a manner consistent with general laws.

HAWAIIAN EDUCATION PROGRAM

Section 4. The State shall promote the study of Hawaiian culture, history and language.

The State shall provide for a Hawaiian education program consisting of language, culture and history in the public schools. The use of community expertise shall be encouraged as a suitable and essential means in furtherance of the Hawaiian education program.

UNIVERSITY OF HAWAII

Section 5. The University of Hawaii is hereby established as the state university and constituted a body corporate. It shall have title to all the real and personal property now or hereafter set aside or conveyed to it, which shall be held in public trust for its purposes, to be administered and disposed of as provided by law.

BOARD OF REGENTS; POWERS

Section 6. There shall be a board of regents of the University of Hawaii, the members of which shall be nominated and, by and with the advice and consent of the senate, appointed by the governor. At least part of the membership of the board shall represent geographic subdivisions of the State. The board shall have the power, as provided by law, to formulate policy, and to exercise control over the university through its executive officer, the president of the university, who shall be appointed by the board; except that the board shall have exclusive jurisdiction over the internal organization and management of the university. This section shall not limit the power of the legislature to enact laws of statewide concern.

ARTICLE XI

CONSERVATION, CONTROL AND DEVELOPMENT
OF RESOURCES

CONSERVATION AND DEVELOPMENT OF RESOURCES

Section 1. For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii's natural beauty and all natural resources, including land, water, air, minerals and energy sources, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.

All public natural resources are held in trust by the State for the benefit of the people.

MANAGEMENT AND DISPOSITION
OF NATURAL RESOURCES

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

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

AGRICULTURAL LANDS

Section 3. The State shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands. The legislature shall provide standards and criteria to accomplish the foregoing.

Lands identified by the State as important agricultural lands needed to fulfill the purposes above shall not be reclassified by the State or rezoned by its political subdivisions without meeting the standards and criteria established by the legislature and approved by a two-thirds vote of the body responsible for the reclassification or rezoning action.

PUBLIC LAND BANKING

Section 4. The State shall have the power to acquire interests in real property to control future growth, development and land use within the State. The exercise of such power is deemed to be for a public use and purpose.

GENERAL LAWS REQUIRED; EXCEPTIONS

Section 5. The legislative power over the lands owned by or under the control of the State and its political subdivisions shall be exercised only by general laws, except in respect to transfers to or for the use of the State, or a political subdivision, or any department or agency thereof.

MARINE RESOURCES

Section 6. The State shall have the power to manage and control the marine, seabed and other resources located within the boundaries of the State, including the archipelagic waters of the State, and reserves to itself all such rights outside state boundaries not specifically limited by federal or international law.

All fisheries in the sea waters of the State not included in any fish pond, artificial enclosure or state-licensed mariculture operation shall be free to the public, subject to vested rights and the right of the State to regulate the same; provided that mariculture operations shall be established under guidelines enacted by the legislature, which shall protect the public's use and enjoyment of the reefs. The State may condemn such vested rights for public use.

WATER RESOURCES

Section 7. The State has an obligation to protect, control and regulate the use of Hawaii's water resources for the benefit of its people.

The legislature shall provide for a water resources agency which, as provided by law, shall set overall water conservation, quality and use policies; define beneficial and reasonable uses; protect ground and surface water resources, watersheds and natural stream environments; establish criteria for water use priorities while assuring appurtenant rights and existing correlative and riparian uses and establish procedures for regulating all uses of Hawaii's water resources.

NUCLEAR ENERGY

Section 8. No nuclear fission power plant shall be constructed or radioactive material disposed of in the State without the prior approval by a two-thirds vote in each house of the legislature.

ENVIRONMENTAL RIGHTS

Section 9. Each person has the right to a clean and healthful environment, as defined by laws relating to environmental quality, including control of pollution and conservation, protection and enhancement of natural resources. Any person may enforce this right against any party, public or private, through appropriate legal proceedings, subject to reasonable limitations and regulation as provided by law.

ARTICLE XII

HAWAIIAN AFFAIRS

HAWAIIAN HOMES COMMISSION ACT

Section 1. Anything in this constitution to the contrary notwithstanding, the Hawaiian Homes Commission Act, 1920, enacted by the Congress, as the same has been or may be amended prior to the admission of the State, is hereby adopted as a law of the State, subject to amendment or repeal by the legislature; provided that if and to the extent that the United States shall so require, such law shall be subject to amendment or repeal only with the consent of the United States and in no other manner; provided further that if the United States shall have been provided or shall provide that particular provisions or types of provisions of such Act may be amended in the manner required for ordinary state legislation, such provisions or types of provisions may be so amended. The proceeds and income from Hawaiian home lands shall be used only in accordance with the terms and spirit of such Act. The legislature shall make sufficient sums available for the following purposes: (1) development of home, agriculture, farm and ranch lots; (2) home, agriculture, aquaculture, farm and ranch loans; (3) rehabilitation projects to include, but not limited to, educational, economic, political, social and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved; (4) the administration and operating budget of the department of Hawaiian home lands; in furtherance of (1), (2), (3) and (4) herein, by appropriating the same in the manner provided by law.

Thirty percent of the state receipts derived from the leasing of cultivated sugarcane lands under any provision of law or from water licenses shall be transferred to the native Hawaiian rehabilitation fund, section 213 of the Hawaiian Homes Commission Act, 1920, for the purposes enumerated in that section. Thirty percent of the state receipts derived from the leasing of lands cultivated as sugarcane lands on the effective date of this section shall continue to be so transferred to the native Hawaiian rehabilitation fund whenever such lands are sold, developed, leased, utilized, transferred, set aside or otherwise disposed of for purposes other than the cultivation of sugarcane. There shall be no ceiling established for the aggregate amount transferred into the native Hawaiian rehabilitation fund.

ACCEPTANCE OF COMPACT

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

COMPACT ADOPTION; PROCEDURES AFTER ADOPTION

Section 3. As a compact with the United States relating to the management and disposition of the Hawaiian home lands, the Hawaiian Homes Commission Act, 1920, as amended, shall be adopted as a provision of the constitution of this State, as provided in section 7, subsection (b), of the Admission Act, subject to amendment or repeal only with the consent of the United States, and in no other manner; provided that (1) sections 202, 213, 219, 220, 222, 224 and 225 and other provisions relating to administration, and paragraph (2) of section 204, sections 206 and 212 and other provisions relating to the powers and duties of officers other than those charged with the administration of such Act, may be amended in the constitution, or in the manner required for state legislation, but the Hawaiian home-loan fund, the Hawaiian home-operating fund and the Hawaiian home-development fund shall not be reduced

or impaired by any such amendment, whether made in the constitution or in the manner required for state legislation, and the encumbrances authorized to be placed on Hawaiian home lands by officers other than those charged with the administration of such Act, shall not be increased, except with the consent of the United States; (2) that any amendment to increase the benefits to lessees of Hawaiian home lands may be made in the constitution, or in the manner required for state legislation, but the qualifications of lessees shall not be changed except with the consent of the United States; and (3) that all proceeds and income from the "available lands," as defined by such Act, shall be used only in carrying out the provisions of such Act.

PUBLIC TRUST

Section 4. The lands granted to the State of Hawaii by Section 5(b) of the Admission Act and pursuant to Article XVI, Section 7, of the State Constitution, excluding therefrom lands defined as "available lands" by Section 203 of the Hawaiian Homes Commission Act, 1920, as amended, shall be held by the State as a public trust for native Hawaiians and the general public.

OFFICE OF HAWAIIAN AFFAIRS; ESTABLISHMENT OF BOARD OF TRUSTEES

Section 5. There is hereby established an Office of Hawaiian Affairs. The Office of Hawaiian Affairs shall hold title to all the real and personal property now or hereafter set aside or conveyed to it which shall be held in trust for native Hawaiians and Hawaiians. There shall be a board of trustees for the Office of Hawaiian Affairs elected by qualified voters who are Hawaiians, as provided by law. The board members shall be Hawaiians. There shall be not less than nine members of the board of trustees; provided that each of the following Islands have one representative: Oahu, Kauai, Maui, Molokai and Hawaii. The board shall select a chairperson from its members.

POWERS OF BOARD OF TRUSTEES

Section 6. The board of trustees of the Office of Hawaiian Affairs shall exercise power as provided by law: to manage and administer the proceeds from the sale or other disposition of the lands, natural resources, minerals and income derived from whatever sources for native Hawaiians and Hawaiians, including all income and proceeds from that pro rata portion of the trust referred to in section 4 of this article for native Hawaiians; to formulate policy relating to affairs of native Hawaiians and Hawaiians; and to exercise control over real and personal property set aside by state, federal or private sources and transferred to the board for native Hawaiians and Hawaiians. The board shall have the power to exercise control over the Office of Hawaiian Affairs through its executive officer, the administrator of the Office of Hawaiian Affairs, who shall be appointed by the board.

DEFINITION: HAWAIIAN; NATIVE HAWAIIAN

Section 7. The term "Hawaiian" means any descendant of the races inhabiting the Hawaiian Islands, previous to 1778.

The term "native Hawaiian" means any descendant of not less than one-half part of the blood of races inhabiting the Hawaiian Islands previous to 1778 as defined by the Hawaiian Homes Commission Act, 1920, as amended or may be amended.

TRADITIONAL AND CUSTOMARY RIGHTS

Section 8. The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.

SECTIONS OF THE HAWAIIAN HOMES COMMISSION ACT OF 1920, AS AMENDED, AS FURTHER AMENDED BY THE 1978 CONSTITUTIONAL CONVENTION AS PROVISIONS OF THE STATE CONSTITUTION PURSUANT TO ARTICLE XI RENUMBERED ARTICLE XII OF THE STATE CONSTITUTION

Section 204. Control by department of "available lands," return to board of land and natural resources, when. Upon the passage of this Act, all available lands shall immediately assume the status of Hawaiian home lands and be under the control of the department to be used and disposed of in accordance with the provisions of this Act, except that:

(1) In case any available land is under lease by the Territory of Hawaii, by virtue of section 73 of the Hawaiian Organic Act, at the time of the passage of this Act, such land

shall not assume the status of Hawaiian home lands until the lease expires or the board of land and natural resources withdraws the lands from the operation of the lease. If the land is covered by a lease containing a withdrawal clause, as provided in subdivision (d) of section 73 of the Hawaiian Organic Act, the board of land and natural resources shall withdraw such lands from the operation of the lease whenever the department gives notice to the board that the department is of the opinion that the lands are required by it for the purposes of this Act; and such withdrawal shall be held to be for a public purpose within the meaning of that term as used in subdivision (d) of section 73 of the Hawaiian Organic Act;

(2) Any available land, including lands selected by the department out of a larger area, as provided by this Act, not leased as authorized by the provisions of section 207(a) of this Act, may be returned to the board of land and natural resources as provided under section 212 of this Act, or may be retained for management by the department.

In the management of any retained available lands not required for leasing under section 207(a), the department may dispose of such lands to the public, including native Hawaiians, on the same terms, conditions, restrictions and uses applicable to the disposition of public lands as provided in chapter 171, Hawaii Revised Statutes; provided that the department may not sell or dispose of such lands in fee simple except as authorized under section 205 of this Act; provided further that the department is expressly authorized to negotiate, prior to negotiations with the general public, the disposition of a lease of Hawaiian home lands to a native Hawaiian, or organization or association owned or controlled by native Hawaiians, for commercial, industrial or other business purposes, in accordance with the procedure set forth in section 171-59, Hawaii Revised Statutes, subject to the notice requirement of section 171-16(c), Hawaii Revised Statutes, and the lease rental limitation imposed by section 171-17(b), Hawaii Revised Statutes.

(3) The department may, with the approval of the Secretary of the Interior, in order to consolidate its holdings or to better effectuate the purposes of this Act, exchange the title to available lands for land, privately or publicly owned, of an equal value. All land so acquired by the department shall assume the status of available lands as though such land were originally designated as available lands under section 203 hereof, and all lands so conveyed by the department shall assume the status of the land for which it was exchanged. The limitations imposed by section 73(1) of the Hawaiian Organic Act and the land laws of Hawaii as to the area and value of land that may be conveyed by way of exchange shall not apply to exchanges made pursuant hereto. No such exchange of land publicly owned by the State shall be made without the approval of two-thirds of the members of the board of land and natural resources. For the purposes of this paragraph, lands "publicly owned" means land owned by a county or the State or the United States.

* * *

Section 212. Lands returned to control of board of land and natural resources. The department may return any Hawaiian home lands not leased as authorized by the provisions of section 207 of this Act to the control of the board of land and natural resources. Any Hawaiian home lands so returned shall, until the department gives notice as hereinafter in this section provided, resume and maintain the status of public lands in accordance with the provisions of the Hawaii Revised Statutes; provided that such lands may not be sold, leased, set aside, used, transferred or otherwise disposed of except under a general lease only. Any lease by the board of land and natural resources hereafter entered into shall contain a withdrawal clause, and the lands so leased shall be withdrawn by the board, for the purpose of this Act, upon the department giving at its option, not less than one nor more than five years' notice of such withdrawal; provided that the minimum withdrawal-notice period shall be specifically stated in such lease. Each such lease, whether or not stipulated therein, shall be deemed subject to the right and duty of the board of land and natural resources to terminate the lease and return the lands to the department whenever the department gives notice to the board that the department is of the opinion that the lands are required.

Notwithstanding the provisions of section 171-95, Hawaii Revised Statutes, in the leasing of Hawaiian home lands by the board to a public utility or other governmental agency, where such use directly benefits the department of Hawaiian home lands or the homestead lessees, the rental may be nominal; in all other instances, the lease rental shall be no less than the value determined in accordance with section 171-17(b), Hawaii Revised Statutes.

Any general lease of Hawaiian home lands hereafter entered into by the board shall be void unless prior to the disposition of such lease by public auction, direct negotiation or otherwise, approval shall be obtained from the department of Hawaiian home lands.

* * *

Section 213. Funds and accounts. (a) There are established in the treasury of the State seven revolving funds, to be known respectively as the Hawaiian home loan fund, the

additional receipts loan fund, the Hawaiian home general loan fund, the Hawaiian home replacement loan fund, the Hawaiian home repair loan fund, the Hawaiian home farm loan fund and the Hawaiian home operating fund.

- (1) Hawaiian home loan fund. Thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provision of law or from water licenses shall be deposited into this fund. The aggregate amount of this fund including:
 - (A) The outstanding principal of all loans, advances and transfers which have been made to other funds for which this fund has not been or need not be reimbursed; and
 - (B) The installments of principal paid by the lessees upon loans made to them from this fund, or payments representing reimbursements, on account of advances, but not including interest on such loans or advances,shall not exceed \$5,000,000. The moneys in this fund shall be available for the purposes enumerated in section 214 of this Act.

That portion of the thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provision of law or from water licenses, in excess of the present ceiling in the Hawaiian home loan fund of \$5,000,000, which amount is called "additional receipts," shall be transferred to the Hawaiian home development fund, to the additional receipts loan fund and the Hawaiian home education fund as follows: fifteen per cent to the additional receipts loan fund; thirteen per cent to the Hawaiian home development fund and seventy-two per cent to the Hawaiian home education fund; provided that until June 30, 1979, the aggregate amount so transferred shall not exceed the maximum amount of \$5,000,000, which maximum amount shall be increased to \$5,000,000 from and after July 1, 1979.

- (2) Additional receipts loan fund. Moneys transferred to this fund, installments of principal paid by the lessees upon loans made to them from this fund, or as payments representing reimbursement on account of advances, but not including interest on such loans or advances, shall be used for the purposes enumerated in section 214 of this Act.
- (3) Hawaiian home general loan fund. Moneys appropriated by the legislature for the construction of homes but not otherwise set aside for a particular fund, excluding moneys appropriated for construction of replacement homes; moneys transferred from the Hawaiian loan interest fund and installments of principal paid by the lessees upon loans made to them from this fund, or as payments representing reimbursements on account of advances, but not including interest on such loans or advances; shall be deposited to this fund. The moneys in the fund shall be used for purposes enumerated in section 214 of this Act.
- (4) Hawaiian home replacement loan fund. The moneys in this fund shall be used to make loans to lessees to construct replacement homes upon their residence lots. Moneys appropriated by the legislature for replacement home construction loans; moneys transferred from the Hawaiian loan interest fund; installments of principal paid by the lessees upon loans made to them from this fund and moneys transferred from other funds or accounts by legislative authorization shall be deposited into this fund.
- (5) Hawaiian home repair loan fund. Moneys appropriated to this fund by the legislature; moneys transferred from the Hawaiian loan interest fund and installments of principal paid by the lessees upon loans made to them from this fund shall be deposited to this fund. The moneys in this fund shall be used to make loans in amounts not in excess of \$10,000 to lessees for repairs to their existing homes and for additions to such homes.
- (6) Hawaiian home farm loan fund. Moneys appropriated to this fund by the legislature; moneys transferred from the Hawaiian loan interest fund and installments of principal paid by the lessees upon loans made to them from this fund shall be deposited to this fund. The moneys in this fund shall be used to make loans not in excess of \$35,000 to lessees

of agricultural tracts leased under section 207 of this Act.

- (7) Hawaiian home operating fund. The interest transferred from the Hawaiian home loan fund, all fees received by the department from any other source and moneys transferred from the Hawaiian loan interest fund, except moneys received by the Hawaiian home administration account shall be directly deposited into the Hawaiian home operating fund. The moneys in this fund shall be available:
- (A) For construction and reconstruction of revenue-producing improvements intended to principally serve occupants of Hawaiian home lands, including acquisition or lease thereof of real property and interests therein, such as water rights or other interests;
 - (B) For payment into the treasury of the State of such amounts as are necessary to meet the interest and principal charges for state bonds issued for such revenue-producing improvements;
 - (C) For operation and maintenance of such improvements constructed from such funds or other funds;
 - (D) For the purchase of water or other utilities, goods, commodities, supplies or equipment needed for services, or to be re-sold, rented or furnished on a charge basis to occupants of Hawaiian home lands; and
 - (E) For appraisals, studies, consultants (architects, engineers) or any other staff services including those in section 202(b) required to implement, develop and operate these projects. The moneys in this fund may be supplemented by other funds available for, or appropriated by the legislature for, the same purposes. In addition to such moneys, this fund, with the approval of the governor, may be supplemented by transfers, made on a loan basis from the Hawaiian home loan fund for a period not exceeding ten years; provided that the aggregated amount of such transfers outstanding at any one time shall not exceed \$500,000.

(b) There are established in the treasury of the State eight special funds, to be known respectively as the Hawaiian home development fund, the Hawaiian home administration account, the Hawaiian loan guarantee fund, the Hawaiian loan interest fund, the borrowed money fund, the Hawaiian home trust fund, the Hawaiian home education fund and the native Hawaiian rehabilitation fund.

- (1) Hawaiian home development fund. Moneys transferred to this fund shall be available with the prior written approval of the governor for off-site improvements and development necessary to serve present and future occupants of Hawaiian home lands; for improvements, additions and repairs to all assets owned or leased by the department excluding structures or improvements that the department is obligated to acquire under section 209 of this Act; for engineering, architectural and planning services to maintain and develop properties; for such consultant services as may be contracted for under this Act; for purchase or lease of necessary equipment; for acquisition or lease of real property and interest therein and for improvements constructed for the benefit of beneficiaries of this Act and not otherwise permitted in the various loan funds, the administration account or the operating fund.
- (2) Hawaiian home administration account. The entire receipts derived from any leasing of the available lands defined in section 204 of this Act shall be deposited into this account. The moneys in this account shall be expended by the department for salaries and all other administration expenses of the department in conformity with general law applicable to all departments of the State, and no sums shall be expended for structures and other permanent improvements. This account shall be subject to the following conditions and requirements:
 - (A) The department shall, when required by the governor but

not later than November 15 preceding each regular session of the legislature, submit to the state director of finance its budget estimates of expenditures for the next fiscal period in the manner required by general law.

- (B) The department's budget as approved by the governor shall be included in the governor's budget report and shall be transmitted to the legislature for its approval.
- (C) Upon legislative approval of a budget, the amount appropriated shall be made available to the department. If no budget is approved by the legislature prior to its adjournment, sums accruing to this account shall not be expended for any other purpose but shall remain available for future use. Any amount in this account which is in excess of the amount approved by the legislature or made available for the fiscal period may be transferred to the Hawaiian home development fund.
- (3) The Hawaiian loan guarantee fund. There may be created a fund to support the guarantee of repayment of loans made by government agencies or private lending institutions to those holding leases or licenses issued under section 207 of this Act. The department's guarantee of repayment shall be adequate security for a loan under any state law prescribing the nature, amount or form of security or requiring security upon which loans may be made.
- (4) Hawaiian loan interest fund. All interest moneys from loans or investments received by the department from any fund except the borrowed money fund and the Hawaiian home loan fund shall be deposited in this fund. At the end of each quarter, all moneys in this fund shall be transferred to the Hawaiian home development fund, the Hawaiian home operating fund and any loan fund in accordance with rules adopted by the department.
- (5) Borrowed money fund. The department may borrow from government agencies or private lending institutions and deposit borrowed moneys into this fund to be used for the purpose enumerated in section 214 of this Act. Installments of principal and that part of the interest equal to the interest charged to the department by the lender paid by the lessees upon loans made to them from this fund shall be deposited into this fund.
- (6) Hawaiian home trust fund. All moneys deposited into this fund shall be available for transfers into any other fund or account authorized by the Act or for any public purpose deemed by the commission to further the purposes of the Act.
- (7) Hawaiian home education fund. Moneys transferred to this fund may be drawn upon from time to time by the department of education, with prior written approval of the governor, for such educational projects as shall be developed and directed by the department of education and department of Hawaiian home lands; provided that such projects shall be directed primarily to the educational improvement of the children of lessees, the funds to be used primarily at the preschool and elementary grade levels.
- (8) Native Hawaiian rehabilitation fund. Pursuant to Article XII, Section 1, of the State Constitution, thirty percent of the state receipts, derived from lands previously cultivated as sugarcane lands under any other provision of law and from water licenses, shall be deposited into this fund. The department shall use this money solely for the rehabilitation of native Hawaiians which shall include but not be limited to the educational, economic, political, social and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved and perpetuated.

* * *

Section 221. Water. (a) When used in this section:

- (1) The term "water license" means any license issued by the board of land and natural

resources granting to any person the right to the use of government-owned water; and

(2) The term "surplus water" means so much of any government-owned water covered by a water license or so much of any privately owned water as is in excess of the quantity required for the use of the licensee or owner, respectively.

(b) All water licenses issued after the passage of this Act shall be deemed subject to the condition, whether or not stipulated in the license, that the licensee shall, upon the demand of the department, grant to it the right to use, free of all charge, any water which the department deems necessary adequately to supply the livestock or the domestic needs of individuals upon any tract.

(c) In order adequately to supply livestock or the domestic needs of individuals upon any tract, the department is authorized (1) to use, free of all charge, government-owned water not covered by any water license or covered by a water license issued after the passage of this Act or covered by a water license issued previous to the passage of this Act but containing a reservation of such water for the benefit of the public, and (2) to contract with any person for the right to use or to acquire, under eminent domain proceedings similar, as near as may be, to the proceedings Hawaiians, on the same terms, conditions, restrictions and uses applicable to the disposition of public lands as provided in chapter 171, Hawaii Revised Statutes; provided covered by a water license issued previous to the passage of this Act, but not containing a reservation of such water for the benefit of the public. Any such requirement shall be held to be for a public use and purpose. The department may institute the eminent domain proceedings in its own name.

(d) The department is authorized, for the additional purpose of adequately irrigating any tract, to use, free of all charge, government-owned surplus water tributary to the Waimea river upon the island of Kauai, not covered by a water license or covered by a water license issued after July 9, 1921. Any water license issued after that date and covering any such government-owned water shall be deemed subject to the condition, whether or not stipulated therein, that the licensee shall, upon the demand of the department, grant to it the right to use, free of all charge, any of the surplus water tributary to the Waimea river upon the island of Kauai, which is covered by the license and which the department deems necessary for the additional purpose of adequately irrigating any tract.

Any funds which may be appropriated by Congress as a grant-in-aid for the construction of an irrigation and water utilization system on the island of Molokai designed to serve Hawaiian home lands, and which are not required to be reimbursed to the federal government, shall be deemed to be payment in advance by the department and lessees of the department of charges to be made to them for the construction of such system and shall be credited against such charges when made.

(e) All rights conferred on the department by this section to use, contract for, acquire the use of water shall be deemed to include the right to use, contract for or acquire the use of any ditch or pipeline constructed for the distribution and control of such water and necessary to such use by the department.

(f) Water systems in the exclusive control of the department shall remain under its exclusive control. If any provision or the application of such provision is inconsistent with the provision contained herein, this section shall control.

Water systems include all real and personal property together with all improvements to such systems acquired or constructed by the department for the distribution and control of such water for domestic or agricultural use.

ARTICLE XIII

ORGANIZATION; COLLECTIVE BARGAINING

PRIVATE EMPLOYEES

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

PUBLIC EMPLOYEES

Section 2. Persons in public employment shall have the right to organize for the purpose of collective bargaining as provided by law.

ARTICLE XIV

CODE OF ETHICS

The people of Hawaii believe that public officers and employees must exhibit the highest standards of ethical conduct and that these standards come from the personal integrity of each individual in government. To keep faith with this belief, the legislature, each political subdivision and the constitutional convention shall adopt a code of ethics which shall apply to appointed and elected officers and employees of the State or the political subdivision, respectively, including members of the boards, commissions and other bodies.

Each code of ethics shall be administered by a separate ethics commission, except the code of ethics adopted by the constitutional convention which shall be administered by the state ethics commission. The members of ethics commissions shall be prohibited from taking an active part in political management or in political campaigns. Ethics commissioners shall be selected in a manner which assures their independence and impartiality.

Each code of ethics shall include, but not be limited to, provisions on gifts, confidential information, use of position, contracts with government agencies, post-employment, financial disclosure and lobbyist registration and restriction. The financial disclosure provisions shall require all elected officers, all candidates for elective office and such appointed officers and employees as provided by law to make public financial disclosures. Other public officials having significant discretionary or fiscal powers as provided by law shall make confidential financial disclosures. All financial disclosure statements shall include, but not be limited to, sources and amounts of income, business ownership, officer and director positions, ownership of real property, debts, creditor interests in insolvent businesses and the names of persons represented before government agencies.

ARTICLE XV

STATE BOUNDARIES; CAPITAL; FLAG; LANGUAGE AND MOTTO

BOUNDARIES

Section 1. The State of Hawaii shall consist of all the islands, together with their appurtenant reefs and territorial and archipelagic waters, included in the Territory of Hawaii on the date of enactment of the Admission Act, except the atoll known as Palmyra Island, together with its appurtenant reefs and territorial waters; but this State shall not be deemed to include the Midway Islands, Johnston Island, Sand Island (offshore from Johnston Island) or Kingman Reef, together with their appurtenant reefs and territorial waters.

CAPITAL

Section 2. Honolulu, on the island of Oahu, shall be the capital of the State.

STATE FLAG

Section 3. The Hawaiian flag shall be the flag of the State.

OFFICIAL LANGUAGES

Section 4. English and Hawaiian shall be the official languages of Hawaii, except that Hawaiian shall be required for public acts and transactions only as provided by law.

MOTTO

Section 5. The motto of the State shall be, "Ua mau ke ea o ka aina i ka pono."

ARTICLE XVI

GENERAL AND MISCELLANEOUS PROVISIONS

CIVIL SERVICE

Section 1. The employment of persons in the civil service, as defined by law, of or under the State, shall be governed by the merit principle.

EMPLOYEES' RETIREMENT SYSTEM

Section 2. Membership in any employees' retirement system of the State or any political subdivision thereof shall be a contractual relationship, the accrued benefits of which shall not be diminished or impaired.

DISQUALIFICATIONS FROM PUBLIC OFFICE OR EMPLOYMENT

Section 3. No person shall hold any public office or employment who has been convicted of any act to overthrow, or attempt to overthrow, or conspiracy with any person to overthrow the government of this State or of the United States by force or violence.

OATH OF OFFICE

Section 4. All public officers, before entering upon the duties of their respective offices, shall take and subscribe to the following oath or affirmation: "I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution of the State of Hawaii, and that I will faithfully discharge my duties as...to the best of my ability." The legislature may provide further oaths or affirmations.

INTERGOVERNMENTAL RELATIONS

Section 5. The legislature may provide for cooperation on the part of this State and its political subdivisions with the United States, or other states and territories, or their political subdivisions, in matters affecting the public health, safety and general welfare. Funds may be appropriated to effect such cooperation.

FEDERAL LANDS

Section 6. The United States shall be vested with or retain title to or an interest in or shall hold the property in the Territory of Hawaii set aside for the use of the United States and remaining so set aside immediately prior to the admission of this State, in all respects as and to the extent set forth in the act or resolution providing for the admission of this State to the Union.

COMPLIANCE WITH TRUST

Section 7. Any trust provisions which the Congress shall impose, upon the admission of this State, in respect of the lands patented to the State by the United States or the proceeds and income therefrom, shall be complied with by appropriate legislation. Such legislation shall not diminish or limit the benefits of native Hawaiians under Section 4 of Article XII.

ADMINISTRATION OF UNDISPOSED LANDS

Section 8. All provisions of the Act of Congress approved March 18, 1959 reserving rights or powers to the United States, as well as those prescribing the terms or conditions of the grants of lands or other property therein made to the State of Hawaii are consented to fully by the State and its people.

TAX EXEMPTION OF FEDERAL PROPERTY

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

HAWAII NATIONAL PARK

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

JUDICIAL RIGHTS

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

QUIETING TITLE

Section 12. No person shall be deprived of title to an estate or interest in real property by another person claiming actual, continuous, hostile, exclusive, open and notorious possession of such lands, except to real property of five acres or less. Such claim may be asserted

in good faith by any person not more than once in twenty years.

PLAIN LANGUAGE

Section 13. Insofar as practicable, all governmental writing meant for the public, in whatever language, should be plainly worded, avoiding the use of technical terms.

TITLES, SUBTITLES; CONSTRUCTION

Section 14. Titles and subtitles shall not be used for purposes of construing this constitution.

GENERAL POWER

Section 15. The enumeration in this constitution of specified powers shall not be construed as limitations upon the power of the State to provide for the general welfare of the people.

PROVISIONS ARE SELF-EXECUTING

Section 16. The provisions of this constitution shall be self-executing to the fullest extent that their respective natures permit.

ARTICLE XVII

REVISION AND AMENDMENT

METHODS OF PROPOSAL

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

CONSTITUTIONAL CONVENTION

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

ELECTION OF DELEGATES

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

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

The legislature shall provide for the number of delegates to the convention, the areas from which they shall be elected and the manner in which the convention shall convene. The legislature shall also provide for the necessary facilities and equipment for the convention. The convention shall have the same powers and privileges, as nearly as practicable, as provided for the convention of 1978.

MEETING

The constitutional convention shall convene not less than five months prior to the next regularly scheduled general election.

ORGANIZATION; PROCEDURE

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

RATIFICATION; APPROPRIATIONS

The convention shall provide for the time and manner in which the proposed constitutional revision or amendments shall be submitted to a vote of the electorate. The revision

or amendments shall be effective only if approved at a general election by a majority of all the votes tallied upon the question, this majority constituting at least thirty-five percent of the total vote cast at the election, or at a special election by a majority of all the votes tallied upon the question, this majority constituting at least thirty percent of the total number of registered voters.

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

AMENDMENTS PROPOSED BY LEGISLATURE

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

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

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

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

VETO

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

CONFLICTING REVISIONS OR AMENDMENTS

Section 5. If a revision or amendment proposed by a constitutional convention is in conflict with a revision or amendment proposed by the legislature and both are submitted to the electorate at the same election and both are approved, then the revision or amendment proposed by the convention shall prevail. If conflicting revisions or amendments are proposed by the same body and are submitted to the electorate at the same election and both are approved, then the revision or amendment receiving the highest number of votes shall prevail.

ARTICLE XVIII

SCHEDULE

DISTRICTING AND APPORTIONMENT

Section 1. Until the next reapportionment the senatorial districts and the number of senators to be elected from each shall be as set forth in the 1973 reapportionment plan. Until the next reapportionment the representative districts and the number of representatives to be elected from each shall be as set forth in the 1973 reapportionment plan.

1978 SENATORIAL ELECTIONS

Section 2. Article III, Section 4, to the contrary notwithstanding, the terms of office of the members of the senate elected in the 1978 general election shall be as follows: members of the senate shall be divided into two classes. The first class shall consist of the following number elected with the highest number of votes from their respective senatorial districts: first district, one; second district, one; third district, one; fourth district, two; fifth district, two; sixth district, two; seventh district, two; eighth district, one. Members of the first class shall hold office for a term of four years beginning with their election and ending on the day of the second general election held thereafter. The remaining members elected shall constitute the second class and shall hold office for a term of two years beginning with their election and ending on the day of the next general election held thereafter.

SALARIES OF LEGISLATORS

Section 3. Until otherwise provided by law in accordance with Section 9 of Article

III, the salary of each member of the legislature shall be twelve thousand dollars a year.

EFFECTIVE DATE FOR TERM LIMITATIONS FOR
GOVERNOR AND LIEUTENANT GOVERNOR

Section 4. The amendments to Sections 1 and 2 of Article V shall limit the term of any person elected to the office of governor or lieutenant governor in the 1978 general election to two consecutive full terms commencing from noon on the first Monday in December, 1978.

JUDICIARY: TRANSITION; EFFECTIVE DATE

Section 5. The three members initially appointed to the judicial selection commission by the governor shall serve for terms of two, four and six years respectively. The members initially appointed to the commission by the president of the senate and the speaker of the house of representatives shall serve for two years. The two members initially appointed to the commission by the chief justice of the supreme court shall serve terms of four and six years respectively. The two members initially elected to the commission by the members of the bar of the State shall serve for terms of four and six years respectively. The current terms of justices and judges in office shall terminate as heretofore provided by law, subject to earlier termination and removal as provided in Article VI. The amendments to Article VI shall take effect upon ratification. The judicial selection commission shall be created no later than April 1, 1979.

EFFECTIVE DATE AND APPLICATION OF
REAL PROPERTY TAX TRANSFER

Section 6. The amendment to Section 3 of Article VIII shall take effect on the first day of July after two full calendar years have elapsed following the ratification of such amendment; provided that for a period of eleven years following such ratification, the policies and methods of assessing real property taxes shall be uniform throughout the State and shall be established by agreement of a majority of the political subdivisions. Each political subdivision shall enact such uniform policies and methods of assessment by ordinance before the effective date of this amendment, and in the event the political subdivisions fail to enact such ordinances, the uniform policies and methods of assessment shall be established by general law. Any amendments to the uniform policies and methods of assessment established by the political subdivisions may only be made by agreement of a majority of the political subdivisions and enactment thereof by ordinance in each political subdivision.

Real property tax exemptions and dedications of land for specific use for assessment at its value in such use as provided by law and in effect upon ratification of the amendment to Section 3 of Article VIII shall be enacted by ordinance and shall not be eliminated or diminished for a period of eleven years following such ratification; provided that increases in such exemptions, or the additions of new and further exemptions or dedications of lands, may be established or granted only by agreement of a majority of the political subdivisions, and such increases or additions shall be enacted by ordinance in each political subdivision.

1978 BOARD OF EDUCATION ELECTIONS

Section 7. Members elected to the board of education in the 1978 general election shall serve for two-year terms.

EFFECTIVE DATE FOR OFFICE
OF HAWAIIAN AFFAIRS

Section 8. The legislature shall provide for the implementation of the amendments to Article XII in Sections 5 and 6 on or before the first general election following ratification of the amendments to Article XII in Sections 5 and 6.

CONTINUITY OF LAWS

Section 9. All laws in force at the time amendments to this constitution take effect that are not inconsistent with the constitution as amended shall remain in force, mutatis mutandis, until they expire by their own limitations or are amended or repealed by the legislature.

Except as otherwise provided by amendments to this constitution, all existing writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles and rights shall continue unaffected notwithstanding the taking effect of the amendments and may be maintained, enforced or prosecuted, as the case may be, before the appropriate or corresponding tribunals or agencies of or under the State or of the United States, in all respects as fully as could have been done prior to the taking effect of the amendments.

DEBTS

Section 10. The debts and liabilities of the Territory shall be assumed and paid by the State, and all debts owed to the Territory shall be collected by the State.

RESIDENCE, OTHER QUALIFICATIONS

Section 11. Requirements as to residence, citizenship or other status or qualifications in or under the State prescribed by this constitution shall be satisfied pro tanto by corresponding residence, citizenship or other status or qualifications in or under the Territory.

EFFECTIVE DATE

This constitution shall take effect and be in full force immediately upon the admission of Hawaii into the Union as a State. Done in Convention, at Iolani Palace, Honolulu, Hawaii, on the twenty-second day of July, in the year one thousand nine hundred fifty and of the Independence of the United States of America the one hundred and seventy-fifth.

STANDING COMMITTEE REPORT NO. 105

Your Committee on Public Health and Welfare; Labor and Industry, to which was referred Resolution No. 28, requesting the state legislature to address the problem of rising health care costs and to establish legislation to reduce medical care costs in the State of Hawaii, begs leave to report as follows:

The purpose of this resolution is to request the legislature to address the problem of rising health care costs throughout the State.

Section 1 of Article VIII of the State Constitution provides that the State must provide for the protection and promotion of the public health. Your Committee felt that medical care at reasonable rates, although not recognized as a constitutional right, is somewhat entwined with the concepts enumerated in Section 1 of Article VIII and is necessary for the well-being of the community. Thus, this resolution was adopted to provide the legislature some direction as to what should be done in this area. However, your Committee decided that the legislature and not the Constitutional Convention was the appropriate body to implement specific programs.

Your Committee recognizes that about 95 percent of the residents of this State are covered by some kind of hospital-medical insurance and most of this includes some form of protection against illness. In addition, in 1974 the Hawaii legislature passed Hawaii Revised Statutes (HRS) Chapter 393 which mandates that employers of even a single employee must provide health insurance for every employee who works 20 hours a week or more.

Nevertheless, your Committee feels that there exists a large gap group not covered by HRS Chapter 393. This group is composed of immigrants, persons who work less than 20 hours a week and persons with assets too great to qualify for public assistance programs but who have no health insurance.

It is with this latter group that your Committee is concerned. Your Committee feels that recent immigrants and those people who work less than 20 hours a week are adequately protected under existing Medicaid and Medicare programs. Persons who do not qualify for Medicaid and Medicare and do not have health insurance usually fall within the middle class and as such bear most of the financial burdens of our society. People in this situation often have to pay high medical expenses from savings which they have accumulated over a lifetime. And, if that fund is insufficient, oftentimes a loan with accompanying liability is negotiated. Thus, your Committee felt that a request should be made to the legislature so that it can provide legislation to protect these people.

Your Committee deleted the first paragraph of Resolution No. 28 that speaks of needed medical care at reasonable rates as a "right," and instead included the two new paragraphs which are evidenced by Resolution No. 28, RD. 1. It was felt that this action was appropriate because this committee and the Committee on Bill of Rights, Suffrage and Elections have not manifested any intention to include medical care at reasonable rates as one of the rights embodied within our State Constitution.

Your Committee on Public Health and Welfare; Labor and Industry is in accord with Resolution No. 28 as amended herein and recommends adoption of the resolution in the form attached hereto as Resolution No. 28, RD. 1.

Signed by all members of the Committee except Delegates Cabral, Calvin Ching, Chung, Ellis, Hashimoto, Hokama, Ishikawa, Marion Lee, Penebacker, Stone, and Sutton. Delegate Peterson did not concur.

RESOLUTION NO. 28, RD. 1

REQUESTING THE LEGISLATURE OF THE STATE OF HAWAII TO ADDRESS THE PROBLEM OF RISING HEALTH CARE COSTS AND TO ESTABLISH LEGISLATION TO REDUCE MEDICAL CARE COSTS IN THE STATE OF HAWAII.

WHEREAS, the future of Hawaii's people to obtain needed medical care at a reasonable cost is being readily eroded; and

WHEREAS, Article VIII, Section 1 of the Hawaii State Constitution states: "The State shall provide for the protection and promotion of the public health"; and

WHEREAS, 7.3 percent of the total personal income of all the people in Hawaii was spent on health care costs in 1977; and

WHEREAS, the per capita expenditure for health care services has risen approximately 53 percent in the last 2 years and 149 percent in the last 7 years; and

WHEREAS, the cost for a day in a Hawaii hospital bed is approximately \$200 and rising; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that this body hereby requests the Legislature to address and resolve the problem of rising health care costs throughout the State; and

BE IT FURTHER RESOLVED that duly authenticated copies of this Resolution be transmitted to the Governor, the Department of Health, and to the Legislature.

STANDING COMMITTEE REPORT NO. 106

Your Committee on Bill of Rights, Suffrage and Elections begs leave to report as follows:

Your Committee decided to adopt the attached resolution because it believes that the progress of modern science has created a moral dilemma that is not addressed by current laws. Modern science has developed life-support systems capable of maintaining and prolonging life in an extraordinary manner. A patient may become comatose and have no hope of recovering to a cognitive and sapient state but continues to exist because of life-support systems. Of necessity, this results in great economic hardship for loved ones and also great trauma and tragedy for those who must endure the wait while the patient is kept alive by machines. Though a physician may believe that no medical reason exists to continue the patient on a life-support system, he cannot "unplug" the machine without fear of civil and criminal liability.

Your Committee recognizes the complexity of the problem but believes that the legislature is the appropriate body to study the legal, medical, philosophical, political and religious implications. Any solution to the problem must include within the equation the conflict of a person's right to privacy, balanced against society's interest in preserving the life and welfare of its people. While the Karen Quinlan case in New Jersey held that a patient may refuse medical treatment in certain circumstances, the question is so complex that your Committee believes that the legislature should consider the circumstance under which a refusal would be appropriate. Your Committee believes that the legislature should also determine a procedure to make a record of any decision to refuse medical treatment. It is also important that there be assurance that the competence of the patient be sound at the time of the decision because your Committee believes it should be a voluntary and intelligent decision.

Your Committee on Bill of Rights, Suffrage and Elections recommends the adoption of Resolution No. 16.

Signed by Delegate Weatherwax, Chairperson.

RESOLUTION NO. 16

RELATING TO DEATH WITH DIGNITY.

WHEREAS, your Committee on Legislature is aware that modern science is capable of keeping a person alive through the use of life-support systems even though the person would not be alive but for the systems and has no hope of recovering; and

WHEREAS, the artificial prolongation of human life where none exists only serves to increase costs, both human and economic; and

WHEREAS, physicians cannot accommodate the wishes of relatives, family friends, and of the patient without incurring the risk of legal liability; and

WHEREAS, though a law defining death was enacted in 1978, Hawaii law does not provide for a procedure to die with dignity; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that all persons of sound mind shall have the right to refuse medical treatment for terminal illness and to die with dignity and that the legislature implement the sense and purpose of this Resolution; and

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the President of the Senate and the Speaker of the House.

STANDING COMMITTEE REPORT NO. 107

Your Committee on Budget, Accounts and Printing begs leave to report that Res. Nos. 36 through 52 and Stand. Com. Rep. Nos. 108 and 109 have been printed and distributed.

Signed by Delegates Ledward, Chairperson, Crozier, Vice-Chairperson; Hale and Lacy members.

STANDING COMMITTEE REPORT NO. 108

Your Committee on Bill of Rights, Suffrage and Elections begs leave to report as follows:

Your Committee decided to adopt the attached resolution because your Committee believes that one section of Title III of the Voting Rights Act has a deleterious effect on Hawaii. Although your Committee is in full agreement with the intent of the Voting Rights Act to encourage participation of those unable to speak or read English, your Committee believes that this law of national importance is of little relevance here. Because of the progressive nature of our society, Hawaii has made great strides in reducing illiteracy among the foreign language subgroups. Further, the act defines an illiterate as a person who has not completed the fifth grade, but your Committee believes that there are many in Hawaii who through their own perseverance have learned the English language despite the lack of formal training. Proof of this is suggested by the fact that only 191 persons requested foreign language ballots in the 1976 election. The cost to the state and county governments to provide the required multilingual assistance for those 191 persons was over \$500,000.

Your Committee is aware of the existence of voter registration and voter education programs which have been very effective in encouraging voter participation.

Accordingly, your Committee believes that Hawaii should be exempted from the multilingual requirements of Title III of the Voting Rights Act, as amended in 1975.

Your Committee on Bill of Rights, Suffrage and Elections recommends the adoption of Resolution No. 33.

Signed by Delegate Weatherwax, Chairperson.

RESOLUTION NO. 33

REQUESTING THE UNITED STATES CONGRESS TO EXEMPT HAWAII FROM THE MULTI-LINGUAL REQUIREMENTS OF TITLE III OF THE VOTING RIGHTS ACT, AS AMENDED IN 1975.

WHEREAS, in 1975 the United States Congress amended the Voting Rights Act, and such amendments were designed to encourage full participation in the electoral process by the citizens of the country; and

WHEREAS, one of the amendments to Title III of the act requires the states to provide voting assistance to certain foreign language minority groups with high illiteracy rates; and

WHEREAS, the guidelines of the United States Justice Department recognized four subgroups of Asian-Americans, the Japanese, Chinese, Filipinos and Koreans, but failed to consider the various dialects spoken by the subgroups; and

WHEREAS, to comply with the intent of the congressional mandate, Hawaii accommodated such dialects in providing voter materials in the 1976 elections; and such assistance included printing registration and voting forms and informational materials in Ilocano, Japanese and Chinese, and providing persons to orally assist members of the Japanese, Chinese and Filipino subgroups at the polls; and

WHEREAS, Hawaii's state and county governments expended more than \$500,000 to provide the required multi-lingual assistance in the 1976 elections; and

WHEREAS, statistics compiled by the office of the Lieutenant Governor reveal that only 191 persons requested foreign language ballots in the 1976 elections; and

WHEREAS, the Voting Rights Act defines an illiterate person as one who has not completed the fifth elementary grade in any school, but there are many individuals in Hawaii who have learned to read and write the English language without formal education; and such individuals would therefore not require a foreign language ballot; and

WHEREAS, another reason for the low demand for foreign language ballots may be the substantial decline in the illiteracy rate in English of the foreign language subgroups since 1970; and

WHEREAS, the experience of the 1976 elections indicates that the printing of voter information forms and ballots in foreign languages is a financial burden on the State, especially when the cost-effectiveness ratio of such assistance is very low; and

WHEREAS, to this date the Constitution of the State has not been translated into any foreign language; and to comply with the Voting Rights Act, the office of the Lieutenant Governor must provide multi-lingual voter information and material with respect to the amendments to the State's Constitution proposed by the Constitutional Convention of Hawaii of 1978; and

WHEREAS, since 1968 the office of the Lieutenant Governor has developed and conducted various voter registration and education programs, and such programs have been successful, as indicated by the 6% increase in voter turnout between the 1974 general election and the 1976 general election; and

WHEREAS, in Hawaii the voter information programs of the office of the Lieutenant Governor have been more effective than the multi-lingual requirements of Title III of the Voting Rights Act in promoting voter participation; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1978, that the United

States Congress be requested to exempt Hawaii from the multi-lingual requirements of Title III of the Voting Rights Act, as amended in 1975; and

BE IT FURTHER RESOLVED that duly authenticated copies of this Resolution be transmitted to the Congress of the United States, the members of Hawaii's congressional delegation and the Lieutenant Governor of Hawaii.

STANDING COMMITTEE REPORT NO. 109

Your Committee on Submission and Information begs leave to report as follows:

Your Committee on Submission and Information, to which was referred Resolution No. 32 relating to delegates who are candidates for public office, begs leave to report as follows:

The purpose of this resolution is to mandate the Committee on Submission and Information to avoid featuring any candidate for public office in this election year in its voter information program and to refrain from authorizing candidates for public office to speak on behalf of the Convention.

The committee was sympathetic to the intent of the resolution. It was recognized that the visibility afforded to one delegate might constitute an advantage over other candidates. However, incumbents likewise have a similar advantage over other candidates. The committee, however, concluded that to place restraints on certain delegates merely because they were candidates might infringe upon those delegates' right to free speech.

There was some question as to whether the fairness doctrine of "equal time" might apply to the delegate-candidate who received media coverage in speaking about the work of the Convention. Your Committee intends that if a delegate-candidate is required to speak on behalf of the speakers bureau, then that delegate would be speaking in the capacity of a delegate only and not a candidate. The fairness doctrine applies only to radio and television. If the fairness doctrine were found to apply, an opposing candidate could request equal time from the electronic media involved. In any event the speakers bureau will involve many different types of informational forums in addition to the electronic media.

Your Committee was of the opinion that the committee's primary responsibility is to provide information to the public as thoroughly, accurately and understandably as possible. Your Committee, knowing it had no power to restrict candidates who were requested individually to speak on behalf of the Convention, felt that it should also refrain from restricting delegates sent out by the speakers bureau to noncandidates. To eliminate candidates from the speakers bureau would constitute a disservice to the public, possibly depriving them of speakers who are highly qualified to explain particular complex issues.

Your Committee, in Standing Committee Report No. 99, addressed this concern by stating that the information will feature no individual delegate's role in the Convention. The speakers bureau will separate political matters from convention matters.

Your Committee intends to operate the speakers bureau in a manner of fairness and impartiality to all those who wish to participate.

Your Committee felt that the intent of the resolution was thus embodied in the philosophy and plan of the committee and for this reason the resolution was filed.

Signed by all members of the Committee except Delegates Harris, Kaapu, Miller, Odanaka, Peterson and Waihee.

Committee Proposals

In the following section on committee proposals, original constitutional material to be deleted has been bracketed; new material proposed by the standing committee has a single underscore; amendments or revisions to the committee proposal have double underscores; and deletions to new material, either the committee's or later amendments, are underscored and bracketed.

Article and section numbers referred to in the text of proposals are the numbers which were in effect prior to the renumbering that occurred as a result of the 1978 amendment ratifications.

COMMITTEE PROPOSAL NO. 1

RELATING TO CODE OF ETHICS.

RESOLVED, that the following be agreed upon as adding a new article, deleting Article XIV, Section 5, and renumbering Sections 6 to 15 of Article XIV of the State Constitution.*

1. A new article is added to read:

ARTICLE XIV

CODE OF ETHICS

The people of Hawaii believe that public officers and employees must exhibit the highest standards of ethical conduct[,] and that [such] these standards [derive] come from the personal integrity of each individual in government. [In keeping] To keep faith with this belief, the legislature, each political subdivision[,] and the constitutional convention shall adopt a code of ethics[,] which shall apply to appointed and elected officers and employees of the State or the political subdivision, respectively, including members of the boards, commissions and other bodies.

Each code of ethics shall be administered by a separate ethics commission, except [that] the code of ethics adopted by the constitutional convention which shall be administered by the [State Ethics Commission.] state ethics commission. [No member of an ethics commission shall, during his term of office, run for or hold any office in any political organization, or directly or indirectly make any political contribution, or take part in any political campaign. The members of commissions] The members of ethics commissions shall be prohibited from taking an active part in political management or in political campaigns. Ethics commissioners shall be selected in a manner which assures their independence and impartiality.

*For background, discussion and rationale on the amendments proposed herein, refer to Stand. Com. Rep. No. 26, Com. Whole Rep. No. 1, Stand. Com. Rep. No. 43, Stand. Com. Rep. No. 104 and the appropriate Second Reading debate.

Each code of ethics shall include, but not be limited to, provisions on gifts, confidential information, [the] use of position, contracts with government agencies, post-employment, financial disclosure[,], and lobbyist registration and restriction. The financial disclosure [provision] provisions shall require all elected officers, all candidates for elective office[,], and such appointed officers and employees as [shall be] provided by law to make public financial [disclosure.] disclosures. Other public officials [with] having significant discretionary or fiscal powers as provided by law shall make confidential financial [disclosure.] disclosures. All financial disclosure statements shall include [at least the following areas:], but not be limited to, sources and amounts of income, [ownership and officership interests in businesses,] business ownership, officer and director positions, ownership of real property, debts, creditor interests in insolvent businesses and the names of persons represented before government agencies.

2. Article XIV, Section 5, reading as follows, is deleted:

[CODES OF ETHICS

Section 5. The legislature and each political subdivision shall adopt a code of ethics, which shall apply to appointed and elected officers and employees of the State or the political subdivision, respectively, including members of boards, commissions and other bodies.]

3. Sections 6 to 15 of Article XIV are renumbered Sections 5 to 14, respectively.

COMMITTEE PROPOSAL NO. 2

RELATING TO THE STATE BOUNDARIES AND MOTTO.

RESOLVED, that the following be agreed upon as amending Article XIII of the State Constitution.*

1. Article XIII, Section 1, is amended to read:

BOUNDARIES

Section 1. The State of Hawaii shall consist of all the islands, together with their appurtenant reefs and territorial and archipelagic waters, included in the Territory of Hawaii on the date of enactment of [this Act;] the Admission Act, except the atoll known as Palmyra Island, together with its appurtenant reefs and territorial waters[.]; but [said] this State shall not be deemed to include the Midway Islands, Johnston Island, Sand Island (offshore from Johnston Island)[,] or Kingman Reef, together with their appurtenant reefs and territorial waters.

2. Article XIII is amended to read:

*For background, discussion and rationale on the amendments proposed herein, refer to Stand. Com. Rep. No. 30, Com. Whole Rep. No. 2, Stand. Com. Rep. No. 44, Stand. Com. Rep. No. 104 and the appropriate Second Reading debate.

a. The title of Article XIII is amended to read:

ARTICLE [XIII] XV
STATE BOUNDARIES[,]; CAPITAL[,]; FLAG[,];
LANGUAGE AND MOTTO

b. Article XIII is amended to read:

Section 2. Honolulu, on the [Island] island of Oahu, shall be the capital of the State.

OFFICIAL LANGUAGES

Section 4. English and Hawaiian shall be the official languages of Hawaii, except that Hawaiian shall be required for public acts and transactions only as provided by law.

MOTTO

Section [4.] 5. The motto of the State shall be, "Ua mau ke ea o ka aina i ka pono[".]."

COMMITTEE PROPOSAL NO. 3

RELATING TO THE EXECUTIVE.

RESOLVED, that the following be agreed upon as amending Articles IV and XVI of the State Constitution.*

1. Article IV, Section 1, is amended to read:

ESTABLISHMENT OF THE EXECUTIVE

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

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

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

No person shall be elected to the office of governor for more than two consecutive full terms.

No person shall be eligible for the office of governor unless [he] the person shall be a qualified voter, have attained the age of thirty years[,] and have been a resident of this State for five years immediately preceding [his] the person's election.

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

2. Article IV, Section 2, is amended to read:

*For background, discussion and rationale on the amendments proposed herein, refer to Stand. Com. Rep. No. 32, Com. Whole Rep. No. 3, Stand. Com. Rep. No. 61, Stand. Com. Rep. No. 104 and the appropriate Second Reading debate.

LIEUTENANT GOVERNOR

Section 2. There shall be a lieutenant governor [,] who shall have the same qualifications as the governor. [He] The lieutenant governor shall be elected at the same time, for the same term [,] and in the same manner [,] as the governor; provided that the votes cast in the general election for the nominee for governor shall be deemed cast for the nominee for lieutenant governor of the same political party. No person shall be elected to the office of lieutenant governor for more than two consecutive full terms. [He] The lieutenant governor shall perform such duties as may be [prescribed] provided by law.

3. Article XVI is amended by adding a new section to

EFFECTIVE DATE FOR TERM LIMITATIONS FOR
GOVERNOR AND LIEUTENANT GOVERNOR

Section 4. The amendments to Sections 1 and 2 of Article [IV] V shall limit the term of any person elected to the office of governor or lieutenant governor in the 1978 general election to two consecutive full terms commencing from noon on the first Monday in December, 1978.

COMMITTEE PROPOSAL NO. 4

RELATING TO THE PREAMBLE, GENERAL AND MISCELLANEOUS PROVISIONS, REVISION AND AMENDMENT.

RESOLVED, that the following be agreed upon as amending the Preamble and Articles XIV and XV of the State Constitution.*

1. The Preamble is amended to read:

PREAMBLE

We, the people of [the State of] Hawaii, grateful for Divine Guidance [,]** and mindful of our Hawaiian heritage [,] and uniqueness as an island State, dedicate our efforts to fulfill the philosophy decreed by the [Hawaiian] Hawaii State motto, "Ua mau ke ea o ka aina i ka pono[".] ."

We reserve the right to control our destiny [;], to nurture the integrity of our people and culture [;], and to preserve the quality of life that we desire.

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

2. Article XIV, Section 3, is amended to read:

*For background, discussion and rationale on the amendments proposed herein, refer to Stand. Com. Rep. No. 34, Com. Whole Rep. No. 4, Stand. Com. Rep. No. 48 and the appropriate Second Reading debate.

**Bracketed punctuation was deleted by the Committee on Style in Stand. Com. Rep. No. 48 but inadvertently retained in subsequent drafts as presented for final reading.

DISQUALIFICATIONS FROM PUBLIC

OFFICE OR EMPLOYMENT

Section 3. No person shall hold any public office or employment who[, knowingly and intentionally, does] has been convicted of any act to overthrow, or [attempts] attempt to overthrow, or [conspires] conspiracy with any person to overthrow the government of this State or of the United States by force or violence.

3. Article XIV is amended by adding a new section to read:

PLAIN LANGUAGE

Section [16.] 13. Insofar as practicable, all [All] governmental writing meant for the public, in whatever language, should be plainly worded, avoiding the use of technical terms.

4. Article XV, Section 2, is amended to read:

CONSTITUTIONAL CONVENTION

Section 2. The legislature may submit to the electorate at any general or special election the question, "Shall there be a convention to propose a revision of or amendments to the Constitution?" If any [ten] nine-year period shall elapse[, or if it would elapse if ten days were added to any period less than 10 years,] during which the question shall not have been submitted, the lieutenant governor shall certify the question, to be voted on at the first general election following the expiration of [or within 10 days of the expiration of] such period.

ELECTION OF DELEGATES

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

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

[Unless the] The legislature shall [otherwise] provide for [, there shall be] the [same] number of delegates to the convention, [who shall be elected from] the [same] areas from which they shall be elected [,] and [the convention shall be convened in] the [same] manner [and] in which the convention shall convene. The legislature shall also provide for the necessary facilities and equipment for the convention. The convention shall have the same powers and privileges, as nearly as practicable, as provided for the convention of [1968] 1978.

MEETING

The constitutional convention shall convene not less than five months prior to the next regularly scheduled general election.

ORGANIZATION; PROCEDURE

The convention shall determine its own organization and rules of procedure. It shall

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

RATIFICATION; APPROPRIATIONS

The convention shall provide for the time and manner in which the proposed constitutional revision or amendments shall be submitted to a vote of the electorate. The revision or amendments shall be effective only if approved at a general election by a majority of all the votes tallied upon the question, this majority constituting at least thirty-five percent of the total vote cast at the election, or at a special election by a majority of all the votes tallied upon the question, this majority constituting at least thirty percent of the total number of registered voters.

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

COMMITTEE PROPOSAL NO. 5

RELATING TO PUBLIC HEALTH AND WELFARE.

RESOLVED, that the following be agreed upon as amending Article VIII of the State Constitution.*

1. Article VIII, Section 1, is amended to read:

PUBLIC HEALTH

Section 1. The State shall [have power to] provide for the protection and promotion of the public health.

2. Article VIII, Section 2, is amended to read:

CARE OF HANDICAPPED PERSONS

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

3. Article VIII, Section 3, is amended to read:

PUBLIC ASSISTANCE

Section 3. The State shall have the power to provide financial assistance, [for persons unable to maintain a standard of living compatible with decency and health.] medical assistance [,] and social services for persons who are found to be in need of [,] and are eligible for such assistance and services as provided by law.

4. Article VIII, Section 5, is amended to read:

*For background, discussion and rationale on the amendments proposed herein, refer to Stand. Com. Rep. No. 36, Com. Whole Rep. No. 5, Stand. Com. Rep. No. 62, Stand. Com. Rep. No. 104 and the appropriate Second Reading debate.

PUBLIC SIGHTLINESS AND GOOD ORDER

Section [5.] 7. The State shall have the power to [conserve and develop its natural beauty, objects and places of historic or cultural interest,] conserve and develop objects and places of historic or cultural interest[,] and provide for public sightliness and physical good order[, and for that purpose]. For these purposes private property shall be subject to reasonable regulation.

5. Article VIII is amended by adding a new section to read:

PRESERVATION OF A HEALTHFUL ENVIRONMENT

Section 8. The State shall have the power to promote and maintain a healthful environment, [and to prevent] including the prevention of any excessive demands upon the environment and the State's resources.

6. Article VIII is amended by adding a new section to read:

MANAGEMENT OF STATE POPULATION GROWTH

Section 6. The State and its political subdivisions, as provided by general law, shall plan and manage the growth of [its] the population to protect and preserve the public health and welfare[.] [,]; except that each political subdivision, as provided by general law, may plan and manage the growth of its population in a more restrictive manner than the State.

7. Article VIII is amended by adding a new section to read:

CULTURAL RESOURCES

Section 9. The State shall have the power to preserve and develop the cultural, creative[,] and traditional arts[, and historical places and objects] of its various ethnic groups.

8. Article VIII is amended by adding a new section to read:

ECONOMIC SECURITY OF THE ELDERLY

Section 4. The State shall have the power to provide for the [economic] security of the elderly [to assure retirement in health, honor and dignity.] by establishing and promoting programs to assure their economic and social well-being.

9. Article VIII is amended by adding a new section to read:

PUBLIC SAFETY

Section 10. The [Law of the Splintered Paddle, Kanawai Mamala-Hoe, decreed by Kamehameha I, "Let every elderly person, woman and child, lie on the road in safety,"] law of the splintered paddle, mamala-hoe kanawai, decreed by Kamehameha I - Let every elderly person, woman and child, lie [on] by the [road] roadside in safety - shall be a unique and living symbol of the State's concern for public safety.

The State shall have the power to provide for the safety of the people from crimes against persons and property.

COMMITTEE PROPOSAL NO. 6

RELATING TO EDUCATION.

RESOLVED, that the following be agreed upon as amending Articles IX and XVI of the State Constitution.*

1. Article IX, Section 1, is amended to read:

PUBLIC EDUCATION

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

2. Article IX, Section 2, is amended to read:

BOARD OF EDUCATION

Section 2. There shall be a board of education composed of members who shall be elected in a nonpartisan manner by qualified voters [in accordance with] , as provided by law, from two at-large [units,] school board districts. [At least part of the membership of the board shall represent geographic subdivisions of the State.] The first [unit] school board district shall be comprised of the island of Oahu and all other islands not specifically enumerated. The second [unit] school board district shall be comprised of the islands of Hawaii, Maui, Lanai, Molokai, Kahoolawe, Kauai and Niihau. Each at-large [unit] school board district shall be divided into departmental school districts, as may be provided by law. There shall be at least one member residing in each departmental school district. [No member shall serve more than two consecutive terms of four years each.]

[Members elected in the 1978 general election shall serve for two-year terms.]

3. Article IX, Section 3, is amended to read:

POWER OF THE BOARD OF EDUCATION

Section 3. The board of education shall have the power, [in accordance with] as provided by law, to formulate policy [,] and to exercise control over the public school system through its executive officer, the superintendent of education, who shall be appointed by the board [, and shall serve as secretary to the board]; except that the board shall have jurisdiction over the internal organization and management of the public school system, as provided by law, and shall exercise its jurisdiction in a manner consistent with general laws.

*For background, discussion and rationale on the amendments proposed herein, refer to Stand. Com. Rep. No. 39, Com. Whole Rep. No. 6, Stand. Com. Rep. No. 67, Stand. Com. Rep. No. 104 and the appropriate Second Reading debate.

[The board may adopt, amend or repeal rules as provided by law to implement its policy and to exercise control over the public school system. If the adoption, amendment or repeal of a rule promulgated by the board is prescribed by law to be subject to the approval of a designated authority who disapproves, the board may proceed to reconsider the adoption, amendment or repeal of the rule so disapproved. If after such reconsideration, the adoption, amendment or repeal of the rule shall be approved by a two-thirds vote of all the members of the board, the same shall be deemed approved by the designated authority.]

4. Article IX, Section 5, is amended to read:

BOARD OF REGENTS; POWERS

Section [5.] 6. There shall be a board of regents of the University of Hawaii, the members of which shall be nominated and, by and with the advice and consent of the senate, appointed by the governor. At least part of the membership of the board shall represent geographic subdivisions of the State. The board shall have the power, [in accordance with] as provided by law, to formulate policy, and to exercise control over the university through its executive officer, the president of the university, who shall be appointed by the board [. Notwithstanding any law relating to the power to formulate policy and to exercise control over the university, the The] ; [,] except that the board shall have exclusive jurisdiction over the internal organization and management of the university [. as provided by law; except that this Section]. This section shall not limit the power of the legislature to enact laws of [state-wide] statewide concern.

5. Article IX is amended by adding a new section to read:

[HAWAIIAN STUDIES] HAWAIIAN EDUCATION PROGRAM

[Section 6.] Section 4. The State shall promote the study of Hawaiian culture, history and language.

The State shall provide for a Hawaiian education program consisting of language, culture and history in the public schools. The use of community expertise shall be encouraged as a suitable and essential means in furtherance of the Hawaiian education program.

6. Article XVI is amended by adding a new section to read:

1978 BOARD OF EDUCATION ELECTIONS

Section 7. Members elected to the board of education in the 1978 general election shall serve for two-year terms.

COMMITTEE PROPOSAL NO. 7

RELATING TO LOCAL GOVERNMENT.

RESOLVED, that the following be agreed upon as amending Article VII and Article XVI

of the State Constitution.*

1. Article VII, Section 3, is amended to read:

TAXATION AND FINANCE

Section 3. The taxing power shall be reserved to the State, except so much thereof as may be delegated by the legislature to the political subdivisions [, and the] , and [;] except that all functions, powers and duties relating to the taxation of [provided, that the power to levy a tax on] real property shall be exercised exclusively by the counties, with the exception of the county of Kalawao. The legislature shall have the power to apportion state revenues among the several political subdivisions.

2. Article VII is amended by adding a new section to read:

[LAND USE: STATE AND COUNTY

Section . Reclassification of land to urban use shall be subject to approval by ordinance by the county in which the land exists.]

3. Article XVI is amended by adding a new section to read:

EFFECTIVE DATE AND APPLICATION OF

[ARTICLE VII, SECTION 3] REAL PROPERTY TAX TRANSFER

Section 6. The amendment[s] to Section 3 of Article [VII] VIII shall take effect on the first [day of January after three] day of July after two full calendar years have elapsed following [such] the ratification [. Upon the taking effect of the amendments Article VII as amended shall apply to all county charters irrespective of whether adopted before or after the admission of the State.] of such amendment; provided that for a period of eleven years following such ratification, the policies and methods of assessing real property taxes shall be uniform throughout the State and shall be established by agreement of a majority of the political subdivisions. Each political subdivision shall enact such uniform policies and methods of assessment by ordinance before the effective date of this amendment, and in the event the political subdivisions fail to enact such ordinances, the uniform policies and methods of assessment shall be established by general law. Any amendments to the uniform policies and methods of assessment established by the political subdivisions may only be made by agreement of a majority of the political subdivisions and enactment thereof by ordinance in each political subdivision.

Real property tax exemptions and dedications of land for specific use for assessment at its value in such use as provided by law and in effect upon ratification of the amendment to Section 3 of Article [VII] VIII shall be enacted by ordinance and shall not be eliminated or

*For background, discussion and rationale on the amendments proposed herein, refer to Stand. Com. Rep. No. 42, Com. Whole Rep. No. 7, Stand. Com. Rep. No. 76, Stand. Com. Rep. No. 104 and the appropriate Second Reading debate.

diminished for a period of eleven years following such ratification; provided that increases in such exemptions, or the additions of new and further exemptions or dedications of lands, may be established or granted only by agreement of a majority of the political subdivisions, and such increases or additions shall be enacted by ordinance in each political subdivision.

COMMITTEE PROPOSAL NO. 8

RELATING TO THE LEGISLATURE AND REAPPORTIONMENT.

RESOLVED, that the following be agreed upon as amending Articles III and XVI of the State Constitution. *

1. Article III, Section 2, is amended to read:

[SENATE; COMPOSITION]

COMPOSITION OF SENATE

Section 2. The senate shall be composed of twenty-five members, who shall be elected by the qualified voters of the respective senatorial districts. [Until the next reapportionment the] The senatorial districts and the number of senators to be elected from each shall be as set forth in the [Schedule] reapportionment plan as established by the reapportionment commission.

2. Article III, Section 3, is amended to read:

[HOUSE OF REPRESENTATIVES; COMPOSITION]

COMPOSITION OF HOUSE OF REPRESENTATIVES

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

3. Article III, Section 4, relating to reapportionment is deleted in its entirety. **

4. Article III, Section 10, is amended to read:

SALARY; ALLOWANCES; COMMISSION ON

LEGISLATIVE SALARY

Section [10] 9. The members of the legislature shall receive allowances reasonably related to expenses [and a salary,] as [prescribed] provided by law, and a salary prescribed

*For background, discussion and rationale on the amendments proposed herein, refer to Stand. Com. Rep. No. 46, Com. Whole Rep. No. 8, Stand. Com. Rep. No. 81, Stand. Com. Rep. No. 104 and the appropriate Second Reading debate.

**The substance of Section 4 has been retained in a new article--Article IV, "Reapportionment"; changes therein are indicated by brackets for deleted material, and underscoring for new.

pursuant to this section. [Any change in salary shall not apply to the legislature that enacted the same.]

There shall be a commission on legislative salary, which shall be appointed by the governor on or before [June 1, 1971, and every four years after the first commission is appointed. Within sixty days after its appointment,] November 30, 1978, and every eight years thereafter. Not later than the fortieth legislative day of the 1979 regular session and every eight years thereafter, the commission shall submit to the legislature and the governor recommendations for a salary plan for members of the legislature, and then dissolve. The salary plan submitted shall become effective as provided in the plan unless the legislature disapproves the plan by adoption of a concurrent resolution prior to adjournment sine die of the legislative session in which the plan is submitted or the governor disapproves the plan by a message of [the] disapproval transmitted to the legislature prior to [the said] such adjournment. Any change in salary which becomes effective shall not apply to the legislature to which the recommendation for the change in salary was submitted.

5. Article III, Section 11, is amended to read:

SESSIONS

Section [11] 10. The legislature shall convene annually in regular session at 10:00 o'clock a.m. on the third Wednesday in January.

At the written request of two-thirds of the members to which each house is entitled, the presiding officers of both houses shall convene the legislature in special session. The governor may convene both houses or the senate alone in special session.

Regular sessions shall be limited to a period of sixty days [,]* and special sessions shall be limited to a period of thirty days. Any session may be extended a total of not more than fifteen days. Such extension shall be granted by the presiding officers of both houses at the written request of two-thirds of the members to which each house is entitled or may be granted by the governor.

Each regular session shall be recessed for not less than five days at some period between the twentieth and fortieth days of the regular session. The legislature shall determine the dates of the mandatory recess by concurrent resolution. Any session may be recessed by concurrent resolution adopted by a majority of the members to which each house is entitled. Saturdays, Sundays, holidays, the days in mandatory recess and any days in recess pursuant to a concurrent resolution shall be excluded in computing the number of days of any session.

*Bracketed punctuation was deleted by the Committee on Style in Stand. Com. Rep. No. 81 but inadvertently retained in subsequent drafts as presented for final reading.

All sessions shall be held in the capital of the State. In case the capital shall be unsafe, the governor may direct that any session be held at some other place.

6. Article III, Section 13, is amended to read:

ORGANIZATION; DISCIPLINE; RULES; PROCEDURE

Section [13] 12. Each house shall be the judge of the elections, returns and qualifications of its own members and shall have, for misconduct, disorderly behavior or neglect of duty of any member, power to punish such member by censure or, upon a two-thirds vote of all the members to which such house is entitled, by suspension or expulsion of such member. Each house shall choose its own officers, determine the rules of its proceedings and keep a journal. The ayes and noes of the members on any question shall, at the desire of one-fifth of the members present, be entered upon the journal.

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

Every meeting of a committee in either house or of a committee comprised of a member or members from both houses held for the purpose of making decision on matters referred to the committee shall be open to the public.

[Each house shall provide by rule of its proceedings for a date, applicable to both houses but no sooner than the twentieth day of the session, by which date all bills to be considered in a regular session shall be introduced; provided that such date shall precede the commencement of the mandatory recess of not less than five days under Section .]

By rule of its proceedings, applicable to both houses, each house shall provide for the date by which all bills to be considered in a regular session shall be introduced. This date shall be after the nineteenth day of the session and shall precede the commencement of the mandatory recess of not less than five days [under Section 10.] as provided in section 10 of this article.

7. Article III, Section 16, is amended to read:

PASSAGE OF BILLS

Section [16] 15. No bill shall become law unless it shall pass three readings in each house on separate days. No bill shall pass third or final reading in either house unless printed copies of the bill in the form to be passed shall have been made available to the members of that house for at least [twenty-four] forty-eight hours.

Every bill when passed by the house in which it originated, or in which amendments thereto shall have originated, shall immediately be certified by the presiding officer and clerk and sent to the other house for consideration.

Any bill pending at the final adjournment of a regular session in an odd-numbered

year shall carry over with the same status to the next regular session. Before the carried-over bill is enacted, it shall pass at least one reading in the house in which the bill originated.

8. Sections numbered 5 to 20, inclusive, of Article III are renumbered to read sections 4 to 19 inclusive, respectively.

9. A new article*, to be appropriately numbered, is added to the State Constitution and shall read:

ARTICLE IV

REAPPORTIONMENT

REAPPORTIONMENT YEARS

Section [4] 1. The year 1973, the year 1981, and every [eighth] tenth year thereafter shall be reapportionment years.

REAPPORTIONMENT COMMISSION

Section 2. A [legislative] reapportionment commission shall be constituted on or before March 1 of each reapportionment year and whenever reapportionment is required by court order. The commission shall consist of nine members. The president of the senate and the speaker of the house of representatives shall each select two members. Members of each house belonging to the party or parties different from that of the president or the speaker shall designate one of their number for each house and the two so designated shall each select two members of the commission. The eight members so selected shall, promptly after selection, be certified by the selecting authorities to the chief election officer and shall within thirty days thereafter select, by a vote of six members, and promptly certify to the chief election officer the ninth member who shall [serve as chairman of] [chair] serve as chairperson of the commission.

Each of the four officials designated above as selecting authorities for the eight members of the commission shall, at the time of the commission selections, also select one person from each basic island unit to serve on an apportionment advisory council for that island unit. The councils shall remain in existence during the life of the commission and each shall serve in an advisory capacity to the commission for matters affecting its island unit.

A vacancy in the commission or a council shall be filled by the initial selecting authority within fifteen days after the vacancy occurs. Commission and council positions and vacancies not filled within the times specified shall be filled promptly thereafter by the supreme court.

The commission shall act by majority vote of its membership and shall establish its own procedures, except as may be provided by law.

*This reflects the substance of Section 4 of Article III; changes to Section 4 are indicated by brackets for deleted material, and underscoring for new.

Not more than one hundred [twenty] fifty days from the date on which its members are certified, the commission shall file with the chief election officer a reapportionment plan for the state legislature and a reapportionment plan for the United States congressional districts[,] which shall become law after publication as provided by law. Members of the commission shall hold office until [the] each reapportionment plan becomes effective or until such time as may be provided by law.

No member of the reapportionment commission or an apportionment advisory council shall be eligible to become a candidate for election to either house of the legislature or to the United States House of Representatives in either of the first two elections under any such reapportionment plan.

Commission and apportionment advisory council members shall be compensated and reimbursed for their necessary expenses as provided by law.

The chief election officer shall be secretary of the commission without vote and, under the direction of the commission, shall furnish all necessary technical services. The legislature shall appropriate funds to enable the commission to carry out its duties.

CHIEF ELECTION OFFICER

Section 3. The legislature shall provide for a chief election officer of the State, whose responsibilities shall be as [prescribed] provided by law and shall include the supervision of state elections, the maximization of registration of eligible voters throughout the State and the maintenance of data concerning registered voters, elections, apportionment and districting.

APPORTIONMENT AMONG BASIC ISLAND UNITS

Section 4. The commission shall allocate the total number of members of each house of the state legislature being reapportioned among the four basic island units, namely: (1) the island of Hawaii, (2) the islands of Maui, Lanai, Molokai and Kahoolawe, (3) the island of Oahu and all other islands not specifically enumerated, and (4) the islands of Kauai and Niihau, on the basis of the number of voters registered in the last preceding general election in each of the basic island units and computed by the method known as the method of equal proportions[,]; except that no basic island unit shall receive less than one member in each house.

APPORTIONMENT WITHIN BASIC ISLAND UNITS

Section 5. Upon the determination of the total number of members of each house of the state legislature to which each basic island unit is entitled, the commission shall apportion the members among the districts therein and shall redraw district lines where necessary in such manner that for each house the average number of registered voters per member in each district is as nearly equal to the average for the basic island unit as practicable.

In effecting such redistricting, the commission shall be guided by the following criteria:

1. No district shall extend beyond the boundaries of any basic island unit.
2. No district shall be so drawn as to unduly favor a person or political faction.
3. Except in the case of districts encompassing more than one island, districts shall be contiguous.
4. Insofar as practicable, districts shall be compact.
5. Where possible, district lines shall follow permanent and easily recognized features, such as streets, streams and clear geographical features, and, when practicable, shall coincide with census tract boundaries.
6. Where practicable, representative districts shall be wholly included within senatorial districts.
7. Not more than four members shall be elected from any district.
8. Where practicable, submergence of an area in a larger district wherein substantially different socio-economic interests predominate shall be avoided.
9. No consideration shall be given to holdover senators in effecting redistricting.

PLACEMENT OF HOLDOVER SENATORS

Section 6. If a senator is serving a term which will extend past the general election at which an apportionment plan becomes effective, the reapportionment commission shall designate in the plan the senatorial district the senator shall represent for the remaining period of the senator's term. In making such designation, the senator need not live in the senatorial district which the senator is designated as representing during the remainder of the term which extends past the general election [at] for which the reapportionment plan becomes effective; provided the reapportionment commission shall consider the following criteria:

1. The senatorial district from which the senator was elected.
2. The senatorial district in which the senator will reside under the reapportionment plan.
3. The requirement of continuing the staggered terms of senators in each district as established by Section 2 of Article [XVI,] XVIII, the next [paragraph] section in this article[,], and the number of senators in a senatorial district under the reapportionment plan of the commission.

RETENTION OF STAGGERED TERMS FOR THE SENATE

Section 7. The senate shall be composed of senators who serve staggered terms of office as follows: senatorial districts with one member, the term of office shall end as provided by the constitution; senatorial districts with two members, each member shall serve a term ending on the date of a different general election; senatorial districts with three members, (A) two members shall serve a term ending on the date of the same general election and (B) one member shall serve a term ending on the date of a general election different than the other two

members; senatorial districts with four members, (A) two members shall serve a term ending on the date of the same general election and (B) two members shall serve a term ending on the date of a general election different than the other two members.

If, in the first or second general election in which senators are elected after a reapportionment, the number of senators in a senatorial district whose terms would end on a date of a general election will be more than that set forth in the above paragraph, then at such general election the members of the senate shall be divided into two classes. The members of the first class shall hold office for a term of four years beginning with their election and ending on the day of the second general election held thereafter. The first class shall consist of that number of persons with the highest number of votes necessary to fulfill item (B) in the above paragraph for senatorial districts with three or four members or one person in senatorial districts with two members. The remaining persons shall constitute the second class and shall hold office for a term of two years beginning with their election and ending on the day of the next general election held thereafter.

CONGRESSIONAL REDISTRICTING FOR

UNITED STATES HOUSE OF REPRESENTATIVES

Section 8. The commission shall, at such times as may be required by this [section] article and as may be required by law of the United States, redraw congressional district lines for the districts from which the members of the United States House of Representatives allocated to this State by Congress are elected.

MANDAMUS AND JUDICIAL REVIEW

Section 9. Original jurisdiction is vested in the supreme court of the State to be exercised on the petition of any registered voter whereby it may compel, by mandamus or otherwise, the appropriate person or persons to perform their duty or to correct any error made in a reapportionment plan, or it may take such other action to effectuate the purposes of this section as it may deem appropriate. Any such petition [must] shall be filed within forty-five days of the date specified for any duty or within forty-five days after the filing of a reapportionment plan.

10. Article XVI, Section 1, relating to districting and apportionment, is deleted in its entirety and a new Section 1 is inserted in lieu thereof, to read:

DISTRICTING AND APPORTIONMENT

Section 1. Until the next reapportionment the senatorial districts and the number of senators to be elected from each shall be as set forth in the 1973 reapportionment plan. Until the next reapportionment the representative districts and the number of representatives to be elected from each shall be as set forth in the 1973 reapportionment plan.

11. Article XVI, Section 2, is amended to read:

[1968] 1978 SENATORIAL ELECTIONS

Section 2. [Senators elected in the 1968 general election shall serve for two-year terms.] Article III, Section [5] 4, to the contrary notwithstanding, the terms of office of the members of the senate elected in the 1978 general election shall be as follows: members of the senate shall be divided into two classes. The first class shall consist of the following number elected with the highest number of votes from their respective senatorial districts: first district, one; second district, one; third district, one; fourth district, two; fifth district, two; sixth district, two; seventh district, two; eighth district, one. Members of the first class shall hold office for a term of four years beginning with their election and ending on the day of the second general election held thereafter. The remaining members elected shall constitute the second class and shall hold office for a term of two years beginning with their election and ending on the day of the next general election held thereafter.

12. Sections 3, 4, 5 and 6 of Article XVI of the State Constitution relating to transitional provisions for the 1968 reapportionment of the state legislature and which provisions are no longer applicable are deleted in their entirety.

COMMITTEE PROPOSAL NO. 9

RELATING TO EXECUTIVE AND ADMINISTRATIVE OFFICES AND DEPARTMENTS.

RESOLVED, that the following be agreed upon as amending Article IV of the State Constitution.*

1. Article IV, Section 6, is amended to read:

EXECUTIVE AND ADMINISTRATIVE OFFICES AND
DEPARTMENTS

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

Each principal department shall be under the supervision of the governor and, unless otherwise provided in this constitution or by law, shall be headed by a single executive. Such single executive shall be nominated and, by and with the advice and consent of the senate, appointed by the governor [and he]. That person shall hold office for a term to

*For background, discussion and rationale on the amendments proposed herein, refer to Stand. Com. Rep. No. 51, Com. Whole Rep. No. 9, Stand. Com. Rep. No. 73 and Stand. Com. Rep. No. 104.

expire at the end of the term for which the governor was elected, unless sooner removed by the governor; except that the removal of the chief legal officer of the State shall be subject to the advice and consent of the senate.

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

The governor shall nominate and, by and with the advice and consent of the senate, appoint all officers for whose election or appointment provision is not otherwise [made] provided for by this constitution or by law. If the manner of removal of an officer is not prescribed in this constitution, [his] removal shall be [in a manner] as [prescribed] provided by law.

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

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

Every officer appointed under the provisions of this section shall be a citizen of the United States and shall have been a resident of this State for at least one year immediately preceding [his] that person's appointment[;], except that this [residence] residency requirement shall not apply to the president of the University of Hawaii.

COMMITTEE PROPOSAL NO. 10

RELATING TO THE JUDICIARY.

RESOLVED, that the following be agreed upon as amending Articles V and XVI of the State Constitution.*

*For background, discussion and rationale on the amendments proposed herein, refer to Stand. Com. Rep. No. 52, Com. Whole Rep. No. 10, Stand. Com. Rep. No. 84, Stand. Com. Rep. No. 104 and the appropriate Second Reading debate.

1. Article V, Section 1, is amended to read:

[JUDICIARY] JUDICIAL POWER

Section 1. The judicial power of the State shall be vested in one supreme court, one intermediate appellate court, circuit courts, district courts[,] and in such [inferior] other courts as the legislature may from time to time establish. The several courts shall have original and appellate jurisdiction as provided by law[.] and shall establish time limits for disposition of cases in accordance with [its] their rules.

2. Article V, Section 2, is amended to read:

SUPREME COURT; INTERMEDIATE APPELLATE COURT;
CIRCUIT COURTS

Section 2. The supreme court shall consist of a chief justice and four associate justices. [When necessary, the] The chief justice [shall] may assign a judge or judges of the intermediate appellate court or a circuit court to serve temporarily on the supreme court, a judge of the circuit court to serve temporarily on the intermediate appellate court[,] and a judge of the district court to serve temporarily on the circuit court. As [prescribed] provided by law, retired justices of the supreme court also may serve temporarily on the supreme court at the request of the chief justice. In case of a vacancy in the office of chief justice, or if [he] the chief justice is ill, absent or otherwise unable to serve, an associate justice designated in accordance with the rules of the supreme court shall serve temporarily in [his place.] place of the chief justice.

3. Article V, Section 3, is amended to read as follows:

APPOINTMENT OF JUSTICES AND JUDGES

Section 3. The governor shall [nominate and, by and with the advice and consent of the senate, appoint the justices of the supreme court and the judges of the circuit courts. No nomination shall be sent to the senate, and no interim appointment shall be made when the senate is not in session, until after ten days' public notice by the governor.], with the consent of the senate, fill a vacancy in the office of the chief justice, supreme court, intermediate appellate court and circuit courts, by appointing a person from a list of not less than six nominees for the vacancy, presented to the governor by the judicial selection commission.

If the governor [should fail] fails to make [the] any appointment within thirty days of presentation [presentment], or within ten days of the senate's rejection of any previous appointment, the appointment shall be made by the judicial selection commission from the list with the consent of the senate. If the senate [should fail] fails to [consent to any appointment, whether by the governor or commission,] reject any appointment within thirty days thereof, it shall be deemed to have given its consent to such appointment. If the senate shall reject any appointment, the governor shall make another appointment from the list within ten days thereof. The

same appointment and consent procedure shall be followed until a valid appointment has been made, or failing [the making of a valid appointment,] this, the commission shall make the appointment from the list, without senate consent.

The chief justice shall fill a vacancy in the district courts by appointing a person from a list of not less than six nominees for the vacancy presented by the judicial commission. If the chief justice fails to make the appointment within [30] thirty days of presentation, the appointment shall be made by the judicial selection commission from the list. The chief justice shall appoint per diem district court judges [in accordance with] as provided by law.

QUALIFICATIONS FOR APPOINTMENT

[No justice or judge shall hold any other office or position of profit under the State or the United States. No person shall be eligible for the office of justice or judge unless he shall have been admitted to practice law before the supreme court of this State for at least ten years. Any justice or judge who shall become a candidate for an elective office shall thereby forfeit his office.] Justices and judges shall be residents and citizens of the State and of the United States, and licensed to practice law by the supreme court. A justice of the supreme court, a judge of the intermediate appellate court and a judge of the circuit court shall have been so licensed for a period of not less than ten years preceding [his] nomination. A judge of the district court shall have been so licensed for a period of not less than five years preceding [his] nomination.

No justice or judge shall, during [his] the term of office, engage in the practice of law, or run for or hold any other office or position of profit under the United States, the State[,] or its political subdivisions.

TENURE; COMPENSATION; RETIREMENT

The term of office of [a justice of the supreme court and of a judge of a circuit court shall be ten years. They shall receive for their services such compensation as may be prescribed by law, but no less than twenty-eight thousand dollars for the chief justice, twenty-seven thousand dollars for associate justices and twenty-five thousand dollars for circuit court judges, a year.] justices and judges of the supreme court, intermediate appellate court and circuit courts shall be ten years. Judges of district courts shall hold office for the periods [prescribed] as provided by law. At least six months prior to the expiration of [his] a justice's or judge's term of office, every justice and judge shall petition the judicial selection commission to be retained in office or shall inform the commission of [his] an intention to retire. If the judicial selection commission determines that the justice or judge should be retained in office, the commission shall renew [his] the term of office of such justice or judge for the period [prescribed] [as] provided by this section or by law.

There shall be a salary commission to review and recommend salaries for justices and

judges of all state courts. Justices and judges shall have salaries as [prescribed] provided by law. Their compensation shall not be decreased during their respective terms of office, unless by general law applying to all salaried officers of the State. They shall be retired upon attaining the age of seventy years. They shall be included in any retirement law of the State.

4. Article V, Section [4] 5, is amended to read:

RETIREMENT [FOR INCAPACITY AND];

REMOVAL; DISCIPLINE

Section [4] 5. [Whenever a commission or agency, authorized by law for such purpose, shall certify to the governor that any justice of the supreme court or judge of a circuit court appears to be so incapacitated as substantially to prevent him from performing his judicial duties or has acted in a manner that constitutes wilful misconduct in office, wilful and persistent failure to perform his duties, habitual intemperance, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute, the governor shall appoint a board of three persons, as provided by law, to inquire into the circumstances. If the board recommends that the justice or judge should not remain in office, the governor shall remove or retire him from office.] The supreme court shall have the power to reprimand, discipline, suspend with or without salary, retire [and] or remove from office[,] any justice or judge for misconduct or disability, [any justice or judge, according to such rules governing exercise of this power] as provided by rules adopted by the supreme court [shall adopt].

The supreme court shall create a commission on judicial discipline which shall have authority to investigate and conduct hearings concerning allegations of misconduct or disability and to make recommendations to the supreme court concerning reprimand, discipline, suspension, retirement or removal of any justice or judge.

5. Article V is amended by adding a new section to be appropriately designated and to read:

[THE] JUDICIAL SELECTION COMMISSION

Section 4. There shall be a judicial selection commission that shall consist of nine members. The governor shall appoint three members to the commission[, the initial appointments to be for terms of two, four and six years respectively]. No more than one of the three members shall be a licensed attorney. The president of the senate and the speaker of the house of representatives shall each respectively [elect] appoint one member to the commission[, the initial appointments to be for a term of two years respectively]. The chief justice of the supreme court shall [elect] appoint two members to the commission[, the initial appointments to be for terms of four and six years respectively]. No more than one of the two members shall be a licensed attorney. Members in good standing of the bar of the [state] State shall elect

two of their number to the commission in an election conducted by the supreme court or its delegate[, the initial election to be for terms of four and six years respectively]. No more than four members of the commission shall be licensed attorneys.

The commission shall be selected and shall operate in a wholly nonpartisan manner. After the initial formation of the commission, elections and appointments to the commission shall be for staggered terms of six years each. No member of the commission shall serve for more than one full six-year term on the commission. [The legislature shall by statute provide for the time and manner of appointments and elections to conform with this section.]

Each member of the judicial selection commission shall be a resident of the State and a citizen of the United States. No member shall run for or hold any other elected office under the United States, the State[,] or its political subdivisions. No member shall take an active part in political management or in political campaigns. No member shall be eligible for appointment to judicial office of the State so long as [he] the person is a member of the judicial commission[,] and for a period of three years thereafter.

No act of the judicial selection commission shall be valid [unless concurred in by a] except by concurrence of the majority of its voting members.

[Any attorney member of the commission or [his employer or] that member's law firm representing any party before any nominee for justice or judge, shall disqualify himself in any judicial proceeding before the nominee for the period the nominee is being considered. Any non-attorney member of the commission who is a party or if his employer or firm is a party in any judicial proceeding before any nominee for justice or judge shall disqualify himself from voting.]

The judicial selection commission shall select one of its members to serve as [chairman.] chairperson. The commission shall promulgate rules which shall have the force and effect of law. The deliberations of the commission shall be confidential.

[No member of the judicial commission shall receive any compensation for commission services, but shall be allowed necessary expenses for travel, board and lodging incurred in the performance of commission duties. The legislature shall provide for [operation,] the staff and [other] operating expenses [incidental to the performance of commission duties.] of the commission in a separate budget. The Judicial Selection Commission shall be attached to the Judiciary Branch of the State Government for purposes of administration.]

The legislature shall provide for the staff and operating expenses of the judicial selection commission in a separate budget. No member of the judicial selection commission shall receive any compensation for commission services, but shall be allowed necessary expenses for travel, board and lodging incurred in the performance of commission duties.

The judicial selection commission shall be attached to the judiciary branch of the state

government for purposes of administration.

6. Article [V] XVI is amended by adding a new section to be appropriately designated and to read:

JUDICIARY: TRANSITION; EFFECTIVE DATE

Section 5. The three members initially appointed to the judicial selection commission by the governor shall serve for terms of two, four and six years respectively. The members initially appointed to the commission by the president of the senate and the speaker of the house of representatives shall serve for two years. The two members initially appointed to the commission by the chief justice of the supreme court shall serve terms of four and six years respectively. The two members initially elected to the commission by the members of the bar of the [state] State shall serve for terms of four and six years respectively. The current terms of justices and judges in office shall terminate as heretofore provided by law, subject to earlier termination and removal as provided in [this article.] Article [V.] VI. The amendments to Article [V] VI shall take effect upon ratification. The [Judicial Selection Commission] judicial selection commission shall be created no later than April 1, 1979.

COMMITTEE PROPOSAL NO. 11

RELATING TO HAWAIIAN AFFAIRS.

RESOLVED, that the following be agreed upon as amending Article XI of the State Constitution and the Hawaiian Homes Commission Act, 1920, as amended.*

1. Section 1 of Article XI is amended to read:

HAWAIIAN HOMES COMMISSION ACT

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

*For background, discussion and rationale on the amendments proposed herein, refer to Stand. Com. Rep. No. 56, Com. Whole Rep. No. 11, Stand. Com. Rep. No. 85, Stand. Com. Rep. No. 104 and the appropriate Second Reading debate.

make sufficient sums available for the following purposes [of]: (1) development of home, agriculture, farm and ranch lots; (2) home, agriculture, aquaculture, farm and ranch loans; (3) rehabilitation projects to include, but not limited to, educational, economic, political, social[,] and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved; (4) the administration and operating budget of the department of Hawaiian [Home Lands;] home lands; in furtherance of (1), (2), (3) and (4) herein, [said Act] by appropriating the same in the manner provided by law.

[(B)] Thirty percent of the [State] state receipts derived from the leasing of cultivated sugarcane lands under any provision of law or from water licenses shall be transferred to the native Hawaiian rehabilitation fund, [Section] section 213 of the Hawaiian Homes Commission Act, 1920, for the purposes enumerated in [said] that section. Thirty percent of the [State] state receipts derived from the leasing of lands cultivated as sugarcane lands on the effective date of [the] this section [herein] [1(B)] shall continue to be so transferred to the native Hawaiian rehabilitation fund whenever [said] such lands are sold, developed, leased, utilized, transferred, set aside[,] or otherwise disposed of for purposes other than the cultivation of sugarcane. There shall be no ceiling established for the aggregate amount transferred into the native Hawaiian rehabilitation fund.

2. Section 213 of the Hawaiian Homes Commission Act, 1920, is amended to add a new subsection (b) (8) to read as follows:

[Sec.] Section 213. Funds and accounts.

(b) There are established in the treasury of the State [seven] eight special funds, to be known respectively as the Hawaiian home development fund, the Hawaiian home administration account, the Hawaiian loan guarantee fund, the Hawaiian loan interest fund, the borrowed money fund, the Hawaiian home trust fund, [and] the Hawaiian home education fund[.][,] and the native Hawaiian rehabilitation fund.

(8) Native Hawaiian rehabilitation fund. Pursuant to Article [XI] XII, Section 1 [(B)], of the State Constitution, thirty percent of the state receipts, derived from lands previously cultivated as sugarcane lands under any other provision of law and from water licenses, shall be deposited into this fund. The department shall use this money solely for the rehabilitation of native Hawaiians which shall include but not be limited to the educational, economic, political, social and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved and perpetuated.

3. Section 204 is amended to read:

Section 204. [(Control by department of "available lands"[,],) return to board of

land and natural resources, when. [)] Upon the passage of this [act,] Act, all available lands shall immediately assume the status of Hawaiian home lands and be under the control of the department to be used and disposed of in accordance with the provisions of this [title] Act, except that:

(1) In case any available land is under lease by the Territory of Hawaii, by virtue of section 73 of the Hawaiian Organic Act, at the time of the passage of this Act, such land shall not assume the status of Hawaiian home lands until the lease expires or the board of land and natural resources withdraws the lands from the operation of the lease. If the land is covered by a lease containing a withdrawal clause, as provided in subdivision (d) of section 73 of the Hawaiian Organic Act, the board of land and natural resources shall withdraw such lands from the operation of the lease whenever the department[, with the approval of the Secretary of the Interior,] gives notice to [it] the board that the department is of the opinion that the lands are required by it for the purposes of this [title] Act; and such withdrawal shall be held to be for a public purpose within the meaning of that term as used in subdivision (d) of section 73 of the Hawaiian Organic Act;

(2) Any available land, including lands selected by the department out of a larger area, as provided by this Act, [as may not be immediately needed for the purposes of this Act,] not leased as authorized by the provisions of section 207(a) of this Act, may be returned to the board of land and natural resources [and may be leased by it as provided in chapter 171, Hawaii Revised Statutes] as provided under section 212 of this Act, or may be retained for management by the department.

[Any lease by the board of land and natural resources of Hawaiian home lands hereafter entered into shall contain a withdrawal clause, and the lands so leased shall be withdrawn by the board of land and natural resources, for the purpose of this Act, upon the department giving at its option, not less than one nor more than five years' notice of such withdrawal; provided, that the minimum withdrawal-notice period shall be specifically stated in such lease.]

In the management of any retained available lands not required for leasing under section 207(a), the department may dispose of such lands to the public, including native Hawaiians, on the same terms, conditions, restrictions and uses applicable to the disposition of public lands as provided in chapter 171[;], Hawaii Revised Statutes; provided[,] that the department may not sell or dispose of such lands in fee simple except as authorized under section 205 of this Act[.]; provided further[,] that the department is expressly authorized to negotiate, prior to negotiations with the general public, the disposition of a lease of Hawaiian home lands to a native Hawaiian, or organization or association owned or controlled by native Hawaiians, for commercial, industrial[,] or other business purposes, in accordance with the procedure set forth in section 171-59, Hawaii Revised Statutes, subject to the notice requirement of

section 171-16(c), Hawaii Revised Statutes, and the lease rental limitation imposed by section 171-17(b) [.] , Hawaii Revised Statutes.

[(3) The department shall not lease, use, nor dispose of more than twenty thousand (20,000) acres of the area of Hawaiian home lands, for settlement by native Hawaiians, in any calendar five-year period.]

[4] (3) The department may, with the approval of [the governor and] the Secretary of the Interior, in order to consolidate its holdings or to better effectuate the purposes of this Act, exchange the title to available lands for land, privately or publicly owned, of an equal value. All land so acquired by the department shall assume the status of available lands as though [the same] such land were originally designated as [such] available lands under [Section] section 203 hereof, and all lands so conveyed by the department shall assume the status of the land for which it was exchanged. The limitations imposed by [Section] section 73(1) of the Hawaiian Organic Act and the land laws of Hawaii as to the area and value of land that may be conveyed by way of exchange shall not apply to exchanges made pursuant hereto. No such exchange of land publicly owned by the State shall be made without the approval of two-thirds of the members of the board of land and natural resources. For the purposes of this [sub]paragraph, lands "publicly owned" means land owned by a county or the State or the United States.

4. Section 212 is amended to read:

Section 212. [(Lands returned to control of board of land and natural resources. [.)]
The department may return any Hawaiian home lands not leased as authorized by the provisions of section 207 of this [title] Act to the control of the board of land and natural resources. Any Hawaiian home lands so returned shall, until the department gives notice as hereinafter in this section provided, resume and maintain the status of public lands in accordance with the provisions of the [(Hawaii Revised Statutes[.)]; [except] provided that such lands may not be sold, leased, set aside, used, transferred[,] or otherwise disposed of except under a general lease only. Any lease by the board of Hawaiian home lands hereafter entered into shall contain a withdrawal clause, and the lands so leased shall be withdrawn by the board, for the purpose of this Act, upon the department giving at its option, not less than one nor more than five years' notice of such withdrawal; provided[,] that the minimum withdrawal-notice period shall be specifically stated in such lease. Each such lease, whether or not stipulated therein, shall be deemed subject to the right and duty of the board of land and natural resources to terminate the lease and return the lands to the department whenever the department[, with the approval of the Secretary of the Interior,] gives notice to the board that the department is of the opinion that the lands are required [by it for leasing as authorized by the provisions of section 207 of this title or for a community pasture].

Notwithstanding the provisions of [Hawaii Revised Statutes Section] section 171-95, Hawaii Revised Statutes, in the leasing of Hawaiian home lands by the board to a public utility or other governmental agency, where such use directly benefits the department of Hawaiian home lands or the homestead lessees, the rental may be nominal; in all other instances, the lease rental shall be no less than the value determined in accordance with [Hawaii Revised Statutes Section] section 171-17(b) [.] , Hawaii Revised Statutes.

Any general lease of Hawaiian home lands hereafter entered into by the board shall be [null and] void unless prior to the disposition of [said] such lease by public auction, direct negotiation or otherwise, approval shall be obtained from the department of Hawaiian home lands.

5. Section 221 is amended by adding a new subsection (f):

Section 221. [()Water. ()]

(f) Water systems in the exclusive control of the department shall remain under its exclusive control; if] . If any provision or the application of such provision is inconsistent with the provision contained herein, this section shall control.

Water systems [includes] include all real and personal property together with all improvements to [the same] such systems acquired or constructed by the department for the distribution and control of such water for domestic or agricultural use.

COMMITTEE PROPOSAL NO. 12

RELATING TO HAWAIIAN EDUCATION.

RESOLVED, that the following be agreed upon as adding a new section to Article IX, Article XIII, Article XIV and Article I.*

1. Article IX is amended by adding a new section to read:

HAWAIIAN EDUCATION PROGRAM

Section 4. The State shall promote the study of Hawaiian culture, history[,] and language.

[Section .] The State shall provide for a [comprehensive] Hawaiian education program[,] consisting of language, culture and history[,] [as part of the regular curriculum of] in the public schools. The use of community expertise shall be encouraged as a suitable and essential means in furtherance of the Hawaiian [language, culture and history] education program.

2. The title of Article XIII is amended to read:

*For background, discussion and rationale on the amendments proposed herein, refer to Stand. Com. Rep. No. 57, Com. Whole Rep. No. 12, Stand. Com. Rep. No. 86, Stand. Com. Rep. No. 104 and the appropriate Second Reading debate.

ARTICLE [XIII] XVSTATE BOUNDARIES[.]; CAPITAL[.]; FLAG[.];LANGUAGE AND MOTTO

3. Article XIII is amended by adding a new section to read:

OFFICIAL LANGUAGES

Section 4. English and Hawaiian shall be the official languages of Hawaii, except that Hawaiian shall be required for public acts and transactions only as provided by law.

4. Article XIV is amended by adding a new section to read:

TRADITIONAL AND CUSTOMARY RIGHTS

Section 8. The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by [tenants of an] ahupua'a tenants who are decendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778 [that were customarily and traditionally exercised for subsistence, cultural and religious purposes], subject to the right of the State to regulate [the same] such rights.

5. Article [I] XVI is amended by adding a new section to read:QUIETING TITLE

Section 12. No person shall be deprived of title to an estate or interest in real property by another person claiming actual, continuous, hostile, exclusive, open and notorious possession of such lands, except to real property of five acres or less. Such claim may be asserted in good faith by any person not more than once in twenty years.

COMMITTEE PROPOSAL NO. 13

RELATING TO HAWAIIAN AFFAIRS.

RESOLVED, that the following be agreed upon as amending Article X, Article XI, Article XIV and Article XVI of the State Constitution.*

1. Article XI is amended by deleting the title and adding a new title to read:

HAWAIIAN [HOME LANDS] AFFAIRS

2. Article XI is amended by adding a new section to read:

PUBLIC TRUST

Section 4. The lands granted to the State of Hawaii by Section 5(b) of the Admission Act and pursuant to Article [XIV] XVI, Section [8] 7, of the State Constitution, excluding therefrom lands defined as "available lands" by Section 203 of the Hawaiian Homes Commission Act, 1920, as amended, shall be held by the State as a public trust for [those] native Hawaiians[,

*For background, discussion and rationale on the amendments proposed herein, refer to Stand. Com. Rep. No. 59, Com. Whole Rep. No. 13, Stand. Com. Rep. No. 87, Stand. Com. Rep. No. 104 and the appropriate Second Reading debate.

as defined in the Hawaiian Homes Commission Act, 1920, as amended or may be amended,]
and the general public.

3. Article XI is amended by a new Section 5 to read:

OFFICE OF HAWAIIAN AFFAIRS;

ESTABLISHMENT OF BOARD OF TRUSTEES

Section 5. There is hereby established an Office of Hawaiian Affairs. The Office of Hawaiian Affairs shall hold title to all the real and personal property now or hereafter set aside or conveyed to it which shall be held in trust for native Hawaiians and Hawaiians. There shall be a board of trustees for the Office of Hawaiian Affairs elected by qualified voters who are [native] Hawaiians, [in accordance with] as provided by law. The board members shall be [native] Hawaiians. There shall be not less than [9] nine members of the board of trustees; provided that each of the following Islands have one representative: Oahu, Kauai, Maui, Molokai and Hawaii. The [Board] board shall select a [chairman] chairperson from its members.

4. Article XI is amended by a new Section 6 to read:

POWERS OF BOARD OF TRUSTEES

Section 6. The board of trustees of the Office of Hawaiian Affairs shall exercise power [in accordance with] as provided by law[,]; to manage and administer the proceeds from the sale or other disposition of the lands, natural resources, minerals[,] and income derived from whatever sources for native Hawaiians and Hawaiians, including all income and proceeds from that pro rata portion of the trust referred to in [Section 4] section 4 of this article for [those] native Hawaiians [as defined in the Hawaiian Homes Commission Act, 1920, as amended or may be amended]; to formulate policy relating to affairs of native Hawaiians and Hawaiians[,]; and to exercise control over real and personal property set aside by state, federal[,] or private sources and transferred to [said Board] the board for [Native] native Hawaiians and Hawaiians. The board shall have the power to exercise control over the Office of Hawaiian Affairs through its executive officer, the administrator of the Office of Hawaiian Affairs, who shall be appointed by the board.

5. Article XI is amended by adding a new Section 7 to read:

DEFINITION: HAWAIIAN; NATIVE HAWAIIAN

Section 7. The term [Native] "Hawaiian" means any [individual any of whose ancestors were natives of the area which consisted of the Hawaiian Islands prior to 1778.] descendant of the races inhabiting the Hawaiian Islands, previous to 1778.

[Native Hawaiians of one-half blood] The term "native Hawaiian" means any [individual] descendant of not less than one-half part of the blood of races inhabiting the Hawaiian Islands

previous to 1778 as defined by the Hawaiian Homes Commission Act, 1920, as amended or may be amended.

6. Article XVI is amended by adding a new section to read:

EFFECTIVE DATE FOR OFFICE
OF HAWAIIAN AFFAIRS

Section 8. The legislature shall provide for the implementation of the amendments to Article [XI] XII in Sections 5 and 6 on or before the first general election following ratification of the amendments to Article [XI] XII in Sections 5 and 6.

[7. Article X, Section 5, is amended to read as follows:

FARM AND HOME OWNERSHIP

Section . [The] [That pro rata portion of the] The public lands [set aside for the general public in Section 4 of Article XI, hereof,] shall be used for the development of farm and home ownership on as widespread a basis as possible, in accordance with procedures and limitations prescribed by law.]

8. Section 8 of Article XIV is amended to read:

COMPLIANCE WITH TRUST

Section [8.] 7. Any trust provisions which the Congress shall impose, upon the admission of this State, in respect of the lands patented to the State by the United States or the proceeds and income therefrom, shall be complied with by appropriate legislation. Such legislation shall not diminish or limit the benefits of native Hawaiians under Section 4 of Article [XI] XII.

COMMITTEE PROPOSAL NO. 14

RELATING TO TAXATION AND FINANCE.

RESOLVED, that the following be agreed upon as amending Articles VI, VII and XVI of the State Constitution.*

1. Article VI is amended by adding [three] four new sections to read:

DISPOSITION OF EXCESS REVENUES

Section 6. Whenever the state general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years, the legislature in the next regular session shall provide for a tax refund or tax credit to the taxpayers of the State, as provided by law.

COUNCIL ON REVENUES

*For background, discussion and rationale on the amendments proposed herein, refer to Stand. Com. Rep. No. 66, Com. Whole Rep. No. 14, Stand. Com. Rep. No. 93, Stand. Com. Rep. No. 104 and the appropriate Second Reading debate.

Section 7. There shall be established by law a council on revenues which shall prepare revenue estimates of the state government and shall report the estimates to the governor and the legislature at times provided by law. The estimates shall be considered by the governor in preparing the budget, recommending appropriations and revenues and controlling expenditures [and by the] . The estimates shall be considered by the legislature in appropriating funds and enacting revenue measures. All revenue estimates [made] submitted by the council to the governor and the legislature shall be made public. If the legislature in appropriating funds or if the governor in preparing the budget or recommending appropriations exceeds estimated revenues due to proposed expenditures, this fact shall be made public including the reasons therefor.

TAX REVIEW COMMISSION

Section 3. There shall be a tax review commission [on tax review], which shall be appointed as provided by law on or before July 1, 1980, and every five years thereafter. The commission shall submit to the legislature an evaluation of the State's tax structure, recommend revenue and tax policy and then dissolve.

INCOME TAXATION

Section 2. In enacting any law imposing a tax on or measured by income, the legislature may define income by reference to provisions of the laws of the United States as they may be or become effective at any time or from time to time, whether retrospective or prospective in their operation. The legislature may provide that amendments to such laws of the United States shall become the law of the State upon their becoming the law of the United States. The legislature shall in any such law set the rate or rates of such tax. The legislature may in so defining income make exceptions, additions or modifications to any provisions of the laws of the United States so referred to and provide for retrospective exceptions or modifications to those provisions which are retrospective.

2. Article VI, Section 2, is amended to read:

APPROPRIATIONS FOR PRIVATE PURPOSES

PROHIBITED

Section [2.] 4. No tax shall be levied or appropriation of public money or property made, nor shall the public credit be used, directly or indirectly, except for a public purpose. No grant shall be made in violation of Section [3] 4 of Article I of this constitution. No grant of public money or property shall be made except pursuant to standards provided by law.

3. Article VI, Section 3, is amended to read:

[BONDS; DEBT LIMITATIONS

Section 3. For the purposes of this section, the term "bonds" shall include bonds, notes

and other instruments of indebtedness; the term "general obligation bonds" means all bonds for the payment of the principal and interest of which the full faith and credit of the State or a political subdivision are pledged[; and the term "revenue bonds" means all bonds payable solely from and secured solely by the revenues, or user taxes, or any combination of both, of a public undertaking, improvement or system.] and, unless otherwise indicated, includes reimbursable general obligation bonds; the term "net revenues" or "net user tax receipts" means the revenues or receipts derived from a public undertaking, improvement or system remaining after the costs of operation, maintenance and repair of such public undertaking, improvement or system and the required payments of the principal of and interest on all revenue bonds issued therefor have been made; the term "person" means an individual, firm, partnership, corporation, association, cooperative or other legal entity, governmental body or agency, board, bureau or other instrumentality thereof, or any combination of the foregoing; the term "rates, rentals and charges" means all revenues and other moneys derived from the operation or lease of a public undertaking, improvement or system, or derived from any payments or return on security under a loan program or a loan thereunder; the term "reimbursable general obligation bonds" means general obligation bonds issued for a public undertaking, improvement or system for which revenues, or user taxes, or a combination of both, may be derived for the payment of the principal and interest as reimbursement to the general fund and for which reimbursement is required by law, and, in the case of general obligation bonds issued by the State for a political subdivision, general obligation bonds for which the payment of the principal and interest as reimbursement to the general fund is required by law to be made from the revenue of the political subdivision; the term "revenue bonds" means all bonds payable from the revenues, or user taxes, or any combination of both, of a public undertaking, improvement, system or loan program and any loan made thereunder and secured as may be provided by law; the term "special purpose revenue bonds" means all bonds payable from rental or other payments made to an issuer by a person pursuant to contract and secured as may be provided by law; and the term "user tax" means a tax on goods or services or on the consumption thereof, the receipts of which are substantially derived from the consumption, use or sale of goods and services in the utilization of the functions or services furnished by a public undertaking, improvement or system.]

DEFINITIONS; ISSUANCE OF INDEBTEDNESS

Section [3.] 12. For the purposes of this article:

1. The term "bonds" shall include bonds, notes and other instruments of indebtedness.
2. The term "general obligation bonds" means all bonds for the payment of the principal and interest of which the full faith and credit of the State or a political subdivision are pledged and, unless otherwise indicated, includes reimbursable general obligation bonds.

3. The term "net revenues" or "net user tax receipts" means the revenues or receipts derived from a public undertaking, improvement or system remaining after the costs of operation, maintenance and repair of such public undertaking, improvement or system and the required payments of the principal of and interest on all revenue bonds issued therefor have been made.

4. The term "person" means an individual, firm, partnership, corporation, association, cooperative or other legal entity, governmental body or agency, board, bureau or other instrumentality thereof, or any combination of the foregoing.

5. The term "rates, rentals and charges" means all revenues and other moneys derived from the operation or lease of a public undertaking, improvement or system, or derived from any payments or return on security under a loan program or a loan thereunder.

6. The term "reimbursable general obligation bonds" means general obligation bonds issued for a public undertaking, improvement or system [for] from which revenues, or user taxes, or a combination of both, may be derived for the payment of the principal and interest as reimbursement to the general fund and for which reimbursement is required by law, and, in the case of general obligation bonds issued by the State for a political subdivision, general obligation bonds for which the payment of the principal and interest as reimbursement to the general fund is required by law to be made from the revenue of the political subdivision.

7. The term "revenue bonds" means all bonds payable from the revenues, or user taxes, or any combination of both, of a public undertaking, improvement, system or loan program and any loan made thereunder and secured as may be provided by law.

8. The term "special purpose revenue bonds" means all bonds payable from rental or other payments made to an issuer by a person pursuant to contract and secured as may be provided by law.

9. The term "user tax" means a tax on goods or services or on the consumption thereof, the receipts of which are substantially derived from the consumption, use or sale of goods and services in the utilization of the functions or services furnished by a public undertaking, improvement or system.

[All bonds issued by or on behalf of the State or a political subdivision must be authorized by the legislature, and bonds of a political subdivision must also be authorized by its governing body.] The legislature, by a majority vote of the members to which each house is entitled, shall authorize the issuance of all general obligation bonds, bonds issued under special improvement statutes and revenue bonds issued by or on behalf of the State and shall prescribe by general law the manner and procedure for such issuance. The legislature by general law shall authorize political subdivisions to issue general obligation bonds, bonds issued under special improvement statutes and revenue bonds [and may authorize any board or agency of

such political subdivision to issue revenue bonds] and[, in either case,] shall prescribe the manner and procedure for such issuance. All [general obligation] such bonds issued by or on behalf of a political subdivision shall be authorized by the governing body of such political subdivision [and all revenue bonds issued by or on behalf of a political subdivision shall be authorized by the governing body of such political subdivision or the governing body of any board or agency of such political subdivision authorized by law to issue revenue bonds].

Special purpose revenue bonds shall only be authorized or issued to finance facilities of or for, or to loan the proceeds of such bonds to assist, manufacturing, processing or industrial enterprises, utilities serving the general public, health care facilities provided to the general public by not-for-profit corporations or low and moderate income government housing programs, each of which is hereinafter referred to in this paragraph as a special purpose entity. The legislature, [by general law may authorize] by a two-thirds vote of the members to which each house is entitled, [and by a separate bill for each authorization and for each different type of project, by general law may authorize] may enact enabling legislation for the issuance of special purpose revenue bonds separately for each special purpose entity, and, by a two-thirds vote of the members to which each house is entitled and by separate legislative bill, may authorize the State [or political subdivisions, or both,] to issue special purpose revenue bonds [and, in such case, shall prescribe the manner and procedure for such issuance[.];] for each single project or multi-project program of each special purpose entity; provided that the issuance of such special purpose revenue bonds is found to be in the public interest by the legislature. The legislature may enact enabling legislation to authorize political subdivisions to issue special purpose revenue bonds. If so authorized, a political subdivision by a two-thirds vote of the members to which its governing body is entitled and by separate ordinance may authorize the issuance of special purpose revenue bonds for each single project or multi-project program of each special purpose entity; provided that the issuance of such special purpose revenue bonds is found to be in the public interest by the governing body of the political subdivision. [No special purpose revenue bonds shall be authorized or issued except to finance facilities of or for, or to loan the proceeds of such bonds to assist, manufacturing, processing or industrial enterprises, utilities serving the general public, health care facilities provided to the general public by not-for-profit corporations or low and moderate income government housing programs[, which facilities or loan the legislature finds to be in the public interest].] No special purpose revenue [bond] bonds shall be secured directly or indirectly by the general credit of the issuer or by any revenues or taxes of the issuer other than receipts derived from payments by a person under contract or from any security for such contract or special purpose revenue bonds and no moneys other than such receipts shall be applied to the payment thereof. The governor shall provide the legislature

in November of each year with a report on the cumulative amount of all special purpose revenue bonds authorized and issued, and such other information as may be necessary.

DEBT LIMIT; EXCLUSIONS

Section 13. [Bonds] General obligation bonds may be issued by the State [when authorized by a two-thirds vote of the members to which each house of the legislature is entitled,]; provided that such bonds at the time of [authorization] issuance would not cause the total [of state indebtedness] amount of principal and interest payable in the current or any future fiscal year, whichever is higher, on such bonds and on all outstanding general obligation bonds to exceed: a sum equal to [three and one-half times] twenty percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance until June 30, 1982; and thereafter, a sum equal to eighteen and one-half percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding [the session of the legislature authorizing] such issuance. Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance. Any bond issue by or on behalf of the State may exceed the debt limit if an emergency condition is declared to exist by the governor and concurred to by a two-thirds vote of the members to which each house of the legislature is entitled. For the purpose of this paragraph, general fund revenues of the State shall not include [monies] moneys received as grants from the federal government and receipts in reimbursement of any [indebtedness that is] reimbursable general obligation bonds which are excluded [in computing the total indebtedness of the State.] as permitted by this section.

[By majority vote of the members to which each house of the legislature is entitled and without regard to any debt limit, there may be issued by or on behalf of the State: bonds to meet appropriations for any fiscal period in anticipation of the collection of revenues for such period or to meet casual deficits or failures of revenue, if required to be paid within one year; bonds to suppress insurrection, to repel invasion, to defend the State in war or to meet emergencies caused by disaster or act of God; and revenue bonds.]

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

[Bonds to meet appropriations for any fiscal period in anticipation of the collection of revenues for such period or to meet casual deficits or failures of revenue, if required to be paid within one year, may be issued by any political subdivision under authorization of law

and of its governing body without regard to any debt limit.]

All general obligation bonds for a term exceeding [one year] two years shall be in serial form maturing in substantially equal installments of principal, or maturing in substantially equal [installment] installments of both principal and interest[, the]. The first installment of principal [to] of general obligation bonds and of reimbursable general obligation bonds shall mature not later than five years from the date of [the] issue of such series[, and the]. The last installment on general obligation bonds shall mature not later than [thirty-five] twenty-five years from the date of such issue[.] and the last installment on general obligation bonds [paid] sold to the federal government, on reimbursable general obligation bonds and on bonds constituting instruments of indebtedness under which the State or a political subdivision incurs a contingent liability as a guarantor shall mature not later than thirty-five years from the date of such issue. The interest and principal payments of general obligation bonds shall be a first charge on the general fund of the State or political subdivision, as the case may be.

In determining the [total indebtedness] power of the State to issue general obligation bonds or the funded debt of any political subdivision[,] under section [3,] 12, the following shall be excluded:

[(a)] 1. Bonds that have matured, or that mature in the then current fiscal year, or that have been irrevocably called for redemption and the redemption date has occurred or will occur in the then fiscal year, [and] or for the full payment of which [monies] moneys or securities have been irrevocably set aside.

[(b)] 2. Revenue bonds, [authorized or issued,] if the issuer thereof is obligated by law to impose rates, rentals and charges for the use and services of the public undertaking, improvement or system[,] or the benefits of a loan program or a loan thereunder or to impose a user tax, or to impose a combination of rates, rentals and charges and user tax, as the case may be, sufficient to pay the cost of operation, maintenance and repair, if any, of the public undertaking, improvement or system or the cost of maintaining a loan program or a loan thereunder and the required payments of the principal of and interest on all revenue bonds issued for the public undertaking, improvement or system[,] or loan program, and if the issuer is obligated to deposit such revenues or tax or a combination of both into a special fund and to apply the same to such payments in the amount necessary therefor. [For the purposes of this section a user tax shall mean a tax on goods or services or on the consumption thereof, the receipts of which are substantially derived from the consumption, use or sale of goods and services in the utilization of the functions or services furnished by the public undertaking, improvement or system.]

[(c)] 3. Special purpose revenue bonds, if the issuer thereof is required by law to

contract with a person obligating such person to make rental or other payments to the issuer in an amount at least sufficient to make the required payment of the principal of and interest on such special purpose revenue bonds.

[(c)] [(d)] 4. Bonds [authorized or] issued under special improvement statutes when the only security for such bonds is the properties benefited or improved or the assessments thereon.

[(d)] [(e)] 5. General obligation bonds [authorized or] issued for assessable improvements, but only to the extent that reimbursements to the general fund for the principal and interest on such bonds are in fact made from assessment collections available therefor.

[(e)] [(f)] 6. [General] Reimbursable general obligation bonds issued for a public undertaking, improvement or system [from which revenues, user taxes, or a combination of both may be derived for the payment of all or part of the principal and interest as reimbursement to the general fund,] but only to the extent that reimbursements to the general fund are in fact made from the net revenue, or net user tax receipts, or combination of both, as determined for the immediately preceding fiscal year. [For the purposes of this section, net revenue or net user tax receipts shall be the revenue or receipts remaining after the costs of operation, maintenance and repair of such public undertaking, improvement or system and the required payments of the principal of and interest on all revenue bonds issued therefor have been made.]

[(f)] General obligation bonds of the State, authorized but unissued, for an existing public undertaking, improvement or system that produces revenues, or user tax receipts, or a combination of both, but only if in the fiscal year immediately preceding the authorization, the public undertaking, improvement or system produced a net revenue, net user taxes or a combination of both, that was sufficient to pay into the general fund the full amount of the principal and interest then due for all general obligation bonds then outstanding for such public undertaking, improvement or system.]

[(g)] General obligation bonds of the State, authorized but unissued, for an existing public undertaking, improvement or system that has not been self-sustaining as determined for the immediately preceding fiscal year, and that produces revenues, or user tax receipts, or a combination of both, but only if the rates or charges for the use and services of the undertaking have been, or the rate of such user tax has been, increased by law or by the issuing body as authorized by law, in an amount that is determined will produce sufficient net revenue or net user taxes, or any combination thereof, for reimbursement to the general fund for the payment of principal and interest on all general obligation bonds then outstanding and authorized for such public undertaking, improvement or system.]

[(h)] [(g)] 7. [General] Reimbursable general obligation bonds issued by the State

for any political subdivision, whether issued before or after the effective date of this section, but only for as long as reimbursement by the political subdivision to the State for the payment of principal and interest on such bonds is required by law; provided that in the case of bonds [authorized or] issued after the effective date of this [amendment,] section, the consent of the governing body of the political subdivision has first been obtained; and provided further that during the period that such bonds are excluded [from total indebtedness of] by the State, the principal amount then outstanding shall be included within the funded debt of such political subdivision.

[(h)] 8. Bonds constituting instruments of indebtedness under which the State or any political subdivision incurs a contingent liability as a guarantor, but only to the extent the principal amount of such bonds does not exceed [six] seven percent of the principal amount of all outstanding general obligation bonds not otherwise excluded under this section; provided that the State or political subdivision shall establish and maintain a reserve in an amount in reasonable proportion to the outstanding loans guaranteed by the State or political subdivision as provided by law.

[(i)] 9. Bonds issued by or on behalf of the State or by any political subdivision to meet appropriations for any fiscal period in anticipation of the collection of revenues for such period or to meet casual deficits or failures of revenue, if required to be paid within one year, and bonds issued by or on behalf of the State to suppress insurrection, to repel invasion, to defend the State in war or to meet emergencies caused by disaster or act of God.

[Determinations of the exclusions from the] The total outstanding indebtedness of the State or funded debt of any political subdivision [provided for in] and the exclusions therefrom permitted by this section shall be made annually and certified by law or as [prescribed] provided by law. For the purposes of section [3] 12 and this section, amounts received from on-street parking may be considered and treated as revenues of a parking undertaking.

Nothing in section [3] 12 or in this section shall prevent the refunding of any bond at any time.

4. Article VI, Section 4, is amended to read:

THE BUDGET

Section [4] 8. Within such time prior to the opening of each regular session in an odd-numbered year as may be [prescribed] provided by law, the governor shall submit to the legislature a budget in a form provided by law setting forth a complete plan of proposed expenditures of the executive branch, estimates as provided by law of the aggregate expenditures of the judicial and legislative branches, and anticipated receipts of the State for the ensuing fiscal biennium, together with such other information as the legislature may require. A complete plan of proposed expenditures of the judicial branch for the ensuing fiscal bi-

ennium shall be submitted by the chief justice to the legislature in a form and within such time prior to the opening of each regular session in an odd-numbered year as shall be provided by law. The budget prepared by the governor and the plan of proposed expenditures prepared by the chief justice shall also be submitted in [a] bill form [prescribed by law]. The governor shall also, upon the opening of each such session, submit bills to provide for such proposed expenditures and for any recommended additional revenues or borrowings by which the proposed expenditures are to be met. [Such bills shall be introduced in the legislature upon the opening of each such session.] The proposed general fund expenditures in the plan of proposed expenditures, including estimates of the aggregate expenditures of the judicial and legislative branches, submitted by the governor shall not exceed the general fund expenditure ceiling established by the legislature under [Section] section [5] 9 of this article; provided that proposed general fund expenditures in the plan may exceed such ceiling if the governor sets forth the dollar amount and the rate by which the ceiling will be exceeded and the reasons therefor.

5. Article VI, Section 5, is amended to read:

LEGISLATIVE APPROPRIATIONS; PROCEDURES;

[LAPSING;] EXPENDITURE CEILING

Section [5.] 9. In each regular session in an odd-numbered year, the legislature shall transmit to the governor an appropriation bill or bills providing for the anticipated total expenditures of the State for the ensuing fiscal biennium. In such session, no appropriation bill, except bills recommended by the governor for immediate passage, or to cover the expenses of the legislature, shall be passed on final reading until the bill authorizing operating expenditures for the ensuing fiscal biennium, to be known as the general appropriations bill, shall have been transmitted to the governor.

In each regular session in an even-numbered year, at such time as may be [prescribed] provided by law, the governor may submit to the legislature a bill to amend any appropriation for operating expenditures of the current fiscal biennium, to be known as the supplemental appropriations bill, and bills to amend any appropriations for capital expenditures of the current fiscal biennium, and at the same time [he] the governor shall submit a bill or bills to provide for any added revenues or borrowings that such amendments may require. In each regular session in an even-numbered year, bills may be introduced in the legislature to amend any appropriation act or bond authorization act of the current fiscal biennium or prior fiscal periods. In any such session in which the legislature submits to the governor a supplemental appropriations bill, no other appropriation bill, except bills recommended by the governor for immediate passage, or to cover the expenses of the legislature, shall be

passed on final reading until such supplemental appropriations bill shall have been transmitted to the governor.

GENERAL FUND EXPENDITURE CEILING

Notwithstanding any other provision to the contrary, the legislature shall establish a general fund expenditure ceiling which shall limit the rate of growth of general fund appropriations, excluding federal funds received by the general fund, to the estimated rate of growth of the State's economy as provided by law. No appropriations in excess of such ceiling shall be authorized during any legislative session unless the legislature shall, by a two-thirds vote of the members to which each house of the legislature is entitled, set forth the dollar amount and the rate by which the ceiling will be exceeded and the reasons therefor.

LAPSING OF APPROPRIATIONS

Section 11. All appropriations for which the source is general obligation bond funds or general funds shall be for specified periods, and no such appropriation shall be made for a period exceeding [two] three years. Any such appropriation or any portion of any such appropriation which is unencumbered at the close of the fiscal period for which the appropriation is made shall lapse[.]; provided that no appropriation for which the source is general obligation bond funds nor any portion of any such appropriation shall lapse[;] if the legislature determines such appropriation or any portion of such appropriation is necessary to qualify for federal aid financing and reimbursement. Where general obligation bonds have been authorized for an appropriation, the amount of the bond authorization shall be reduced in an amount equal to the amount lapsed.

Any appropriation for which the source is general obligation bond funds or general funds or any portion of any such appropriation which is effective on the date of ratification of this amendment and which is unencumbered on June 30, 1980 shall lapse on that date unless earlier lapsed by law[.]; provided that no appropriation for which the source is general obligation bond funds nor any portion of any such appropriation shall lapse if the legislature determines such appropriation or any portion of such appropriation is necessary to qualify for federal aid financing and reimbursement. Where general obligation bonds have been authorized for an appropriation, the amount of the bond authorization shall be reduced in an amount equal to the amount lapsed on June 30, 1980.

[Notwithstanding any other provision to the contrary, the legislature shall establish a general fund expenditure ceiling which shall limit the rate of growth of general fund appropriations, excluding federal funds received by the general fund, to the estimated rate of growth of the State's economy as provided by law. No appropriations in excess of such ceiling shall be authorized during any legislative session unless the legislature shall by a two-thirds vote of the members to which each house of the legislature is entitled set forth the dollar

amount and the rate by which the ceiling will be exceeded and the reasons therefor.]

6. Article VI, Section 6, is amended to read:

EXPENDITURE CONTROLS

Section [6.] 5. Provision for the control of the rate of expenditures of appropriated state [monies,] moneys, and for the reduction of such expenditures under prescribed conditions, shall be made by law.

No public money shall be expended except pursuant to appropriations made by law. General fund expenditures for any fiscal year shall not exceed the State's current general fund revenues and unencumbered cash balances, except when the governor publicly declares the public health, safety or welfare is threatened as provided by law.

7. Article VI, Section 7, is amended to read:

AUDITOR

Section [7.] 10. The legislature, by a majority vote of each house in joint session, shall appoint an auditor who shall serve for a period of eight years and thereafter until a successor shall have been appointed. The legislature, by a two-thirds vote of the members in joint session, may remove the auditor from office at any time for cause. It shall be the duty of the auditor to conduct post-audits of [all] the transactions [and of all], accounts [kept by or for], programs and performance of all departments, offices and agencies of the State and its political subdivisions, to certify to the accuracy of all financial statements issued by the respective accounting officers and to report [his] the auditor's findings and recommendations to the governor and to the legislature at such times as shall be [prescribed] provided by law. [He] The auditor shall also make such additional reports and conduct such other investigations as may be directed by the legislature.

8. Article VII is amended by adding a new section to read:

TRANSFER OF MANDATED PROGRAMS

Section 5. If any new program or increase in the level of service under an existing program shall be mandated to any of the political subdivisions by the legislature, it shall provide that the State share in the cost.

9. Article XVI, Section 8, reading as follows, is deleted:

[START OF BIENNIAL BUDGETING

AND APPROPRIATIONS

Section 8. Anything in this constitution to the contrary notwithstanding, the provisions relating to biennial budgeting and appropriations in Article VI shall take effect for the biennial period beginning July 1, 1971.]

RELATING TO THE BILL OF RIGHTS.

RESOLVED, that the following be agreed upon as amending Article I of the State Constitution.*

1. Article I, Section 4, is amended to read:

DUE PROCESS AND EQUAL PROTECTION

Section [4.] 5. No person shall be deprived of life, liberty or property without due process of law, nor be denied the equal protection of the laws, nor be denied the enjoyment of [his] the person's civil rights or be discriminated against in the exercise thereof because of race, religion, sex or ancestry.

2. Article I, Section 10, is amended to read:

TRIAL BY JURY, CIVIL CASES

Section [10.] 13. In suits at common law where the value in controversy shall exceed [one hundred] one thousand dollars, the right of trial by jury shall be preserved. The legislature may provide for a verdict by not less than three-fourths of the members of the jury.

3. Article I, Section 11, is amended to read:

RIGHTS OF ACCUSED

Section [11.] 14. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial[,] by an impartial jury of the district wherein the crime shall have been committed, which district shall have been previously ascertained by law, or of such other district to which the prosecution may be removed with the consent of the accused; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against [him;] the accused; to have compulsory process for obtaining witnesses in [his] the accused's favor; and to have the assistance of counsel for [his] the accused's defense. Juries, where the crime charged is serious, shall consist of twelve persons. The State shall provide counsel for an indigent defendant charged with an offense punishable by imprisonment [for more than sixty days].

4. Article I, Section 12, reading as follows, is deleted:

[JURY SERVICE

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

5. Article I is amended by adding a new section to be appropriately designated and to read:

GRAND JURY COUNSEL

Section 11. Whenever a grand jury is [empanelled] impaneled, there shall be an

*For background, discussion and rationale on the amendments proposed herein, refer to Stand. Com. Rep. No. 69, Com. Whole Rep. No. 15, Stand. Com. Rep. No. 96, Stand. Com. Rep. No. 104 and the appropriate Second Reading debate.

independent counsel appointed [in accordance with] as provided by law to advise the members of the grand jury regarding [the] matters brought before it. Independent counsel shall be selected from among those persons [admitted to practice before] licensed to practice law by the supreme court of the [state] State and shall not be a public employee. [Term] The term and compensation for independent counsel shall be [established] as provided by law.

6. Article I is amended by adding a new section to be appropriately designated and to read:

RIGHT TO PRIVACY

Section 6. The right of the people to privacy is recognized and shall not be infringed without the showing of a compelling state interest. The legislature shall take affirmative steps to implement this right.

COMMITTEE PROPOSAL NO. 16

RELATING TO SUFFRAGE AND ELECTIONS.

RESOLVED, that the following be agreed upon as amending Article II of the State Constitution.*

1. Article II, Section 5, is amended to read:

GENERAL, [AND] SPECIAL AND PRIMARY ELECTIONS

Section [5.] 8. General elections shall be held on the first Tuesday after the first Monday in November in all even-numbered years. Special and primary elections may be held [in accordance with] as provided by law[.]; provided that in no case shall any primary election precede a general election by less than forty-five days.

2. Article II is amended by adding a new section to be appropriately designated and to read:

RESIGNATION FROM PUBLIC OFFICE

Section 7. Any elected public officer shall resign from that office before being eligible as a candidate for another public office, if the term of the office sought begins before the end of the term of the office held.

3. Article II is amended by adding a new section to be appropriately designated and to read:

CAMPAIGN FUND [AND CAMPAIGN], SPENDING LIMIT

Section 5. The legislature shall establish a campaign fund to be used for partial public financing of campaigns for public offices of the [state] State and its political subdivisions, as

*For background, discussion and rationale on the amendments proposed herein, refer to Stand. Com. Rep. No. 72, Com. Whole Rep. No. 16, Stand. Com. Rep. No. 98, Stand. Com. Rep. No. 104 and the appropriate Second Reading debate.

[prescribed] provided by law. The legislature shall provide a limit on the campaign spending of candidates.

4. Article II is amended by adding a new section to be appropriately designated and to read:

[LIMITATION ON] CAMPAIGN CONTRIBUTIONS LIMITS

Section 6. Limitations on campaign contributions to any political candidate, or authorized political campaign organization for such candidate, for any elective office within the State shall be [established] provided by law.

5. Article II, Section 4, is amended to read:

REGISTRATION[,]; VOTING

Section 4. The legislature shall provide for the registration of voters and for absentee voting[;] and shall prescribe the method of voting at all elections[. Secrecy of voting shall be preserved.]*; provided that no person shall be required to declare [their] a party preference or nonpartisanship as a condition of voting in any primary or special primary election. Secrecy of voting and choice of political party affiliation or nonpartisanship shall be preserved. [The ballots for all elections shall offer, in addition to the names of the candidates for any office, the option to vote for "NONE OF THE ABOVE." Only votes cast for the named candidates shall be counted in determining nomination or election, but for each office the number of ballots on which "NONE OF THE ABOVE" was chosen shall be listed following the names of the candidates and the number of their votes in every official posting, abstract and proclamation of the results of the election.]

COMMITTEE PROPOSAL NO. 17

RELATING TO CONSERVATION AND DEVELOPMENT OF RESOURCES.

RESOLVED, that the following be agreed upon as amending Articles X and XVI of the State Constitution.**

1. Article X, Section 1, reading as follows, is deleted:

[RESOURCES; CONSERVATION, DEVELOPMENT AND USE

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

*This bracketed material was deleted by floor amendment in the Committee of the Whole debate; however, the correction was inadvertently omitted, and the bracketed material retained, in subsequent drafts of the amendment as presented for final reading.

**For background, discussion and rationale on the amendments proposed herein, refer to Stand. Com. Rep. No. 77, Com. Whole Rep. No. 18, Stand. Com. Rep. No. 100, Stand. Com. Rep. No. 104 and the appropriate Second Reading debate.

2. Article X is amended by adding a new section to be designated Section 1 and to read:

CONSERVATION AND DEVELOPMENT OF RESOURCES

Section 1. For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii's natural beauty and all natural resources, including land, water, air, minerals[,] and energy sources[;], and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.

All public natural resources are held in trust by the State for the benefit of the people.

3. Article X, Section 3, is amended to read:

[SEA FISHERIES] MARINE RESOURCES

Section [3.] 6. The State shall have the power to manage and control the marine, seabed and other resources located [inside] within the boundaries of the State, including the archipelagic waters of the State, and reserves to itself all such rights outside [State] state boundaries not specifically limited by federal or international law.

All fisheries in the sea waters of the State not included in any fish pond, [or] artificial [inclosure] enclosure[,] or state-licensed [marine] [mari-culture] mariculture operation shall be free to the public subject to vested rights and the right of the State to regulate the same[.][,]; provided that [mari-culture] mariculture operations shall be established under guidelines enacted by the legislature, which shall protect the public's use and enjoyment of the reefs. The State may condemn such vested rights for public use.

4. Article XVI, Section 13, reading as follows, is deleted:

[CONDEMNATION OF FISHERIES

Section 13. All vested rights in fisheries in the sea waters not included in any fish pond or artificial inclosure shall be condemned to the use of the public upon payment of just compensation, which compensation, when lawfully ascertained, shall be paid out of any money in the treasury of the State not otherwise appropriated.]

5. Article X, Section 5, reading as follows, is deleted:

[FARM AND HOME OWNERSHIP

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

6. Article X is amended by adding a new section to be designated Section 5 and to read:

AGRICULTURAL LANDS

Section [5.] 3. The State shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency[,] and assure the availability of agriculturally suitable lands. The legislature shall [enact laws that will set forth] provide

standards and criteria [applicable] to accomplish the foregoing.

[Reclassification of lands indentified by the State as "prime", "unique", or "other important" agricultural lands in agricultural districts shall be subject to approval by two thirds of each house of the legislature. These lands shall be protected and maintained for bona fide agricultural use. Necessary support facilities are permissible.]

Lands identified by the State as important agricultural lands needed to fulfill the purposes above shall not be reclassified by the State or rezoned by its political subdivisions without meeting the standards and criteria established by the legislature and approved by a two-thirds vote of the body responsible for the reclassification or rezoning action.

7. Article X is amended by adding a new section to be appropriately designated and to read:

PUBLIC LAND BANKING

Section 4. The State shall have the power to acquire interests in real property to control future growth, development and land use within the State. The exercise of such power is deemed to be for a public use and purpose.

8. Article X is amended by adding a new section to be appropriately designated and to read:

WATER RESOURCES

Section 7. [All waters shall be held by the State as a public trust for the people of Hawaii.] The State has an obligation to protect, control and regulate the use of Hawaii's water resources for the benefit of its people.

The [Legislature] legislature shall provide for a water resources agency which, as provided by law, shall[, in accordance with] set[, as provided by law,] [set] overall water conservation, quality and use policies; define beneficial and reasonable uses; protect [groundwater] ground and surface water resources, watersheds[,] and natural stream environments; establish criteria for water use priorities while assuring appurtenant rights and existing correlative and riparian uses[;] and establish procedures for regulating all [new] uses of Hawaii's water resources.

9. Article X is amended by adding a new section to be appropriately designated and to read:

ENVIRONMENTAL RIGHTS

Section 9. Each person has the right to a clean and healthful environment, as defined by laws relating to environmental quality, including control of pollution [control] and [natural resources] conservation, protection[,] and enhancement[.] of natural resources. Any person may enforce this right against any party, public or private, through appropriate legal proceedings, subject to reasonable limitations and regulation as provided by law.

10. Article X is amended by adding a new section to be appropriately designated and to read:

NUCLEAR ENERGY

Section 8. No nuclear fission power plant shall be constructed or radioactive material disposed of in the State [of Hawaii] without the prior approval by a two-thirds vote in each house of the legislature.

COMMITTEE PROPOSAL NO. 18

RELATING TO THE USE OF NONDISCRIMINATORY TERMS IN THE CONSTITUTION.

RESOLVED, that the following be agreed upon as amending the State Constitution.*

1. Article I, Section 2, is amended to read:

RIGHTS OF [MAN] INDIVIDUALS

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

[2. Article I, Section 4, is amended to read:

DUE PROCESS AND EQUAL PROTECTION

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

[3.] 2. Article I, Section 8, is amended to read:

INDICTMENT [,] ; DOUBLE JEOPARDY [,] ; SELF-INCRIMINATION

Section [8.] 10. No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the armed forces when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy; nor shall any person be compelled in any criminal case to be a witness against [himself.] oneself.

[4. Article I, Section 11, is amended to read:

RIGHTS OF ACCUSED

Section 11. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the district wherein the crime shall have been com-

*For background, discussion and rationale on the amendments proposed herein, refer to Stand. Com. Rep. No. 78, Com. Whole Rep. No. 17, Stand. Com. Rep. No. 94, Stand. Com. Rep. No. 104 and the appropriate Second Reading debate.

mitted, which district shall have been previously ascertained by law, or of such other district to which the prosecution may be removed with the consent of the accused; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against [him;] the accused; to have compulsory process for obtaining witnesses in [his] the accused's favor; and to have the assistance of counsel for [his] the accused's defense. The State shall provide counsel for an indigent defendant charged with an offense punishable by imprisonment for more than sixty days.]

[5.] 3. Article II, Section 2, is amended to read:

DISQUALIFICATION

Section 2. No person who is non compos mentis shall be qualified to vote. No person convicted of a felony shall be qualified to vote except upon [his] the person's final discharge or earlier as provided by law.

[6.] 4. Article II, Section 3, is amended to read:

RESIDENCE

Section 3. No person shall be deemed to have gained or lost residence simply because of [his] the person's presence or absence while employed in the service of the United States, or while engaged in navigation or while a student at any institution of learning.

[7.] 5. Article III, Section 7, is amended to read:

QUALIFICATIONS OF MEMBERS

Section [7.] 6. No person shall be eligible to serve as a member of the senate unless [he] the person shall have been a resident of the State for not less than three years, have attained the age of majority and be a qualified voter of the senatorial district from which [he] the person seeks to be elected. No person shall be eligible to serve as a member of the house of representatives unless [he] the person shall have been a resident of the State for not less than three years, have attained the age of majority and be a qualified voter of the representative district from which [he] the person seeks to be elected.

[8.] 6. Article III, Section 8, is amended to read:

PRIVILEGE OF MEMBERS

Section [8.] 7. No member of the legislature shall be held to answer before any other tribunal for any statement made or action taken in the exercise of [his] the member's legislative functions; and members of the legislature shall, in all cases except felony or breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to and returning from the same.

[9.] 7. Article III, Section 9, is amended to read:

DISQUALIFICATIONS OF MEMBERS

Section [9.] 8. No member of the legislature shall hold any other public office under

the State, nor shall [he,] the member, during the term for which [he] the member is elected or appointed, be elected or appointed to any public office or employment which shall have been created, or the emoluments whereof shall have been increased, by legislative act during such term. The term "public office[",],"," for the purposes of this section, shall not include notaries public, reserve police officers or officers of emergency organizations for civilian defense or disaster relief. The legislature may prescribe further disqualifications.

[10.] 8. Article III, Section 17, is amended to read:

APPROVAL OR VETO

Section [17.] 16. Every bill which shall have passed the legislature shall be certified by the presiding officers and clerks of both houses and shall thereupon be presented to the governor. If [he] the governor approves it, [he] the governor shall sign it and it shall become law. If the governor does not approve such bill, [he] the governor may return it, with [his] the governor's objections to the legislature. Except for items appropriated to be expended by the judicial and legislative branches, [he] the governor may veto any specific item or items in any bill which appropriates money for specific purposes by striking out or reducing the same; but [he] the governor shall veto other bills, if at all, only as a whole.

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

RECONSIDERATION AFTER ADJOURNMENT

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

In computing the number of days designated in this section, the following days shall be excluded: Saturdays, Sundays, holidays [,] and any days in which the legislature is in recess prior to its adjournment as provided in [Section 11.] section 10 of this article.

[11.] 9. Article III, Section 19, is amended to read:

PUNISHMENT OF NONMEMBERS

Section [19.] 18. Each house may punish by fine, or by imprisonment not exceeding thirty days, any person not a member of either house who shall be guilty of disrespect of such house by any disorderly or contemptuous behavior in its presence or that of any committee thereof; or who shall, on account of the exercise of any legislative function, threaten harm to the body or estate of any of the members of such house; or who shall assault, arrest or detain any witness or other person ordered to attend such house, on [his] the witness' or other person's way going to or returning therefrom; or who shall rescue any person arrested by order of such house.

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

[12.] 10. Article IV, Section 3, is amended to read:

COMPENSATION: GOVERNOR, LIEUTENANT GOVERNOR

Section 3. The compensation of the governor and of the lieutenant governor shall be [prescribed] as provided by law, but shall not be less than thirty-three thousand five hundred dollars, and twenty-seven thousand five hundred dollars, respectively, a year. Such compensation shall not be increased or decreased for their respective terms, unless by general law applying to all salaried officers of the State. When the lieutenant governor succeeds to the office of the governor, [he] the lieutenant governor shall receive the compensation for that office.

[13.] 11. Article IV, Section 4, is amended to read:

SUCCESSION TO GOVERNORSHIP;

ABSENCE OR DISABILITY OF GOVERNOR

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

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

In the event of the impeachment of the governor or of the lieutenant governor, [he]

the governor or the lieutenant governor shall exercise the powers of [his] the applicable office until acquitted.

[14.] 12. Article IV, Section 5, is amended to read:

EXECUTIVE POWERS

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

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

The governor shall appoint an administrative director to serve at [his] the governor's pleasure.

[15. Article V, Section 2, is amended to read:

SUPREME COURT

Section 2. The supreme court shall consist of a chief justice and four associate justices. When necessary, the chief justice shall assign a judge or judges of a circuit court to serve temporarily on the supreme court. As prescribed by law, retired justices of the supreme court also may serve temporarily on the supreme court at the request of the chief justice. In case of a vacancy in the office of chief justice, or if [he] the chief justice is ill, absent or otherwise unable to serve, an associate justice designated in accordance with the rules of the supreme court shall serve temporarily in [his] the chief justice's place.]

[16. Article V, Section 3, is amended to read:

APPOINTMENT OF JUSTICES AND JUDGES

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

QUALIFICATIONS

No justice or judge shall hold any other office or position of profit under the State or the United States. No person shall be eligible for the office of justice or judge unless [he] the person shall have been admitted to practice law before the supreme court of this State for

at least ten years. Any justice or judge who shall become a candidate for an elective office shall thereby forfeit [his] any state judicial office [.] held.

TENURE; COMPENSATION; RETIREMENT

The term of office of a justice of the supreme court and of a judge of a circuit court shall be ten years. They shall receive for their services such compensation as may be prescribed by law, but no less than twenty-eight thousand dollars for the chief justice, twenty-seven thousand dollars for associate justices and twenty-five thousand dollars for circuit court judges, a year. Their compensation shall not be decreased during their respective terms of office, unless by general law applying to all salaried officers of the State. They shall be retired upon attaining the age of seventy years. They shall be included in any retirement law of the State.]

[17. Article V, Section 4, is amended to read:

RETIREMENT FOR INCAPACITY AND REMOVAL

Section 4. Whenever a commission or agency, authorized by law for such purpose, shall certify to the governor that any justice of the supreme court or judge of a circuit court appears to be so incapacitated as substantially to prevent [him] the justice or judge from performing [his] judicial duties or has acted in a manner that constitutes wilful misconduct in office, wilful and persistent failure to perform [his] judicial duties, habitual intemperance, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute, the governor shall appoint a board of three persons, as provided by law, to inquire into the circumstances. If the board recommends that the justice or judge should not remain in office, the governor shall remove or retire [him] the justice or judge from office.]

[18.] [15.] 13. Article V, Section 5, is amended to read:

ADMINISTRATION

Section [5.] 6. The chief justice of the supreme court shall be the administrative head of the courts. [He] The chief justice may assign judges from one circuit court to another for temporary service. With the approval of the supreme court [he] the chief justice shall appoint an administrative director to serve at [his] the chief justice's pleasure.

[19.] [16.] [14. Article VI, Section 5, is amended to read:

LEGISLATIVE APPROPRIATIONS; PROCEDURES

Section 5. In each regular session in an odd-numbered year, the legislature shall transmit to the governor an appropriation bill or bills providing for the anticipated total expenditures of the State for the ensuing fiscal biennium. In such session, no appropriation bill, except bills recommended by the governor for immediate passage, or to cover the expenses of the legislature, shall be passed on final reading until the bill authorizing operating expenditures for the ensuing fiscal biennium, to be known as the general appropriations

bill, shall have been transmitted to the governor.

In each regular session in an even-numbered year, at such time as may be prescribed by law, the governor may submit to the legislature a bill to amend any appropriation for operating expenditures of the current fiscal biennium, to be known as the supplemental appropriations bill, and bills to amend any appropriations for capital expenditures of the current fiscal biennium, and at the same time [he] the governor shall submit a bill or bills to provide for any added revenues or borrowings that such amendments may require. In each regular session in an even-numbered year, bills may be introduced in the legislature to amend any appropriation act or bond authorization act of the current fiscal biennium or prior fiscal periods. In any such session in which the legislature submits to the governor a supplemental appropriations bill, no other appropriation bill, except bills recommended by the governor for immediate passage, or to cover the expenses of the legislature, shall be passed on final reading until such supplemental appropriations bill shall have been transmitted to the governor.]

[20.] [17.] [15.] Article VI, Section 7, is amended to read:

AUDITOR

Section 7. The legislature, by a majority vote of each house in joint session, shall appoint an auditor who shall serve for a period of eight years and thereafter until a successor shall have been appointed. The legislature, by a two-thirds vote of the members in joint session, may remove the auditor from office at any time for cause. It shall be the duty of the auditor to conduct post-audits of all transactions and of all accounts kept by or for all departments, offices and agencies of the State and its political subdivisions, to certify to the accuracy of all financial statements issued by the respective accounting officers and to report [his] the auditor's findings and recommendations to the governor and to the legislature at such times as shall be prescribed by law. [He] The auditor shall also make such additional reports and conduct such other investigations as may be directed by the legislature.]

[21.] [18.] [16.] 14. Article XIV, Section 13, is amended to read:

TITLES, SUBTITLES[, PERSONAL PRONOUNS]; CONSTRUCTION

Section [13.] 14. Titles and subtitles shall not be used for purposes of construing this constitution.

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

Digest of Proposals Offered by Delegates

Committee proposals, the actual vehicles employed by the Convention in adopting the several articles which comprise the Constitution, are set forth in the preceding Documents section.

The proposals made by individual delegates--which initiated committee consideration of the various subject matter areas and which were frequently incorporated in committee proposals--are digested on the following pages in the form of summaries.

Names of the delegates introducing particular proposals can be ascertained from the Journal.

1 - Requires counties to establish neighborhoods and neighborhood boards to increase effective citizen participation in county government.

2 - Allows counties to establish neighborhoods and neighborhood boards to increase effective citizen participation in county government. Requires counties establishing neighborhoods and neighborhood boards to provide operational funds for such boards based on percent of the total county budget and distributed to each neighborhood board in a proportion equal to the proportion the number of registered voters in each neighborhood is to the total number of registered voters in the county. Empowers neighborhood boards to recommend and determine priorities for capital expenditures to the state legislature and to review and make recommendations on any general plan, development plan, zoning change and building permit requests within the neighborhood.

Provides that in any session where the legislature enacts an appropriation bill for capital expenditures or bond authorizations for capital expenditures, the legislature is required to provide for the implementation of the bill, or items or authorizations within the bill, based on priorities that may be established by county neighborhood boards and submitted to the legislature 30 days prior to the convening of that session.

3 - Provides the board of education and the board of regents of the University of Hawaii with power to adopt rules and regulations without approval of the governor.

4 - Requires preservation of secrecy of the political party of the person voting if the person is not a candidate.

5 - Provides for election by qualified voters of members of board of regents of the University of Hawaii. Deletes appointment of board by the governor subject to the advice and consent of the senate.

6 - Requires that constitutional conventions be held at the state capitol unless it is unsafe, whereupon the governor may direct that the convention be held at another place. Provides convention will have same powers and privileges as convention of 1978 instead of 1968.

7 - Provides that it shall be the duty of the State, instead of merely giving the State the power, to conserve and develop its natural beauty, objects and places of historic or cultural interest, public sightliness and good order.

8 - Redefines the boundaries of the State of Hawaii by amending the Constitution to describe the state as being all islands located in the Pacific Ocean about 2,100 miles southwest from San Francisco between 18 degrees and 23 degrees north latitude and 154 degrees and 161 degrees west longitude. Deletes description that the State of Hawaii includes territorial waters included in the Territory of Hawaii on the date of enactment of the Admission Act. Provides a detailed description by naming the islands and their respective areas that are within the state boundary: Hawaii, Maui, Oahu, Kauai, Molokai, Lanai, Niihau, Kahoolawe, Molokini, Lehua, Nihoa, Laysan, Gardeners Island, Liscansky Island, Ocean Island, Necker Island, Palmyra Island, Kaula and French Frigate Shoal.

- 9 - Provides that no person shall establish title to an estate or an interest in real property by claiming, under color of title, a continuous, actual and exclusive possession of such land.
- 10 - Provides that the State of Hawaii shall pay for all the expenses, including attorneys' fees, in securing land court titles to all estates or interests in real property when title to these lands is in dispute.
- 11 - Makes it mandatory instead of discretionary for the legislature to provide for presidential preference primaries each year in which a President of the United States is to be nominated.
- 12 - Provides that no person shall be denied economic security under the law and requires legislature to establish state and local governments as employers of last resort for all those who are willing and are able to work.
- 13 - Prohibits mandatory retirement solely on the basis of age.
- 14 - Provides that it shall be the policy of the State to promote the preservation of agricultural lands, and that the State shall purchase agricultural land at fair market value whenever such land is offered to the State. Requires the legislature to implement this section and to appropriate moneys as needed for implementation.
- 15 - Provides that no citizen shall be denied the right to adequate medical care in accordance with the law.
- 16 - Establishes a state system of community colleges and constitutes it as a body corporate which shall have title to all the real and personal property now or hereafter set aside or conveyed to it to be held in public trust for its purposes, and administered and disposed of according to law. Creates a board of governors of the state system of community colleges consisting of 9 members elected by qualified voters in accordance with law.
- 17 - Provides for control of highways and parks by political subdivisions unless otherwise required by the United States laws.
- 18 - Provides for a public education coordinator to be appointed and removed by the governor for the purpose of coordinating the plans, policies and activities for the state systems of lower and higher education.
- 19 - Requires government to inform and gives people right to secure facts, motives, and reasons for governmental action and requires meetings, decisions, policies and rules be conducted or adopted as openly as possible and made available to public as soon as possible. Allows meetings and records to be closed only as expressly provided by law.
- 20 - Provides that the state debt limit shall be the lesser of (1) a sum equal to 3-1/2 times the average of the general fund revenues of the State in the 3 fiscal years immediately preceding the session of the legislature authorizing the issuance of bonds, or (2) the expenditure of more than _____ per cent of the total state budget in any fiscal year for debt service.
- 21 - Requires the establishment of a general fund expenditure ceiling for each fiscal biennium by the legislature by concurrent resolution. Provides that the ceiling shall not be exceeded, except by a 2/3 vote of the legislature. Provides that no bill other than the legislative expense bill and bills recommended by the governor for immediate passage shall pass until the ceiling is established.
- 22 - Provides that no bill shall pass third or final reading in the form to be passed unless copies are available to the members of either house and the public for 72 hours and provides that otherwise 24 hours shall elapse between readings.
- 23 - Allows the legislature in enacting laws imposing a tax measured by income to define income by reference to provisions of the laws of the United States as they may or become effective at any time or from time to time, whether retrospective or prospective in operation. Allows legislature to provide that amendments to such United States law become the law of the State upon becoming the law of the United States. Requires the legislature in any such law to set the rate or rates of such tax. Allows the legislature in defining income to make exceptions, additions or modifications to the United States laws referred to and to provide for retrospective exceptions or modifications to the provisions which are retrospective.

24 - Provides that authorized but unissued bonds and unencumbered and unexpended balances of appropriations lapse 3 years after the effective date of the act making the authorization or appropriation, except that, as provided by law, authorizations or appropriations necessary to qualify for federal-aid financing and reimbursement shall not lapse. Provides that existing authorizations and appropriations on the date of ratification of this amendment lapse on June 30, 1979, if the bonds are unissued or the appropriation balances are unencumbered and unexpended.

25 - Provides for 90-day regular sessions of the legislature. Requires the legislature to set deadlines for bill introduction, third reading in the first house, and third reading in the second house. Requires a 10-day recess after each deadline, to start the day after such deadline. Provides that the 90-day regular session includes the 10-day recesses.

26 - Provides that there shall be an elected attorney general having the same qualifications as the governor; admitted to practice law before the supreme court of this State for at least 5 years; to be elected at the same time, for the same term and in the same manner as the governor and to perform such duties as may be prescribed by law; and not subject to the supervision or removal by the governor. Provides amendment shall not apply to any person holding the office of attorney general when amendment takes effect or to any person who may hold office of attorney general or act as attorney general and shall not prevent any such person from taking or holding the office of attorney general or so acting until the initial election of the attorney general in

Provides until the first Tuesday after the first Monday in November, , the removal of the chief legal officer of the State shall continue to be subject to the advice and consent of the senate.

27 - Staggers terms of senators as of 1978. Requires senators elected in 1978 to draw lots to determine whether they serve 6 or 4 years. After staggered terms are established, all will run for 4-year terms.

Provides that in districts with:

1. 1 senator - the senator serves a 4-year term.
2. 2 senators - 1 senator serves 6 years, 1 senator 4 years.
3. 3 senators - 2 senators serve 6 years, 1 senator 4 years.
4. 4 senators - 2 senators serve 6 years, 2 senators 4 years.

Requires the reapportionment commission to designate which district is to be represented by senators whose terms extend past reapportionment. Provides in making such designation the senator need not live in the district the senator is designated to represent. Requires commission in making designation to consider (1) the senatorial district the senator was elected from, (2) the senatorial district in which the senator will reside under the reapportionment plan, and (3) the requirement of continuing staggered terms and the number of senators in a senatorial district under the commission's reapportionment plan. Requires the commission to give no consideration to holdover senators in redistricting. Deletes minimum representation for basic island units.

28 - Requires reapportionment commission to make reapportionment plan for Congress, makes members of commission ineligible for Congress for first 2 elections under plan, and requires commission to redraw congressional district lines as may be required by law.

29 - Proposes to use 1978 convention instead of 1968 convention as the base year on which future constitutional conventions, number of delegates, districts, convening, powers and privileges would be consistent with, in the event the legislature does not provide otherwise.

30 - Recognizes right of the people to a healthful environment, clean air and water, freedom from excessive and unnecessary noise and the natural, scenic, historic and esthetic qualities of their environment for the benefit of this and future generations. Allows each person to enforce these rights against the government or private persons through legal proceedings, subject to reasonable limitations and regulations as provided by law.

31 - Provides that a code of ethics adopted by the legislature shall also apply to Constitutional Convention delegates.

32 - Provides for a board of education composed of 9 members, each of whom shall be elected at-large, instead of members who shall be elected by qualified voters in accordance with law. Requires that at least 7 of the 9 members shall be a resident of the following districts: Hawaii school district, Maui school district, Honolulu school district, Central Oahu school district, Leeward Oahu school district, Windward Oahu school district and Kauai school district. Sets forth district boundaries.

Deletes requirement that at least part of the membership of the board represent geographic subdivisions of the State.

33 - Provides that the legislature shall have the power to promote and maintain a healthful environment for the people and to enact legislation to prevent excessive demands on the environment and the State's resources.

34 - Provides that the State shall have the power to plan and manage its population growth to protect and preserve the public health and welfare.

35 - Provides that the legislature shall have the power to develop and implement a selective growth management program to protect and enhance the environment, promote the proper allocation of physical and natural resources and maintain and improve the socio-economic conditions of the people.

36 - Gives the legislature the power to assure that sufficient groundwater is made available for public use.

37 - Gives the State the power to manage its growth to efficiently utilize the State's resources.

38 - Provides that the State shall have power to provide assistance for persons unable to maintain a standard of living compatible with decency and health subject to the following:

Provides that any program of public assistance wholly administered and funded by the State is restricted to bona fide state residents unable to support themselves or their dependents, who are disabled, or 55 years or older or who have dependent children.

Provides that bona fide residency shall be determined in accordance with law and provides determination shall consider, but not be limited to, enrollment and receipt of welfare benefits from another jurisdiction, physical presence and maintenance of a place of residence in the State, availability of furnishing and household and personal effects leading to a reasonable conclusion that the place of residence is more than a public accommodation, qualification as to residence for voting purposes, change in vehicle operation license, vehicle registration, enrollment of children in local schools and location of bank accounts.

Gives the State power to provide public assistance to persons who are disabled, between the ages of 18 and 65 and found to be in need thereof consistent with law, not covered or eligible for such assistance under a federal program and unable to work at least 30 hours a week due to a physical or mental impairment as determined and certified by a licensed physician subject to law. Provides that persons eligible for public assistance as a disabled person may be referred for and required to participate in vocational rehabilitation programs, to seek employment and to participate in public work projects and public employment projects as conditions of eligibility.

Gives the State the power to provide public assistance to persons with children and to persons 55 years of age or older, if they are unemployed for reasons other than voluntary separation without good cause or for misconduct, are actively and diligently seeking gainful employment, have not refused to accept employment when offered, are registered and available for work as required by law for eligibility for unemployment compensation benefits and have exhausted their rights, if any, to benefits under unemployment compensation; provided that persons receiving unemployment compensation benefits at a level less than public assistance benefits may be provided public assistance equivalent to the difference between the benefits being received and the public assistance otherwise entitled to, but for the receipt of unemployment compensation benefits. Defines child as a person ineligible for and unable to receive assistance from any federal program, in need and without sufficient income or resources for health care and support to maintain a standard set by law, less than 18 years of age or 18 to 21 years of age and attending

high school regularly working towards a high school diploma or its equivalent, employed part-time and enrolled at least 1/2 time in vocational or technical training programs designed to prepare for gainful employment or employed part-time and enrolled at least 1/2 time in a local college or university living with and in the home of parents, grandparents, siblings, stepparents, children of siblings, siblings of parents or their children, hanai parents, or in a family home or institution conforming to standards set by law.

Requires persons 55 years of age and over, and persons with children otherwise qualified to receive public assistance, who are physically fit, able to work, and employable, in addition to other requirements, as a condition to receiving public assistance, to register to work on public work projects of the State or any political subdivision thereof, and to accept work offered by the State or any such subdivision subject to law or as offered by any other employer.

Provides that persons receiving such public assistance at the time of ratification of this amendment whose circumstances would preclude their eligibility for public assistance under amendment shall continue to receive and be eligible for public assistance subject to the requirements of amendment relating to employment in public works projects of the State or any political subdivision thereof, and if the State finds that such persons are unemployed for reasons other than voluntary separation without good cause or for misconduct, are actively and diligently seeking gainful employment, have not refused to accept employment when offered, are registered and available for work as may be required by law for eligibility for unemployment compensation benefits and have exhausted their rights, if any, to benefits under unemployment compensation; provided that persons receiving unemployment compensation benefits at a level less than public assistance benefits may be provided public assistance equivalent to the difference between the benefits being received and the public assistance otherwise entitled to, but for the receipt of unemployment compensation benefits.

39 - Provides that primary elections be held on the first Tuesday after the first Monday in September in even-numbered years.

40 - Requires a person in an elected public office to resign from that office in order to become eligible to run for another state or county public office the term of which begins prior to the expiration of the term of office held.

41 - Limits governor to 2 consecutive terms and exempts persons in that office or elected to that office at time of ratification from 2-term restriction.

42 - Limits the number of terms elective officials may serve as follows: house of representatives, 6 consecutive terms; senate, 3 consecutive terms; governor, 2 consecutive terms; lieutenant governor, 2 consecutive terms; highest executive county office, 2 consecutive terms or 8 consecutive years, whichever is longer; and county legislative office, 2 consecutive terms or 8 consecutive years, whichever is longer.

Provides that the term limitations imposed by this proposal shall apply to persons elected in the 1978 general election and thereafter, but shall not prevent any person in office at that time or elected to office in the 1978 general election from holding that office during the remainder of the term.

43 - Exempts from the debt limit revenue bonds authorized or issued by the State for the purpose of financing the development of agricultural, industrial, commercial or other economic enterprises, anti-pollution projects or the construction of health facilities for private enterprise, if the enterprise is required to reimburse the State for the principal and interest of such bonds and meets other requirements provided by law.

44 - Provides that the right of freedom of the press shall also include the journalists' right to refuse to disclose their confidential sources.

45 - Provides it shall be the public policy of the State and the duty of each person to provide and maintain a healthful environment for the benefit of present and future generations. Requires the legislature to provide for the implementation of this policy. Provides for the enforcement of this right by each person against any party, governmental or private, through appropriate legal proceedings subject to reasonable limitations and regulation as provided by law.

46 - Requires a primary election to be held in accordance with law, but not less than 2 months before the general election.

- 47 - Requires the State and counties to provide widespread access to solar resources.
- 48 - Provides the State shall have the right to manage and control the ocean and marine resources of the State, including those resources in all channels between the islands.
- 49 - Provides that public lands shall be used for recreation, agriculture and conservation; deletes reference to use for farm and home ownership.
- 50 - Provides the State shall have the right to manage and control all water resources of the State and that for that purpose private property shall be subject to reasonable regulation.
- 51 - Provides it is the policy of the State to promote the conservation of energy and develop clean, renewable energy sources and to achieve increased energy self-sufficiency.
- 52 - Provides it is the policy of the State to promote the continued growth and development of diversified agriculture and to assure the availability of agriculturally suitable lands with adequate water supply to accommodate present and future needs.
- 53 - Provides it is the policy of the State to preserve and improve shoreline open spaces and scenic resources and to utilize limited land resources wisely in order to insure the protection of the environment and the availability of the shoreline, conservation lands and other limited resources for future generations.
- 54 - Deletes provision that votes cast for nominee for governor in general election shall be deemed cast for nominee for lieutenant governor of same party.
- 55 - Provides for a board of education composed of 13 members elected at-large of whom at least 1 shall reside in each of the senatorial districts. Deletes requirement that at least part of the board membership represent geographical subdivisions.
- 56 - Provides for an attorney general elected at the same time, for the same term and in the same manner as the governor to perform such duties as are prescribed by law.
- 57 - Deletes requirement that the governor nominates and, by and with the advice and consent of the senate, appoints the justices of the supreme court and the judges of the circuit courts and that no nomination shall be sent to the senate and no interim appointment shall be made when the senate is not in session. Provides that the governor shall fill a vacancy in any court by appointing a person from a list of not less than 3 nor more than 5 nominees submitted by the judicial commission within 60 days of submission. Provides that if more than 1 vacancy exists in any of the courts, the governor may fill them from any list of nominees submitted by the commission within 60 days of submission. Provides that if the governor fails to make an appointment within 60 days, it shall be made by the commission from the list.

Provides that there shall be an independent judicial commission charged to ensure the people of this State with learned, capable and just courts consisting of 9 members: 2 appointed by the governor; 1 each elected by the members of the senate, the members of the house of representatives and justices of the supreme court; provided these members shall not have been admitted to practice law anywhere in the world; and the members in good standing of the bar of the State shall elect 4 of their number in an election conducted by the supreme court or its delegate.

Requires the commission to be selected and to operate in a wholly nonpartisan manner. Provides that after the initial formation of the commission, elections and appointments to the commission shall be for staggered terms of 4 years each. Requires the legislature to provide by statute for the time and manner of appointments and elections.

Requires each member of the commission to be a resident of the State and a citizen of the United States; that no member shall run for or hold any other office or position of profit under the United States, the State, or its political subdivisions; nor run for or hold any office in any political party or organization, or take part in any political campaign; nor be eligible for appointment to judicial office of the State so long as a member of the commission and for a period of 3 years thereafter. Requires the commission to act by a vote of 6 members.

Requires the commission to select 1 of its members to serve as chairman, and to promulgate rules having the force and effect of law. Requires that the receipt and review of applications for judicial positions, and the deliberations of the commission, be confidential.

Provides no member of the commission shall receive any compensation for services, except for necessary expenses for travel, board and lodging incurred in the performance of commission duties. Requires the legislature to appropriate funds to enable the commission to carry out its duties.

58 - Provides for the nomination of board of regents members by the higher education committees of the senate and the house of representatives rather than by the governor and for confirmation by the legislature in joint session rather than by the senate alone.

59 - Provides that there shall be a land use commission as provided by law, the members of which shall be nominated jointly by the legislative committees responsible for the area of land use and appointed by the legislature in joint session.

60 - Provides for 4-year term for state representatives. Provides that the members of the senate and house of representatives shall serve staggered terms. Provides that in the general election of 1978 the members to which each district is entitled shall be divided in half. The members obtaining the highest vote shall be members of the first class and elected for 4 years. The remaining members from the district shall be in the second class and shall be elected for 2 years. Thereafter the successors of the members of the second class shall be elected for 4 years. Provides that where unable to determine class due to tie, the tie shall be decided by lot supervised by the chief election officer with the winner to be in the class with the longest term.

Requires the reapportionment commission to designate which district is to be represented by senators or representatives whose terms extend past reapportionment. Provides in making such designation the senator or representative need not live in the district the senator or representative is designated to represent. Requires commission in making designation to consider (1) the senatorial or representative district the senator or representative was elected from, (2) the senatorial or representative district in which the senator or representative will reside under the reapportionment plan, and (3) the requirement of continuing staggered terms and the number of senators and representatives in a senatorial or representative district under the commission's reapportionment plan. Requires the commission to give no consideration to holdover senators or representatives in redistricting. Deletes minimum representation for basic island units.

61 - Requires the State to provide for the establishment, support and control of a state-wide system of public libraries, including physical facilities therefor, which shall be administered by a separate department of public libraries.

62 - Provides for an attorney general who has the same qualifications as the governor; who has been admitted to practice law in Hawaii for at least years; elected at the same time, for the same term and in the same manner as the governor and not subject to supervision or removal by the governor. Provides that until the first Tuesday after the first Monday in November , the removal of the chief legal officer of the State shall continue to be subject to the advice and consent of the senate.

Provides for election of county prosecuting attorney at the same time, for the same term and in the same manner as the mayor. Provides for a county prosecuting attorney with qualifications and duties as prescribed by law.

Provides that attorney general and county prosecuting attorney holding or acting in office at time these amendments are voted upon by electorate shall not be affected by them and may hold or act in office until the election of the attorney general or prosecutor in

63 - Provides that the members of the Senate shall serve staggered terms. In order to initiate these staggered terms the amendment provides that in the general election of 1978 the members to which each district is entitled shall be divided in half. The members obtaining the highest vote shall be members of the first class and elected for 4 years. The remaining members from the district shall be in the second class and shall be elected for 2 years. Thereafter all senators shall be elected for 4 years.

Provides for a 3-year term for representatives. Provides for general elections to be held on the first Tuesday after the first Monday in November in all odd-numbered years as may be necessary for the election of representatives. Provides that members of the house shall serve staggered terms and that in the 1978 general election 3 classes shall be formed, with members in the first class serving 3 years, in the second class

serving 2 years, and in the third class serving 1 year. Thereafter each representative shall serve 3 years. Provides that all representatives from a 1-member district shall be in the first class; from a 2-member district in the first or second class; and from a 3-member district in the first, second, or third class, with the highest vote getter in the first class, the second highest vote getter in the second class, and the remainder in the third class.

Provides that where unable to determine class for senators or representatives due to tie, the tie shall be decided by lot supervised by the chief election officer with the winner to be in the class with the longest term.

Requires the reapportionment commission to designate which district is to be represented by senators or representatives whose terms extend past reapportionment. Provides in making such designation the senator or representative need not live in the district the senator or representative is designated to represent. Requires commission in making designation to consider (1) the senatorial or representative district the senator or representative was elected from, (2) the senatorial or representative district in which the senator or representative will reside under the reapportionment plan, and (3) the requirement of continuing staggered terms and the number of senators and representatives in a senatorial or representative district under the commission's reapportionment plan. Requires the commission to give no consideration to holdover senators or representatives in redistricting. Deletes minimum representation for basic island units.

64 - Declares that full employment is the responsibility of the State and provides that when private industry fails to provide sufficient employment opportunities, the State shall undertake such programs to restore full employment. Requires legislature to define full employment and to implement section.

65 - Makes the lieutenant governor the presiding officer of the senate and provides that the lieutenant governor shall not have a vote unless there is a tie vote.

66 - Requires circuit and district court judges to be elected by the qualified voters of the State at large at a general election. Requires judicial candidates to be nonpartisan candidates. Commences term on the first day of January succeeding the election. Provides that if a vacancy occurs in the office of a circuit judge, the governor shall appoint a person to fill that office until an election to fill that vacancy. Requires the election to take place at the next succeeding general election and the judge then elected to hold office for the unexpired term. Deletes requirement that judges of the circuit courts be nominated and appointed by the governor.

Provides any justice or judge may become a candidate for judicial office without forfeiting office. Provides that the term of office of a judge of a district court shall be 10 years. Provides that a judge of a district court may also be certified by a commission or agency, authorized by law for such purpose, to the governor to be so incapacitated as substantially to prevent the judge from performing judicial duties.

67 - Provides that money appropriated and not vetoed shall be expended. Provides that money appropriated by the legislature shall be used by the governor only for the purposes for which it was appropriated and shall not be used for any other purpose.

68 - Provides for a full-time legislature meeting from the the third Wednesday in January in odd-numbered years until June 30 of even-numbered years. Deletes limitation of regular sessions to 60 days and special sessions to 30 days; the exclusion of Saturdays, Sundays, holidays and days in recess under a concurrent resolution in computing the number of days of any session; and the carry-over provisions for bills pending at the final adjournment of a session in odd-numbered years. Allows 45 days for veto from adjournment on June 30 in even-numbered years for consideration for veto by the governor.

Provides that the governor shall submit the budget before the third Wednesday in January in odd-numbered years and shall submit bills to provide for proposed expenditures and for any additional revenues or borrowings necessary on or after the third Wednesday in January. Provides for their introduction upon receipt instead of at the opening of each session. Requires the legislature to transmit the appropriation bill for the fiscal biennium to the governor before April 15 of each odd-numbered year and provides that no other appropriation bills except those recommended by the governor and for legislative expense shall pass before such day. Provides that the supplemental appropriations bill shall be submitted in each even-numbered year on or after the third Wednesday in January. Requires legislature to submit the supplemental appropriations bill to the governor before the passage of other appropriation bills, except those recommended by the governor and the legislative expense bills, before April 15.

Amends provision that the legislature may propose a constitutional amendment by a majority vote in both houses on final reading at each of 2 successive sessions to provide that it shall instead be so proposed in successive odd- and even-numbered years.

69 - Provides for a board of education composed of members who shall be the elected representatives of the district school advisory councils, created in accordance with law and reflecting the geographic subdivisions of the State.

Deletes requirement that board of education be composed of members elected by qualified voters in accordance with law with at least part of the membership of the board representing geographic subdivisions of the State.

Requires district school advisory councils to be composed of elected representatives of the school complex advisory boards whose membership shall be composed of the elected representatives of the individual school advisory councils.

Requires members of the individual school advisory councils to be elected by qualified voters, as provided by law. Provides that the governor may veto any specific appropriations item except for items appropriated to be expended by the board of education as well as the judicial and legislative branches.

70 - Provides that the members of the senate shall serve staggered terms. Provides that in the general election of 1978 the members to which each district is entitled shall be divided in half. The members obtaining the highest vote shall be members of the first class and elected for 4 years. The remaining members from the district shall be in the second class and shall be elected for 2 years. Thereafter the successors of the members of the second class shall be elected for 4 years. Provides that where unable to determine class due to tie, the tie shall be decided by lot supervised by the chief election officer with the winner to be in the class with the longest term.

Requires the reapportionment commission to designate which district is to be represented by senators whose terms extend past reapportionment. Provides in making such designation the senator need not live in the district the senator is designated to represent. Requires commission in making designation to consider (1) the senatorial district the senator was elected from, (2) the senatorial district in which the senator will reside under the reapportionment plan, and (3) the requirement of continuing staggered terms and the number of senators in a senatorial district under the commission's reapportionment plan. Requires the commission to give no consideration to holdover senators in redistricting. Deletes minimum representation for basic island units.

71 - Limits authority of legislative conference committees to resolving differences between house and senate versions of bills or resolutions. Prohibits conference committees from amending identical provisions except to conform to other provisions. Prohibits insertion of unrelated or new subjects, except in the general and supplemental appropriations bills, and the general public improvement bill. Requires elected and appointed officials' salaries, pension, or retirement benefits to be considered in a separate bill other than the appropriations and public improvement bills, or any bill ratifying collective bargaining agreements.

72 - Requires that federal funds received by the State shall be expended for the purposes for which they were received.

73 - Provides that the public shall have access to all records and proceedings of the State and its political subdivisions but that access may be limited where the government has a compelling interest against access or where another's constitutional rights are violated. Provides that a news media employee shall not be compelled to reveal a confidential source of news information.

74 - Provides for removal or retirement of a judge of a court inferior to the circuit court in same manner as a justice of the supreme court or circuit court judge, for incapacity, wilful misconduct in office, wilful and persistent failure to perform duties, habitual intemperance or prejudicial conduct. Provides for certification by a commission or agency and inquiry by a board.

75 - Prohibits segregation because of sex in public educational institutions.

76 - Provides for economic security as an inherent and inalienable right.

77 - Prohibits an employer, governmental or private, from discharging, suspending, or otherwise penalizing any employee due to the employee's exercise of freedom of speech. Requires the legislature to implement this provision.

78 - Clarifies in the Bill of Rights that the right to bear arms applies only to the militia in defense of the State.

79 - Limits the number of years a member of the legislature may serve to 12.

80 - Deletes requirement that the governor nominates and, by and with the advice and consent of the senate, appoints the justices of the supreme court and the judges of the circuit courts.

Provides that whenever a vacancy occurs in the office of justice of the supreme court or judge of the circuit court, the governor shall fill the vacancy by appointing 1 of 3 persons possessing the qualifications for such office, who are nominated and whose names are submitted to the governor by a nonpartisan judicial commission.

Provides that each justice or judge appointed holds office for a term ending December 31st following the next general election after the expiration of 3 years in office. Provides that any justice or judge holding office or elected thereto at the time this amendment is ratified, unless removed for cause, remains in office for the term entitled if the amendment had not been ratified. Provides that no less than 60 days before the general election next preceding the expiration of his term of office, any justice or judge may file with the chief election officer a declaration of candidacy for election to succeed himself. Provides that if a declaration is not filed, the vacancy resulting shall be filled by appointment, and that if the declaration is filed, his name shall be submitted at the next general election to the eligible voters in the State or appropriate circuits, on a separate judicial ballot without party designation. Sets forth ballot provision. Provides that if a majority voting on the question vote against retention, the vacancy shall be filled by appointment. Provides that the justice or judge, unless removed for cause, remains in office for the number of years after December 31st following such election as provided for the full term and at the expiration of each term is eligible for retention in office by election.

Provides that whenever a declaration of candidacy for election to succeed himself is filed by any justice or judge, the chief election officer shall place his name on the ballot and the retention election shall be conducted in the manner now provided by the law governing elections.

Provides that nonpartisan judicial commissions shall be established and organized as follows: for vacancies in the office of justice of the supreme court - 1 commission, known as "The Justices Commission"; for vacancies in the office of judge of any circuit court - 1 commission, known as "The Circuit Judge Commission" for each circuit.

Provides that the justice commission consist of 9 members: the chief justice of the supreme court, acting as chairman; the members of the bar of this State residing in each circuit electing 1 of their number; and the governor appointing 1 citizen, not a member of the bar, from among the residents of each circuit. Provides that each circuit judge commission consist of 5 members: the presiding judge of the circuit court within the judicial circuit of such commission, acting as chairman; members of the bar of this State residing in the judicial circuit of such commission electing 2 of their number; and the governor appointing 2 citizens, not members of the bar, from among the residents of the judicial circuit. Provides that the terms of office of the members of such commission shall be fixed by the supreme court, may be changed from time to time, but shall not shorten or lengthen the term of any member then in office.

Requires that all citizen members appointed by the governor be subject to the advice and consent of the senate. Provides that no member of any commission, except the chairman, shall hold any public office, nor hold any official position in a political party. Allows every commission to act only by the concurrence of a majority of its members. Provides that no member of the commissions shall receive a salary or other compensation for services except necessary traveling and other expenses incurred while actually engaged in the discharge of official duties. Requires all commissions to be administered and all elections to be held and regulated under such rules as the supreme court adopts.

Requires all expenses incurred in administering this amendment, upon approval by the supreme court, be paid out of the state treasury.

Prohibits any justice or judge in this State, appointed to or retained in office, from directly or indirectly making any contribution to or holding any office in a political party or organization or taking part in any political campaign.

Provides that all of the provisions of this amendment are self-enforcing, except those as to which action by the legislature is required.

Provides that whenever the justice commission or the appropriate circuit judge commission is informed in writing of the incapacity or misconduct of any justice or judge, the commission shall inquire into the circumstances. Requires that, if the commission recommends that the justice or judge not remain in office, the governor shall remove or retire him from office.

Deletes the provision that when a commission or agency, authorized by law for such purpose, certifies to the governor on the incapacity or misconduct of any justice or judge, the governor shall appoint a board of 3 persons to inquire into the circumstances, and if recommended, the governor shall remove or retire that person from office.

81 - Provides that no person shall be deprived of title to an estate or interest in real property by another person claiming actual, continuous, hostile, exclusive, open and notorious possession of such lands.

82 - Grants the State power to provide financial or other assistance in order to procure native Hawaiian artifacts.

83 - Provides for an intermediate appellate court consisting of a head justice and 4 associate justices. Allows chief justice to appoint circuit court judges to serve temporarily on the intermediate appellate court as well as retired justices of the supreme court, at the request of the chief justice.

Requires that the governor appoint the justices of the intermediate appellate court. Provides that the supreme court and intermediate appellate court shall have at least 1 but no more than 2 nonattorney justices.

Provides that no person shall be eligible for the office of judge unless that person has been admitted to practice law before the supreme court for at least 5 years. Provides that the term of office for a justice of the intermediate appellate court shall be 10 years.

Directs that the chief justice receive no less than \$30,000 a year, that the associate justices of the supreme court receive no less than \$29,000 a year, that the head justice of the intermediate appellate court receive no less than \$28,000 a year, and that the associate justices of the intermediate appellate court receive no less than \$27,000 a year.

Provides that the justices of the intermediate appellate court shall be scrutinized by a commission or agency as to the justice's incapacity or misconduct and, if recommended, shall be removed or retired by the governor.

84 - Establishes a council on revenues and expenditures composed of 12 members, with 6 (including at least 2 from the public) appointed by the governor and 3 by the presiding officer of the senate and 3 by the presiding officer of the house of representatives from their respective houses.

Requires the council, after due consideration of information relating to revenue estimates, to establish a state revenue estimate for the ensuing or current fiscal year or biennium, as the case may be. Makes the estimate binding upon the governor in drafting a budget and in submitting proposed appropriation bills and binding upon the legislature in enacting appropriation bills. Allows the council to amend the estimate as projections of revenues change. Requires council to make estimates public. Requires the council to advise the governor and the legislature on fiscal implications of current state programs and on the fiscal relationship of the State and its political subdivisions.

Requires the legislature to appropriate funds necessary for council to perform its duties and to implement through legislation the provisions of this amendment.

85 - Deletes constitutional provision for grand jury requirement for capital or otherwise infamous crimes, and abolishes the grand jury. Provides that no person shall be subject to grand jury proceedings.

86 - Provides that primary elections be held on the first Saturday in September in even-numbered years.

87 - Makes presidential preference primary mandatory instead of discretionary to be held in accordance with law.

88 - Defines agricultural use as use of the land for a farm for the production of commercial agricultural commodities. Defines a farm as any place from which \$250 or more of agricultural products are sold, or normally would be sold annually, or any place of 10 acres or more from which \$50 or more of agricultural products are sold, or normally would be sold annually.

89 - Defines agricultural use as the use of land for producing commercial agricultural commodities whereby the owner or lessee devotes percent of that person's time towards such use.

90 - Defines agricultural use as the use of the land for producing commercial agricultural commodities whereby the owner or lessee derives percent of that person's total income from the sale of such commodities.

91 - Provides for 4-year term for state representatives and 6-year term for state senators. Provides that the members of the senate and house of representatives shall serve staggered terms. Provides that in the general election of 1978 the members to which each district is entitled shall be divided in half. The members obtaining the highest vote shall be members of the first class and elected for 4 years (or 6 years for senators). The remaining members from the district shall be in the second class and shall be elected for 2 years (or 4 years for senators). Thereafter the successors of the members of the second class shall be elected for 4 years (or 6 years for senators). Provides that where unable to determine class due to tie, the tie shall be decided by lot supervised by the chief election officer with the winner to be in the class with the longest term.

Requires the reapportionment commission to designate which district is to be represented by senators or representatives whose terms extend past reapportionment. Provides in making such designation the senator or representative need not live in the district the senator or representative is designated to represent. Requires commission in making designation to consider (1) the senatorial or representative district the senator or representative was elected from, (2) the senatorial or representative district in which the senator or representative will reside under the reapportionment plan, and (3) the requirement of continuing staggered terms and the number of senators or representatives in a senatorial or representative district under the commission's reapportionment plan. Requires the commission to give no consideration to holdover senators or representatives in redistricting. Deletes minimum representation for basic island units.

92 - Requires primary elections to be held on the 3rd Saturday of September in every even-numbered year. Disqualifies a person from candidacy for any general or special general election unless nominated in the immediately preceding primary or special primary election. Requires primary or special primary elections to be open. Provides that no person shall be required to state party preference or nonpartisanship as a condition of voting in a primary or special primary election. Requires that there be only 1 primary or special primary election ballot containing the names of all candidates for each office. Allows voters to vote for any candidate on the primary or special primary ballot without regard to the party or nonpartisan affiliation of the candidate.

93 - Requires the governor to develop immediately an unemployment reduction program, subject to legislative approval, if the unemployment rate exceeds percent.

94 - Provides that a code of ethics adopted by the legislature shall also apply to Constitutional Convention delegates. Prohibits delegates from hiring spouse or children as their employee and convention from hiring delegate's spouse or child.

95 - Reserves the power of the initiative to the people. Requires an initiative measure to be submitted to the people upon presentation to the chief election officer of a petition signed by not less than percent of the registered voters in the case of a law, and not less than percent in the case of amendment to the Constitution, of all votes cast for governor in each county at the last general election. Requires the petition to be filed with the chief election officer no later than days before the general election which will submit the initiative.

Requires the initiative petition to be submitted, prior to circulation for signatures, to the attorney general for preparation of a title and summary not to exceed words. Requires all such petitions to be submitted to the chief election officer for certification of name and registration of the signer. Prohibits enactment of any law limiting the number of copies of a petition which may be circulated. Allows any registered voter to circulate and sign petitions and provides for the verification of signatures by affidavit.

Prohibits release of petitions for inspection by the public or any governmental agency, except upon the order of the supreme court when a question is raised regarding the sufficiency of the petition. Requires an insufficient petition to be returned to the circulators within days of its filing with notations of specific insufficiencies. Requires the measure to be presented in the form of a yes or no ballot, where a yes shall indicate an affirmative vote. Limits an initiative measure to 1 subject which shall be expressed in its title.

Provides that an initiative measure shall be enacted into law when approved by a majority of votes cast. Provides that when 2 or more conflicting measures are approved at the same election, the one with the highest number of votes shall prevail.

Prohibits initiative measures naming an individual to hold any office or private corporations to perform any function or to have any power or duty. Requires measures proposing to prohibit a specific activity or to terminate an existing right or privilege to be submitted in such form that an affirmative vote is a vote in favor of the right to engage in the activity or continuance of the right or privilege.

Provides that initiative measures become effective, if approved, 1 day after the election results are announced unless otherwise provided in the measure. Prohibits the governor from vetoing approved initiatives. Prohibits legislative repeal or amendment unless otherwise provided in the measure but allows the people to amend an initiative at any time.

Provides that if after an initiative request is made with the attorney general, any similar or contrary bill in the legislature is enacted into law, that law and that initiative measure shall be submitted to the people for a vote and the measure receiving the highest number of votes prevails. Provides that the similar or contrary law remain in effect pending the general election ballot but shall be void if the initiative measure is approved. Provides that if the attorney general determines that any law enacted is the same or similar to and accomplishes the same purpose as an initiative measure, the chief election officer shall declare the initiative measure void and order it stricken from the ballot.

Prohibits resubmittal of a defeated initiative measure either affirmatively or negatively for a period of years.

Provides that while legislative power is vested in a legislature, the power of initiative is reserved to the people and both powers shall extend to all rightful subjects of legislation not inconsistent with the state or U.S. constitutions. Clarifies that only laws passed by the legislature need be by bill.

Provides that constitutional revisions or amendments may be proposed by the people as well as by constitutional convention or the legislature. Prohibits veto of any amendment adopted in any manner provided in this constitution. Provides that when conflicting revisions or amendments are proposed by the legislature and the people, and both are approved, the one with the highest vote prevails. Further provides that if conflicting revisions or amendments are proposed by the same body or by the people, and both are submitted and approved at the same election, the one receiving the highest number of votes prevails.

96 - Provides for initiative and referendum powers for statutory and constitutional amendments.

Requires an initiative or referendum application to be signed by no less than 100 persons who are registered voters who voted in the last gubernatorial election to be filed with the lieutenant governor for certification. Prohibits the lieutenant governor from making judgments as to the substance of the proposed measure. Subjects denial of certification to judicial review. Limits an initiative measure to 1 subject.

Requires the lieutenant governor, after certification, to prepare a petition containing the text of the proposed measure and a summary of the subject matter for circulation by the sponsors. To qualify for submission to the voters, requires signatures of percent of the votes for all gubernatorial candidates cast by registered voters. Requires that

the signatures on the petition be from all counties with the number of signatures from each county in relation to the minimum number of signatures required in the same proportion as the number of votes cast from each county in relation to total votes cast in the preceding gubernatorial election.

Allows an initiative petition to be filed at any time. Requires the lieutenant governor to prepare a ballot title and proposition summarizing the proposed change for placement on the ballot for the first general election after adjournment of the regular legislative session following the petition filing. Voids a petition if the exact same measure is enacted by the legislature. Requires that any act similar to the initiative measure passed by the legislature before the election be placed on the ballot together with the initiative measure. Allows the governor to call a special statewide election for an initiative measure.

Prohibits initiative measures that name any individual to head office or private corporations to perform a function or to have any power or duty.

Provides that initiatives prohibiting a specific activity or terminating an existing right or privilege shall be submitted to the people in such form that an affirmative vote is a vote in favor of the right to engage in the activity or continuance of the right or privilege.

Provides that if after an initiative request is made with the lieutenant governor, any bill similar or contrary to the initiative request is enacted by the legislature, that law and the initiative measure shall both be submitted to the people and the measure receiving the highest number of votes shall prevail. Voids the similar or contrary law if the initiative measure is approved. Provides that the similar or contrary law shall remain in effect pending the general election ballot. Provides that if the lieutenant governor determines that a law enacted is the same or similar to and accomplishes the same purpose as an initiative measure, the lieutenant governor shall declare the initiative measure void by public announcement and order it stricken from the ballot.

Prohibits resubmittal of a defeated initiative measure by petition in either the same form or essential substance as determined by the lieutenant governor for a period of years.

Provides that referendum petitions may be filed only within 90 days after adjournment of the legislative session which passed the act. Requires the lieutenant governor to prepare a ballot title and proposition summarizing the act for placement on the ballot at the next general election. Allows the governor to call a special statewide election for a referendum measure. Provides that when a referendum petition is signed by percent of the registered voters who voted in the last gubernatorial election, a special statewide election shall be held in the calendar year that the petition is filed 180 days after the adjournment of the session which passed the act to be referred. Provides that upon the filing and certification of a referendum petition with the requisite number of signatures, the operation of the act or part thereof being referred to the people shall be suspended without delaying the operation of the remainder of the act.

Provides that initiative and referendum measures approved by a majority of votes from each congressional district become effective the day after the election unless otherwise provided in the measure. Provides that when 2 or more conflicting measures are approved at the same election, the measure receiving the highest affirmative vote shall prevail.

Prohibits veto of initiative statutes and legislative repeal within 2 years of its effective date. Provides that no initiative or referendum measure approved by the electorate shall be subject to legislative repeal or amendment except upon a roll call vote approval of 2/3 of the members of each house.

Prohibits use of initiatives to make or repeal appropriations for current expenses of programs and agencies at least 2 years old, to create courts or define jurisdiction of courts or prescribe court rules. Prohibits application of the referendum to appropriations for current expenses of programs and agencies at least 2 years old or to laws necessary for the immediate preservation of the public health, peace or safety. Requires that such laws pass the legislature by a roll call vote of 2/3 of the members of each house and contain separate sections explaining why such law is necessary.

Requires the lieutenant governor to prepare a publication containing arguments for and against the proposed initiative or referendum. Requires the lieutenant governor to send such publication to all individual residences in the State and to make any additional distribution necessary to reasonably assure each voter the opportunity to study the measures prior to the election. Allows the legislature to substitute the preparation of

the publication with any other reasonable method of publicity. Requires the legislature to provide funds to the lieutenant governor to carry out duties prescribed in this proposal.

Allows the enactment of laws to facilitate the operation of this proposal but prohibits the enactment of laws that hamper, restrict or impair the exercise of the initiative and referendum rights.

Amends the legislature provisions to provide that the people reserve the powers of initiative and referendum and to clarify that only laws passed by the legislature be by bill.

Amends revision and amendment provisions to allow constitutional revision and amendment by the people through the power of the initiative. Prohibits veto of constitutional amendments adopted through the initiative process. Provides that when the legislature and the people propose conflicting revisions or amendments and both are approved, the one with the highest vote shall prevail. Provides that when conflicting revisions or amendments are proposed by the same body or by the people and submitted at the same election and both are approved, the one with the highest number of votes shall prevail.

97 - Requires all candidates for office to appear on 1 ballot, whether the candidate is political or nonpartisan. Allows voters to vote for any candidate in a primary election, regardless of party or nonpartisanship. Requires secrecy of the political party of the person voting unless the person is a candidate. Requires primary elections to be held on the first Tuesday after the first Monday in September in even-numbered years.

98 - Provides that there shall be a judicial commission consisting of 5 members for each judicial district in the State: 3 persons to be elected by the registered voters of the district and 2 persons to be appointed by the governor.

Requires the members of each commission to be elected and serve without regard to political affiliation. Requires the appointment and elections to be made within days after the commencement of regular sessions of the legislature and if no appointment or election, selection of members to be made by the supreme court within days after such failure.

Provides that there shall be a statewide justice commission consisting of 5 members appointed by the governor. Requires the governor to appoint at least 1 member from each judicial commission, 2 of whom shall have been elected by the voters of the State.

Provides each member of the justice and judicial commissions shall be a resident of the State and a citizen of the United States; that none shall be eligible for appointment to a judicial office so long as a member of the commission and for a period of 3 years thereafter; hold any other public office or office in any political party or organization; and they shall exercise their duties without regard to partisan politics. Provides that members serve 4-year terms of office.

Provides that in case of death, resignation, disqualification or incapacity to serve of a member, vacancies in the justice commission shall be filled by the governor and in the judicial commissions as provided by law.

Requires the justice and judicial commissions to submit a list of 3 persons to the governor whenever there is a vacancy to be filled in the supreme, circuit or district court and binds the governor to the recommendation of the justice or judicial commission to appoint 1 of the 3 persons to the supreme, circuit or district court.

Requires the justice and judicial commissions to review the performance and conduct of the members of the supreme, circuit or district court and to accept complaints regarding wilful misconduct, wilful and persistent failure to perform duties, habitual intemperance or conduct prejudicial to the administration of justice that brings the supreme, circuit or district court into disrepute. Provides that if the justice or judicial commission recommends a justice of the supreme court or judge of a circuit or district court should not remain in office, the governor shall remove or retire that person from office.

Requires the justice and judicial commissions to select one of their members to serve as chairperson.

Provides the governor shall nominate and, by and with the advice and consent of the senate, appoint the judges of the district courts.

Deletes commission or agency, authorized by law for such purpose, to certify to the governor for the retirement or removal of a judge or justice from judicial office.

Deletes requirement that governor shall appoint a board of 3 persons to inquire into judicial behavior.

99 - Creates a separate section under the Bill of Rights article providing that the right to privacy is recognized and shall not be infringed without the showing of a compelling state interest and mandating the legislature to take affirmative steps to implement this right. Deletes references to invasion of privacy and the communications sought to be intercepted from the searches and seizures section.

100 - Mandates State and political subdivisions to enforce, protect and preserve any traditional right-of-way to sea, water-courses or public lands. Prohibits any abridgment or extinguishment of this right by private or state action or the passage of time.

101 - Provides that the term of office of a justice of the supreme court and of a judge of a circuit court shall be 4 years.

102 - Requires the lieutenant governor to place on the ballot the question calling for a constitutional convention if the legislature does not submit the question after a period of 25 years elapses rather than after 10 years as presently provided.

103 - Prohibits discrimination in employees' retirement benefits unless benefits bear a reasonable relationship to individual contributions made or are based upon special problems or those employees whose duties involve danger to life.

104 - Limits election of person to office of governor to no more than twice and further restricts to a single election any person previously holding office as governor or acting as governor for more than 2 years.

Exempts person holding governor's office at time of adoption of amendment.

105 - Provides for the establishment of an intermediate court of appeals consisting of a chief judge and associate judges.

Provides that the chief justice of the supreme court shall assign a judge or judges of a circuit court, when necessary, to serve temporarily on the intermediate court of appeals. Provides that retired justices of the supreme court and of the intermediate court of appeals, as prescribed by law, may serve temporarily on the intermediate court of appeals at the request of the chief justice. Provides that in case of a vacancy in the office of the chief judge due to illness, absence or otherwise inability to serve, an associate judge designated in accordance with the supreme court rules shall serve temporarily as chief judge.

Provides that the judicial power of the State shall be vested in an intermediate court of appeals as well as in the present courts. Provides that the governor shall nominate and, by and with the advice and consent of the senate, appoint the judges of the intermediate court of appeals. Provides that the term of office of a judge of the intermediate court of appeals shall be 10 years. Provides that the chief judge of the intermediate court of appeals shall receive \$ and an associate judge of the intermediate court of appeals shall receive \$ for their services, a year. Provides that a commission or agency, authorized by law for such purpose, may certify to the governor a judge of the intermediate court of appeals for incapacity and removal.

106 - Prohibits constitutional convention delegates from receiving financial or in-kind compensation other than that prescribed by law as allowances reasonably related to expenses and salary.

Provides that delegates shall not be compensated for the period the convention meets for any employment, activity or interest which may conflict with the discharge of their duties and responsibilities.

107 - Requires State and its political subdivisions to develop and implement a program of growth management consistent with the carrying capacity of each island.

108 - Requires a majority vote of the lessees under the Hawaiian Homes Commission Act and native Hawaiians not less than 21 years old who are pending applicants at the time the notice to vote is given, before a rule can be adopted, amended or repealed by the department of Hawaiian home lands. Requires the department to give a 20-day notice to vote prior to the tabulation of the votes. Requires that voting by ballot be held at and supervised by the district offices within the department.

Requires the department to conduct a public hearing to review a rule, in the manner provided by law, when petitioned to do so by at least 10 percent of the lessees under the Hawaiian Homes Commission Act. Defines rule as a rule adopted under the Hawaii Administrative Procedure Act or any successor statute.

109 - Requires lobbyists at constitutional conventions to register with the clerk of the convention and provides that such lobbyists be subject to the same regulations for lobbyists at the legislature.

110 - Repeals existing provisions of Article V relating to the judiciary and makes new provisions, retaining some of the old provisions except as otherwise noted herein. Authorizes the legislature to establish other courts inferior to the supreme court and an intermediate appellate court if necessary, which may sit in panels. Increases the number of associate justices from 4 to 6. Provides that the chief justice may assign judges of the intermediate court of appeals to sit temporarily on the supreme court. Adds the provision that retired justices not in active legal practice may also serve temporarily on the supreme court at the chief justice's request.

Provides that the supreme court may sit in panels or en banc. Sitting en banc, the court shall consist of all active justices and shall include those temporarily assigned if necessary to make up a court of 5. Provides that the size and composition of the panels shall be as provided by court rule, but shall have at least 3 members, with not more than 1 temporarily assigned. Provides that any 3 active justices may require a hearing or rehearing en banc.

Requires the governor to fill a judicial vacancy by nominating from a list provided by the judicial commission containing 3 to 5 names, and by and with the advice and consent of the senate, appointing a person to office. Allows use of the list to fill more than 1 vacancy where the list is presented not more than 60 days prior to nomination, and provides that judicial commission shall make nomination and appointment in manner provided for governor where governor fails to do so.

Requires justices and judges to be United States citizens and state residents. Specifies that circuit court judges or justices of a court superior to the circuit court must have practiced law for at least 10 years. Prohibits a justice or judge from practicing law, running for or holding any office under the United States, the State, or its political subdivisions, or in any political organization, or making political contributions or taking part in political campaigns.

Provides that term of office of judges and justices of the circuit court and courts superior to the circuit court shall be 10 years, and terms of judges of inferior courts shall be as provided by law. Requires a justice or judge at least 6 months prior to expiration of the term, to petition the judicial commission to be retained or announce retirement. Allows the judicial commission to retain the person for another term. Provides that salaries shall be as provided by law and shall not be reduced while in office. Omits old provisions on minimum salaries and allowing reduction of salaries if applied to all salaried officers. Omits mandatory retirement age of 70.

Provides that the supreme court may discipline, suspend, retire and remove any justice or judge for misconduct or disability pursuant to rules. Provides for a commission on judicial discipline and disability retirement made up of 9 members, 4 of whom are licensed to practice law in Hawaii to be appointed by the executive board of the state bar association, 2 appointed by the governor, and 1 each appointed by each legislative house and supreme court, with staggered 4-year terms, and with power to investigate, hold hearings and make recommendations regarding judicial misconduct or disability. Requires proceedings to be kept confidential until formal allegations are made. Provides for absolute immunity for conduct during performance of duties and power to adopt rules. Provides for expenses but no salaries. Requires the legislature to provide for staff and operating expenses.

Provides for selection by the judicial commission of the chief justice from the

associate justices for a 5-year term, and that chief justice may retire from chief justice position and remain on the supreme court.

Provides for judicial commission to ensure a learned, capable, and just judicial system, consisting of 9 members, 4 of whom are licensed to practice law in Hawaii and appointed by the executive board of the Hawaii State Bar Association, 2 appointed by the governor, and 1 each appointed by each legislative house and supreme court, for staggered 4-year terms. Requires appointment and operation of judicial commission in nonpartisan manner. Requires commission members to be United States citizens, state residents and not to hold office under the United States, the State or its political subdivisions, political organizations and not to participate in any political campaign. Provides that members shall not be eligible for judicial office while member and 3 years thereafter, and that no judge shall be appointed thereto. Requires approval by 6 members for commission action.

Provides that judicial commission shall select chairperson and adopt rules and that proceedings shall be confidential. Provides for expenses but no salaries. Requires the legislature to provide for staff and operating expenses.

Provides that the supreme court shall have the sole power to adopt rules in civil and criminal process, procedure and appeals.

Omits commission provided by law to certify judicial incapacity.

Provides that judges shall serve out current terms.

111 - Provides that no person shall be held to answer for a felony, instead of a capital or otherwise infamous crime, except by the filing of an information, in addition to presentment or indictment by a grand jury. Requires a preliminary hearing when the prosecutor does not proceed by indictment.

112 - Requires the State to seek to expedite the return of federal lands to the State for public use including its use to meet future housing needs.

113 - Requires legislature to promote conservation, development and utilization of solar, wind, thermal, ocean currents, and natural energy sources in addition to the agricultural and natural resources.

114 - Provides that there shall be an elected attorney general having the same qualifications as the governor; admitted to practice law before the supreme court of this State for at least _____ years; not subject to the supervision of or removal by the governor; and to be elected at the same time, for the same term and in the same manner as the governor and shall perform such duties as may be prescribed by law. Provides that the attorney general shall be limited to 2 full consecutive 4-year terms.

Provides amendment shall not apply to any person holding the office of attorney general when amendment is voted upon by the electorate and shall not prevent any person who may be holding the office of attorney general or acting as attorney general during the term within which amendment becomes operative from holding the office of attorney general or so acting during the remainder of such term which shall end upon the election of the attorney general in _____

Provides that until the first Tuesday after the first Monday in November, _____, the removal of the chief legal officer of the State shall continue to be subject to the advice and consent of the senate.

115 - Limits the number of terms for the governor, lieutenant governor, and mayors to 2 consecutive terms or terms not exceeding a total of 8 consecutive years.

Provides that the term limitations imposed by this proposal become effective for the 1978 general election but shall not prevent a person in office at that time or elected at the 1978 election from serving in that office for the remainder of the term.

116 - Provides that any code of ethics shall apply to members of the constitutional convention.

Requires the codes of ethics to include, but not be limited to, the following:

1. No elected or appointed officer or employee shall receive financial or in-kind compensation for or be party to any activities, interests, or employment which conflict

with the discharge of public duties and responsibilities nor shall they hire or supervise any member of their household or immediate family.

2. Members of the public appointed to boards, commissions, or other bodies shall not be employed by or have an interest in organizations financially affected by the work and decisions of the bodies on which they sit.

117 - Prohibits legislative action, except for reasonable regulation, prohibiting any ceremony, pastime, sport or recreational activity considered traditional to the heritage and culture of any resident national group in the State, unless it infringes upon personal or property rights of any other person.

118 - Prohibits a person from election to the office of mayor of any county more than twice. Provides this amendment shall not apply to any person holding the office of mayor when this amendment was proposed by the constitutional convention and shall not prevent any person holding the office of mayor, during the term within which this amendment becomes operative, from holding that office during the remainder of the term.

119 - Prohibits a person from election to the office of governor more than twice, but if a person has held the office of or acted as governor for more than 2 years of a term to which some other person was elected governor, that person shall not be elected more than once. Provides that this amendment shall not apply to any person holding the office of governor when this amendment was proposed by the constitutional convention and shall not prevent any person holding such office during the term within which this amendment becomes operative from holding the office of governor or acting as governor during the remainder of such term.

120 - Requires the State to conduct a survey for every general election to determine the 5 issues of the most public concern; to allow candidates an opportunity to respond to prepared questions relating to the 5 issues in 50 words or less; to list candidates' names and response in a voters guide; and to publish, in a newspaper of statewide circulation, the voters guide at least 2 weeks prior to the general election.

121 - Provides that teachers of ethnic or cultural history, who lack formal education, shall have an equivalency to those teachers with 4-year college education certificates.

122 - Provides that the people reserve the power of the initiative to propose statutes and to enact or reject such statutes at the polls.

Provides that statutes may be proposed by either (direct submission to voters) or indirect (submission to the legislature) initiative. Requires sponsors to declare the measure either direct or indirect before soliciting signatures. Requires solicitors of signatures to be registered voters in the State.

Requires sponsors to incorporate in the initiative measure a ballot title, statement of purpose, full text of the proposal and a summary of not more than 150 words which shall be descriptive or expository but not argumentative or prejudicial. Requires sponsors to submit the initiative petition before soliciting signatures to the lieutenant governor who shall certify, within 10 days thereafter, the ballot title, statement of purpose and summary either in its original form or clarified to more accurately represent and more nearly conform to the proposal's text.

Requires signatures of 8 percent of the number of registered voters in the most recent prior election for direct initiatives and 6 percent for indirect initiatives. Provides that initiative measures be submitted to the lieutenant governor for initial certification no earlier than 1 day after the most recent prior election. Provides that indirect initiative petitions be filed no later than 30 days prior to the second legislative session following the general election and no later than 90 days prior to the next general election for direct initiatives.

Requires direct initiatives to be submitted to the voters at the first general election following petition certification. Provides that indirect initiatives, if not enacted in the original form by the legislature, be submitted to the voters together with the legislative version, if any. Provides that if both are approved, the one receiving the greater number of votes shall prevail.

Requires the legislature to provide methods of publicity of initiative measures with arguments for and against the statutes or proposed amendments, including the issuance of a voter education publication. Requires the lieutenant governor to send a copy of the publication to each registered voter residence in the State and to make such additional

distribution necessary to reasonably assure each voter the opportunity to study the initiative measures prior to the election.

Requires the lieutenant governor to submit an initiative measure by its ballot title with the question appearing in such form that an affirmative vote is a vote for change. Requires statutory initiative measures to be approved by a majority of votes tallied on the question. Provides that approved measures become effective immediately, except measures requiring authorization of funds, or providing for tax reductions or increases which shall take effect the following fiscal year. Limits an initiative to one subject.

Requires public disclosure of funds contributed and expended to influence the outcome of initiative measures according to the same laws and regulations prescribed for campaign spending by candidates for legislative office.

Prohibits veto of initiative laws and legislative amendment or repeal within a period of 2 years of adoption, except by a 3/4 vote in each house of the legislature.

123 - Provides for constitutional revisions or amendments by the initiative. Provides that constitutional amendments may be proposed by either direct (direct submission to voters) or indirect (submission to the legislature) initiative. Requires sponsors to declare the measure either direct or indirect before soliciting signatures.

Requires sponsors to incorporate in the initiative measure a ballot title, statement of purpose, full text of the proposal and a summary of not more than 150 words which shall be descriptive or expository but not argumentative or prejudicial. Requires sponsors to submit the initiative petition before soliciting signatures to the lieutenant governor who shall certify, within 10 days thereafter, the ballot title, statement of purpose and summary either in its original form or clarified to more accurately represent and more nearly conform to the proposal's text.

Requires signatures of 12 percent of the number of registered voters in the most recent prior election for direct initiatives and 10 percent for indirect initiatives. Provides that initiative measures be submitted to the lieutenant governor for initial certification no earlier than 1 day after the most recent prior election. Provides that indirect initiative petitions be filed no later than 30 days prior to the second legislative session following the general election and no later than 90 days prior to the next general election for direct initiatives.

Requires direct initiatives to be submitted to the voters at the first general election following petition certification. Provides that indirect initiatives, if not enacted in the original form by the legislature, be submitted to the voters together with the legislative version, if any. Provides that if both are approved, the one receiving the greater number of votes shall prevail.

Requires the legislature to provide methods of publicity of initiative measures with arguments for and against the proposed amendments, including the issuance of a voter education publication. Requires the lieutenant governor to send a copy of the publication to each registered voter residence in the State and to make such additional distribution necessary to reasonably assure each voter the opportunity to study the initiative measures prior to the election.

Requires the lieutenant governor to submit an initiative measure by its ballot title with the question appearing in such form that an affirmative vote is a vote for change. Requires constitutional initiative measures to be approved by a majority of the votes tallied on the question, this majority constituting at least 35 percent of the total votes cast at the election. Provides that approved measures become effective immediately except measures requiring authorization of funds, or providing for tax reductions or increases which shall take effect the following fiscal year. Limits an initiative to 1 subject.

Requires public disclosure of funds contributed and expended to influence the outcome of initiative measures according to the same laws and regulations prescribed for campaign spending by candidates for legislative office.

124 - Provides there shall be a public prosecutor for each county who shall enforce the criminal laws of the State and county in which that prosecutor holds office and shall perform other duties as prescribed by law. Requires the prosecutor to have the same qualifications as the governor and also to have been admitted to practice law before the supreme court of the State for a period of at least 5 years. Requires the prosecutor to be elected at the same

time, for the same term and in the same manner as the governor but to be elected by the majority vote of the registered voters of the county wherein the election is held.

Provides that the compensation for the position of prosecutor shall be as provided by law but cannot be reduced during a term of office. Provides that if a vacancy occurs, succession shall be as prescribed by law.

125 - Requires independent counsel to advise grand jury. Provides for chief justice to appoint person admitted to practice law in Hawaii who is not a public employee. Provides for compensation of counsel to be same as per diem judges.

126 - Provides that the judicial power of the State shall be vested in intermediate appellate courts, in addition to existing courts, as the legislature may from time to time establish. Requires the supreme court to accept and review cases in its discretion.

Provides that the intermediate appellate court shall consist of 1 or more panels of 3 judges which shall hear and decide all matters brought before them according to rules of appellate procedure promulgated by the supreme court. Provides that tenure and compensation of all intermediate appellate court judges shall be the same as that provided for the circuit court judges.

127 - Provides there shall be an elected attorney general, who shall perform such duties as may be prescribed by law and who shall be the chief legal officer of the State.

Requires the attorney general to have the same qualifications as the governor; to have been admitted to practice law before the supreme court of the State for a period of at least 5 years; and to be elected at the same time, for the same term and in the same manner as the governor.

Provides that compensation shall be as provided by law but cannot be reduced during a term of office. Provides that if a vacancy occurs, succession shall be as prescribed by law.

128 - Provides that there shall be a judicial commission consisting of 11 members: 8 members to be elected at large by the registered voters for 4-year terms where at least 1 member shall reside in each senatorial district in the State and 3 members to be selected by the 8 elected members to serve 4-year terms. Requires that not less than 3 attorneys and not less than 3 lay persons shall serve on the commission. Provides that 4 persons with the highest vote in the first election shall serve for 4 years while the remainder shall serve for 2 years and thereafter, all shall serve 4-year terms.

Requires the members of the commission to be nominated, elected and appointed to serve without regard to political affiliation. Requires the appointment and elections to be made within days after commencement of regular sessions of the legislature and if there is no appointment or election, selection shall be made by the supreme court within days after such failure.

Provides each member of the judicial commission shall be a resident of the State and a citizen of the United States; that none shall hold any other public office or office in any political party or organization or be eligible for appointment to judicial office so long as a member of the commission and for a period of 3 years thereafter; and they shall exercise their duties without regard to partisan politics.

Provides that in case of the death, resignation, disqualification or incapacity to serve of a member, vacancies shall be filled by the commission in the case of appointed members, while vacancies of elected members shall be filled as provided by law.

Requires the commission to recommend 3 highly qualified persons to the governor whenever there is a judicial vacancy to be filled in the supreme, circuit or district courts. Requires the governor to be bound by the recommendations of the commission and to appoint 1 of the 3 persons recommended to fill the judicial vacancy, subject to the advice and consent of the senate.

Requires the commission to review the performance and conduct of the justices and judges and to rate them well qualified, qualified or unqualified. Provides that the governor may reappoint a justice or judge who is rated well qualified or qualified, but shall not reappoint one rated unqualified.

Requires the commission to select one of its members to serve as chairperson.

Provides the governor shall nominate and, by and with the advice and consent of the senate, appoint the judges of the district courts.

Requires the term of office of a justice of the supreme court and of a judge of a circuit or district court to be 6 years instead of 10 years.

129 - Provides that there shall be a judicial commission consisting of 11 members: 8 members to be elected at large by the registered voters for 4-year terms where at least 1 member shall reside in each senatorial district in the State and 3 members to be selected by the 8 elected members to serve 4-year terms. Requires that not less than 3 attorneys and not less than 3 lay persons shall serve on the commission. Provides the 4 persons with the highest vote in the first election shall serve for 4 years while the remaining elected members shall serve for 2 years and thereafter, all shall serve 4-year terms.

Requires the members of the commission to be nominated, elected and appointed to serve without regard to political affiliation. Requires the appointment and election to be made within days after commencement of regular sessions of the legislature and if there is no appointment or election, selection of members to be made by the supreme court within days after such failure.

Provides each member of the judicial commission shall be a resident of the State and a citizen of the United States; that none shall hold any other public office or office in any political party or organization or be eligible for appointment to judicial office so long as the person is a member of the commission and for a period of 3 years thereafter; and they shall exercise their duties without regard to partisan politics.

Provides that in case of the death, resignation, disqualification or incapacity to serve of a member, vacancies shall be filled by the commission in the case of appointed members, while vacancies of elected members shall be filled as provided by law.

Requires the commission to recommend 1 highly qualified person to the governor whenever there is a judicial vacancy to be filled in the supreme, circuit or district court. Allows governor to appoint this person to fill the vacancy, subject to the advice and consent of the senate. Provides that if the governor does not accept the recommendation of the commission, the commission has the power to override the governor's decision and appoint the person so recommended by a 2/3 vote of the membership, subject to the advice and consent of the senate.

Requires the commission to review the performance and conduct of the justices and judges and to rate them well qualified, qualified or unqualified. Provides that the governor may reappoint a justice or judge who is rated well qualified or qualified, but shall not reappoint one rated unqualified.

Requires the commission to select one of its members to serve as chairperson.

Provides the governor shall nominate and, by and with the advice and consent of the senate, appoint the judges of the district courts.

Requires the term of office of a justice of the supreme court and of a judge of a circuit or district court to be 6 years instead of 10 years.

130 - Provides that legislative conference committees consist of members of each house of the legislature appointed to resolve differences between the houses on any matters where the joint agreement of the houses is required. Provides that the authority of such committee is limited to resolving differences between the house and the senate versions of a bill or resolution. Prohibits a conference committee from (1) amending provisions of a bill or resolution which are identical in both versions; provided such identical provisions may be amended to conform to all other provisions of the bill or resolution; and (2) amending a bill or resolution by inserting any unrelated or new subject. Exempts general appropriations, supplemental appropriations and the general improvements bills from the above provisions. Requires increases to salaries, pension or retirement benefits for any elected or appointed officer of the State or county to be considered in a separate bill other than the aforementioned appropriations and public improvement bills or any bill ratifying collective bargaining agreements.

Provides that meetings of such committees shall be conducted as agreed upon by members of the committee subject to the other provisions of this amendment and that meetings and decision-making sessions shall be open to the public with notice of such meetings to be posted or announced.

131 - Provides that all negotiations between a public employer and an employee organization relating to employment shall be open to the public.

132 - Deletes provision requiring a board of education composed of members elected in accordance with law and representing at least in part the geographic subdivisions of the State. Requires establishment of a board of 9 members, appointed by the governor, 7 of whom must each represent a school board district and be an elected member of the district school advisory council of the respective school board district, as provided by law.

Requires establishment of a district school advisory council in each of the school board districts.

Requires the following number of elected members for each of the following district school advisory councils: Hawaii school district, 7 members; Maui school district, 5 members; Honolulu school district, 5 members; Central Oahu school district, 5 members; Leeward Oahu school district, 5 members; Windward Oahu school district, 5 members; and Kauai school district, 5 members.

133 - Prohibits legislature from reviewing or changing policies of the board of education.

134 - Requires that all persons required by law to attend public educational institutions be entitled to equal opportunity to educational services.

135 - Provides for representation on board of regents of University of Hawaii of at least 1 member who is a full-time student and 1 member who is tenured faculty.

136 - Deletes the following sections in Article XVI:

1. Section 1 regarding districting and apportionment provisions set forth in the 1968 constitution.
2. Section 2 regarding 1968 senatorial elections.
3. Section 3 regarding a twenty-sixth senator for Kauai.
4. Section 4 regarding the effective date of the legislative districts and apportionment set forth in section 1 of this Article by the 1968 constitutional amendment.
5. Section 5 regarding the activation of the Reapportionment Commission on or before March 1, 1969.
6. Section 6 regarding conflict between 1968 apportionment provisions.
7. Section 8. regarding the effective date of the biennial budgeting system established by the 1968 constitutional amendment.
8. Section 9 regarding the effective date of the 1968 amendment to Article VII, section 2 regarding county charters.

Redesignates the numbers of sections 7 and 10 through 13 of Article XVI.

137 - Based on Oregon recall provisions provides for the recall of all elected public officers in Hawaii by the qualified voters of the state or electoral district from which an officer is elected. Provides that a recall petition setting forth the reasons for the recall may be filed with the requirement of not more than 25 percent of electors who voted in the electoral district at the preceding general election for governor.

Provides that unless the officer to be recalled offers a resignation within 5 days of the filing of the petition, a special election to vote on the recall issue shall be held within 20 days. Requires the sample ballot to contain in not more than 200 words, the reasons for demanding the recall and, in not more than 200 words, the officer's justification for the officer's course in office.

Provides that the officer shall continue the duties of office until the results of the special election are officially declared. Requires that any vacancy arising from recall shall be filled in the same manner provided by law for vacancies arising from any other cause.

Provides that no recall petition shall be circulated against any officer who has held office less than 6 months, except that it may be filed against a senator or representative in the legislature after 5 days from the beginning of the first session after election.

Provides that after one recall petition and special election, no further recall petition shall be filed against the same officer for the remainder of the officer's term unless such further petitioners shall first pay into the general fund the whole amount of its expenses for the preceding special election.

Provides that the legislature shall provide any additional legislation to aid the operation of the recall, including provision for payment by the general fund of the reasonable special election campaign expenses of the officer faced with a recall petition.

138 - Provides that a referendum of any law may be submitted to the people for approval, amendment or repeal upon the filing of a petition signed by registered voters of not less than _____ percent of all votes cast for all candidates for governor at the last general election. Provides that there shall be no referendum of measures deemed necessary for the immediate preservation of the public peace, health or safety, and for tax levies, bonds and other forms of revenue measures for the usual and current expenses of the State. Requires the petition to be filed with the chief election officer no later than _____ days prior to the general election at which the referendum will be submitted to the people. Provides that the law subject to referendum shall remain in effect until the referendum is enacted. Requires referendums to be approved by a majority of the votes cast thereon.

Requires that after a referendum petition has been filed and the law is either repealed or amended by the legislature so that in the opinion of the attorney general it differs from the referendum measure, both the repealed or amended law and the referendum measure shall be submitted to the people and the measure with the highest number of votes shall prevail. Allows the chief election officer to void referendum if the legislature repeals or amends a law so it is the same or similar to and accomplishes the same purpose as the referendum measure, if so determined by the attorney general and allows petitioner to appeal such determination to the supreme court. Prohibits a defeated referendum from resubmittal either affirmatively or negatively within _____ years.

Provides that prior to circulation for signatures, referendum petitions shall be submitted to the attorney general for preparation of a title and a summary not exceeding _____ words. Provides that all such petitions shall be submitted to the chief election officer for certification of name and registration of the signer. Prohibits enactment of laws limiting the number of copies of a petition which may be circulated. Provides that any registered voter may circulate such petitions and provides for the signing of such.

Provides that the petition shall not be released for inspection by the public or any governmental agency, except upon the order of the supreme court when a question is raised regarding its sufficiency. Requires an insufficient petition be returned to the circulators within _____ days of its filing with notations of specific insufficiencies. Requires measures to be presented in the form of a yes or no ballot, where a yes shall indicate an affirmative vote. Provides that an approved referendum measure shall be effective 1 day after the election results are announced unless otherwise provided by the measure. Prohibits the governor's veto on referendum measures approved by the people. Prohibits legislative repeal or amendment unless otherwise provided in the measure or that which shall be submitted to a referendum.

Requires the petitioner to bear all costs of the preparation and circulation of the petition, except for the services of the attorney general. After the petition is filed all further costs shall be borne by the State.

Provides that while the legislative power of the State is vested in a legislature, the people reserve to themselves the referendum power and that power as well as the legislative power shall extend to all rightful subjects of legislation not inconsistent with this constitution or the U.S. Constitution.

139 - Provides that there shall be a judicial commission consisting of 9 members appointed by the governor: 4 persons admitted to practice law before the supreme court from a list of 10 persons presented by the bar association and 5 lay persons from a list of 10 persons submitted by the legislature.

Requires the members of the judicial commission to be appointed and to serve without regard to political affiliation; to be a resident of the State and a citizen of the United States;

not to hold any other public office or office in any political party or organization; not to be eligible for appointment to judicial office of the State so long as a member of the commission and for a period of 3 years thereafter; to exercise their duties without regard to partisan politics; and to select one of themselves to serve as chairperson. Provides members serve staggered 4-year terms of office.

Provides that in case of the death, resignation, disqualification or incapacity to serve as a member of the commission, vacancies shall be filled by the governor.

Requires the judicial commission to submit a list of 3 persons to the governor for appointment to the supreme, circuit or district courts in which a vacancy exists and binds governor to select 1 person recommended by the commission.

Requires the governor to nominate and, by and with the advice and consent of the senate, appoint the judges of the district courts. Provides that the term of office of a judge of a district court shall be years.

Deletes commission or agency, authorized by law for such purpose to certify to the governor for the retirement or removal of a justice or judge from judicial office. Provides instead that the judicial commission, after inquiry, shall certify to the governor for the retirement or removal of a justice or judge from judicial office.

Deletes requirement that governor shall appoint a board of 3 persons to inquire into judicial behavior. Provides instead that if the judicial commission recommends a justice or judge should not remain in office, the governor shall remove or retire the person from office.

140 - Provides that a person who is being investigated by a grand jury shall have the right to be notified of the subject of investigation, to be confronted by evidence against that person and to present evidence, to compel appearance of evidence and to refute the evidence against that person. Provides that this person and any witness shall have the right to counsel during the proceeding, and if indigent, to have counsel appointed. Requires the prosecutor to present any evidence which tends to exculpate the person being investigated.

141 - Provides that every person appointed to the public office of supreme court justice or circuit or district court judge is subject to recall.

Limits recall to reasons of physical or mental lack of fitness, incompetence, neglect of duty, conviction of malfeasance or misfeasance in office, violation of oath of office or a felony offense. Provides no person may be recalled for performing a mandatory duty of the office held or for not performing any act that, if performed, would subject the person to prosecution for official misconduct.

Provides that a recall petition shall not name more than 1 justice or judge to be recalled. Provides recall petitions for a supreme court justice to contain signatures equalling not less than percent of the votes for all gubernatorial candidates in the preceding general election and petitions for a circuit or district court judge to contain signatures equalling not less than percent of the votes in a judicial district for all gubernatorial candidates in the preceding general election. Provides for the form of the recall petition.

Requires that before circulation of a petition for signatures, a sample circulation sheet shall be submitted to the chief election officer in the form in which it will be circulated and requires the chief election officer to review the petition for sufficiency as to form and approve or reject it with reasons within weeks of receipt.

Requires the petition form submitted to be accompanied by a written statement containing the reasons for the desired recall as stated on the petition and requires submission to be made within months of the date the form of the petition was approved.

Requires the chief election officer to verify each signature on the petition is that of a registered voter and to determine if there are the necessary number of signatures within days after submission.

Provides that if the person named in the petition for recall submits a resignation in writing, it shall be accepted and become effective the day it is offered. Requires vacancy

created by such resignation to be filled as provided by law, provided that the person named in the petition for recall shall not be appointed to fill such vacancy. Provides that if the person named in the petition for recall refuses to resign or does not resign, the question shall be placed on a separate ballot at the same time as the general election.

Requires the ballot at a recall election to set forth the statement contained in the recall petition stating the reasons for demanding the recall of such person and the person's statement of reasons why the person should not be recalled. Sets forth the form of the question with the form of the ballot to be as provided by law.

Allows the person named in the recall petition to continue in office until resignation or the results of the recall election are officially declared. Requires that if a majority vote to remove the person, the office of justice or judge shall become vacant and the vacancy shall be filled as provided by law, provided that the person recalled shall in no event be appointed to fill the vacancy.

142 - Provides that no grand jury shall be convened for any purpose unless the government official responsible for criminal prosecutions applies to a circuit court for an order to convene the grand jury which order is entered after the official shows to the court's satisfaction that there is good cause to convene a grand jury to investigate criminal conduct. Provides that application may be heard without notice to and participation of persons being investigated.

Provides for preliminary hearing right for all offenses for which accused is entitled to jury trial, even if prior indictment by grand jury. Requires court to commit accused for trial if the court finds probable cause to believe accused guilty and to release accused otherwise.

Provides that the accused at the hearing shall have the right to be notified of the charge, to be confronted by evidence against that person, to present evidence, to compel appearance of evidence, and to refute the evidence against that person. Provides that this person and any witness shall have the right to counsel during the proceeding, and if indigent, to have counsel appointed. Requires the prosecutor to present any evidence which tends to exculpate the accused.

143 - Provides that the judicial power of the State shall be vested in district courts and neighborhood mediation boards, in addition to existing courts, as the legislature may from time to time establish.

Provides that the mediation boards and adjudication bodies as well as the courts shall have original and appellate jurisdiction as provided by law.

144 - Exempts citizens of the State of Hawaii who have attained the age of 70 or over from paying general excise tax on medicine, medical supplies and food in the State of Hawaii.

145 - Amends provisions relating to natural resources, management and disposition to provide that eligible native Hawaiians, organizations controlled by eligible native Hawaiians and organizations of homesteaders shall be given priority in the leasing of lands returned to the control of any state board managing the public lands of the State pursuant to the Hawaiian Homes Commission Act.

Amends provisions relating to the Hawaiian Homes Commission Act to require first priority to be given in the securing of leases not otherwise required for residential or agricultural homestead purposes, irrespective of bid amounts, to eligible native Hawaiians, organizations controlled by eligible native Hawaiians or homesteader organizations presenting commercially viable proposals for commercial, industrial, community service or other nonresidential purposes.

146 - Provides 80-day legislative session beginning on the first Wednesday in March. Prohibits introduction or consideration of bill in regular session after 10th day, unless 3/4 of members of that house consent. Prohibits legislative committee from hearing bill prior to 21st day.

Provides for 10-day recess after 40th day of regular session, such recess days to be excluded in computing session days.

Requires printed copies of bill on 3rd or final reading to be available to members 24 hours before in special session or copies of bill on 3rd reading in house other than

where it originated or on final reading in either house to be placed on members' desks on or before 70th day of regular session. Prohibits such 3rd or final reading prior to 76th day of regular session, but time limitations for final reading in regular session may be waived with consent of 4/5 of members.

147 - Provides that commission on legislative salary shall be appointed by the governor on or before January 10, 1979 and every 4 years thereafter and at least 10 days prior to adjournment sine die of the regular session immediately following appointment, shall submit a salary plan to the legislature. Provides that salary plan shall become effective unless disapproved by the legislature by concurrent resolution.

148 - Provides for establishment of native crops research center to promote development and growth of indigenous cultivars of economic value.

149 - Based on the California constitutional provision, defines the initiative as the power of the electors to propose statutes and amendments to the Constitution and to adopt or reject them.

Provides that an initiative measure may be proposed by presenting to the chief election officer a petition signed by not less than 5 percent of the registered voters in the case of a statute, and not less than 8 percent in the case of an amendment to the Constitution, of all votes cast for all candidates for governor at the last preceding general election.

Requires submittal of an initiative petition to the attorney general for preparation of a title and summary of the measure as provided by law, prior to the circulation for signatures.

Requires an initiative petition to set forth the full text of the proposed law or amendment to the constitution and limits the proposed law or amendment to but 1 subject.

Requires the chief election officer to place the initiative measure on the ballot at the next general election held at least 131 days after the petition qualifies or at any special statewide election held prior to that general election. Allows the governor to call a special election for initiative measures.

Provides that an initiative measure, if approved by a majority of votes cast, shall take effect one day after the election results are officially announced unless otherwise provided for in the measure. Provides that in case 2 or more measures approved at the same election are in conflict, the measure receiving the highest affirmative vote shall prevail.

Allows the legislature to amend or repeal an initiative statute by another statute subject to approval by the electors unless the initiative statute permits otherwise.

Requires the legislature to provide the manner in which petitions shall be circulated, presented and certified, and measures submitted to the electors.

Prohibits the use of initiative on a constitutional amendment or statute that names any individual to hold any office, or any private corporation to perform any function or to have any power or duty.

Provides that the initiative may be exercised by the electors of each county pursuant to procedures as provided in the county charter.

Provides that while the legislative power of the State is vested in a legislature, the power of initiative is reserved to the electorate and both powers shall extend to all rightful subjects of legislation not inconsistent with the state or U.S. constitutions. Clarifies that only laws passed by the legislature need be by bill.

Provides that constitutional revisions or amendments may be proposed by the electorate as well as by constitutional convention or by the legislature. Provides that when the legislature and the electorate propose conflicting revisions or amendments and both are approved, the version proposed by the electorate prevails. Provides that when conflicting revisions or amendments are proposed by the same body and the electorate and all or any combination thereof are approved, the one with the highest number of votes prevails.

150 - Provides that the State shall have power to provide for treatment and rehabilitation, as well as domiciliary care, of emotionally handicapped persons in addition to the mentally and physically handicapped.

151 - Provides that the inherent and inalienable rights of man cannot endure unless the State ensures the public's safety.

152 - Provides for appointment of secretary to the board of education a person other than the superintendent.

153 - Provides that each school district shall have at least 1 member of the board of education residing in the district as provided by law and deletes requirement that part of membership represent state geographical subdivisions.

154 - Requires establishment of the office of attorney general having the same qualifications as the governor; admitted to practice law before the supreme court of the State for at least years; not being subject to the supervision of or removal by the governor, and elected at the same time, for one 6-year term, in the same manner as the governor.

Requires that the attorney general be the protector of the public, the legal adviser to the State, the representative of the State in civil actions in which the State or agency of the State is a party, and be subject to performing other such duties as provided by law.

Provides that no person elected attorney general is eligible, without first having resigned, for any other state or county elective office, if the term of the latter begins prior to the expiration of the term of the former.

Prohibits amendment from applying to any person holding the office of attorney general at the time of the adoption of this amendment and from preventing any person who may be the attorney general, or acting as attorney general, during the term this amendment becomes operative, from holding the office of attorney general or so acting during the remainder of such term ending upon the election of the attorney general in

Continues power to remove the attorney general by governor with senate approval to the first Tuesday after the first Monday in November

155 - Provides for protection, as well as establishment, support and control, of state public school system, state university, public libraries and other educational institutions.

156 - Provides for representation of at least 1 member from islands of Molokai and Lanai on the board of education.

157 - Provides that the person receiving the highest number of votes for lieutenant governor shall be the lieutenant governor. Deletes election method where the votes cast in the general election for the nominee for governor are deemed cast for the nominee for lieutenant governor of the same political party.

158 - Provides that no person elected to public office is eligible to run for nomination or election to any other state or county public office, the term of which begins before the expiration of the term of the office to which that person was elected, without first resigning from the office to which elected. Provides that no person shall serve more than 2 terms or in no instance more than 8 years in such public elective office. Provides that these provisions take effect upon ratification, provided that any person elected in the 1978 general election may finish the term of office to which elected.

Creates a unicameral legislature commencing with the first regular or special session to be held after the general election of 1980. Deletes all references to 2 houses, the senate and the house of representatives, in the constitution. Provides that all authority previously vested by the constitution or laws of the State in the senate, house of representatives or joint sessions thereof is vested in a legislature of 1 chamber; that all references to the legislature, the senate, the house of representatives, joint sessions of the senate and the house of representatives, senator or member of the house of representatives shall apply to and mean the legislature of 1 chamber; that all references to the clerk or presiding officer of the senate or the house of representatives mean, when applicable, the presiding officer or clerk of the legislature of 1 chamber; that all references to the speaker of the

house or the president of the senate mean the speaker of the legislature; and that whenever any provision of the constitution requires submission of any matter to, or action by, the senate, the house of representatives or joint session thereof, or the members of either or both bodies, it shall be construed to mean the legislature of 1 chamber.

Provides that the legislature shall be composed of members elected from the respective legislative districts. Provides that until the next reapportionment the legislative districts and the number of legislators to be elected from each shall be as set forth in the schedule.

Provides that the presiding officer and the majority floor leader select 4 members of the reapportionment commission and that the members of the parties different from the speaker select 4 members of the commission.

Requires the reapportionment commission to designate which district is to be represented by legislators whose terms extend past reapportionment. Provides in making such designation the legislator need not live in the district the legislator is designated to represent. Requires commission in making designation to consider (1) the legislative district the legislator was elected from, (2) the legislative district in which the legislator will reside under the reapportionment plan, and (3) the requirement of continuing staggered terms and the number of legislators in a legislative district under the commission's reapportionment plan. Requires the commission to give no consideration to holdover legislators in redistricting. Deletes minimum representation for basic island units. Provides that legislature shall meet biennially instead of annually on the third Wednesday in January in odd-numbered years. Deletes reference to adjournment by 1 house without the consent of the other house. Deletes requirement that every bill passing the house in which it originated shall be certified and transmitted to the other house and that before a carried-over bill is enacted it shall pass at least 1 reading in the house in which it originated. Deletes reference to the supplemental appropriation bill in even-numbered years. Deletes district and apportionment section in the constitution, provision concerning election of senators in 1968, allocation of an additional senator to Kauai, effective date of reapportionment and constitution of a reapportionment commission if reapportionment provisions were not ratified and provisions for superseding Senate Bill No. 1102 of the regular session of 1967.

Provides that senators elected in 1978 shall serve 2-year terms. Provides that members of the legislature elected in 1980 shall be divided into 2 classes: the members of the first class holding office for a term of 4 years and the members of the second class holding office for a term of 2 years, with the terms of office of all successors to be 4 years. Provides that the classes shall be determined by lot under the supervision of the chief election officer. Provides that in legislative districts with 1 legislator, that legislator shall serve 4 years; in districts with 2 legislators, 1 legislator shall serve 4 years, 1 - 2 years; in districts with 3 legislators, 2 legislators shall serve 4 years, 1 - 2 years; and in districts with 4 legislators, 2 legislators shall serve 4 years and 2 shall serve 2 years.

Provides that the salary of a legislator shall be \$1,000 for each month or part thereof of a regular or special session, instead of \$12,000 a year.

159 - Deletes provisions concerning nomination of justices and judges by the governor with the advice and consent of the senate.

Provides that the governor shall select and appoint the justices of the supreme court and the judges of the appellate courts and circuit courts. Provides that the chief justice of the supreme court shall select judges of all other courts.

Requires all such selections to be from a list of not less than 3 nor more than 5 persons which shall be submitted to the governor or the chief justice by the judicial selection panel. Provides that if more than 1 vacancy exists in any of the courts, appointments to fill such vacancies may be made from any list of nominees for the court in question presented by the selection panel not more than 60 days before. Provides that if the governor or chief justice fails to make an appointment within 60 days from the day a list is presented, appointment shall be made by the selection panel from the same list or lists.

Provides that selection shall be initiated by application from the prospective justices or judges in a form prescribed by the judicial selection panel. Requires all applicants to take the next regularly scheduled bar examination or such portion of it as designated by the judicial selection panel to achieve a score at least equal to that required for the licensing of attorneys, in order to be nominated.

Provides for a judicial selection panel composed of 9 members: 3 appointed by the governor, 3 appointed jointly by the presiding officers of the senate and the house, and 3 elected from among all attorneys licensed to practice before the supreme court of the State, who are in good standing. Requires the election of such attorneys to be supervised by the chief justice of the supreme court. Requires at least 1 member of each group to be a nonresident of the State. Provides that the panel shall review the qualifications of all applicants for positions of judge or justice and that the judicial selection panel shall be selected and operate in a wholly nonpartisan manner.

Provides that the panel shall be established as of _____, 1979, as follows: by requiring the appointing officers and the electing attorneys to appoint or elect 1 member of the panel to serve a 1-year term, 1 to serve a 2-year term and 1 to serve a 3-year term of office. Requires subsequent appointment or election to be for 3-year terms, commencing as of _____ of each year. Provides that the appointments of persons to fill vacancies on the panel for any reason shall be made by the appropriate appointing officers and by the chief justice for positions filled by election by the licensed attorneys.

Prohibits members of the judicial commission from running for or holding any other office or position of profit under the United States, the State or its political subdivisions; nor shall they be eligible for appointment to a judicial office of the State so long as they are members and for a period of 3 years thereafter.

Requires the judicial commission to select one of its members as chairperson and to establish rules and procedures. Provides that the receipt and review of applications for judicial positions and the deliberations of the commission shall be confidential.

Provides that no member of the commission shall receive any compensation for services but shall be allowed necessary expenses for travel, board and lodging incurred in the performance of duties. Requires the legislature to provide for the staff and operation expenses of the commission in a separate budget.

Amends existing provisions to conform and deletes compensation specified for the chief justice, associate justices and circuit court judges.

160 - Provides for the condemnation of all vested rights in water resources to the use of the public upon payment of just compensation; such compensation is to be paid from money in the State's treasury not otherwise appropriated.

161 - Establishes an information office which will provide citizens with information and services to encourage their participation in the legislative process. Requires the legislature to provide appropriations for the operation of the office.

Provides for a chief legislative information officer to be elected every 4 years. Limits reelection to _____ terms.

Provides that a vacancy for the office shall be filled by gubernatorial appointment, if the unexpired term is 1 year or less, and by special election, if the unexpired term is more than 1 year.

162 - Requires establishment of an 11-member board of education elected at-large. Deletes provision specifying that at least part of the membership must represent geographic subdivisions of the State. Requires, instead, that at least 1 member of the board reside in each of the following 7 school districts: Hawaii, Maui, Honolulu, Central Oahu, Leeward Oahu, Windward Oahu and Kauai, whose boundaries are enumerated by representative districts.

163 - Requires preservation of secrecy of the political party of the person voting if the person is not a candidate.

Requires the primary election to be held on the first Tuesday after the first Monday in September in even-numbered years.

164 - Provides that no person shall be deprived of his rights, instead of his civil rights, or be discriminated against in the exercise thereof.

165 - Mandates governor, wherever possible, to make appointments, representative of the population, for the membership on boards, commissions, or other bodies.

166 - Provides that all persons shall be bailable by sufficient sureties, except where the offense is punishable by life imprisonment without parole when the proof is evident or the presumption is great.

167 - Provides that the rights of the people to economic security, sufficient to live in dignity, shall not be violated and requires legislature to provide protection against loss or inadequacy of income and otherwise implement this section.

168 - Provides no person shall be compelled to give testimony which might tend to incriminate himself; deletes, "in any criminal case to be a witness against himself."

169 - Provides that any person adversely affected by a search or seizure has a standing to raise its possible illegality in the courts.

170 - Provides that all persons charged with a criminal offense shall be bailable by sufficient sureties, unless for offenses punishable by life imprisonment without parole when the proof is evident or the presumption is great.

171 - Deletes provisions relating to resources, conservation, development and use. Provides the State and each person has the duty to conserve and protect the land, air, water, native and endemic flora and fauna and other natural resources from pollution, impairment, destruction and depletion for the benefit of present and future generations. Requires development and utilization of all natural resources to be consistent with this policy.

Provides for the enforcement of this right against any party, governmental or private, through appropriate legal proceedings. Provides this provision is self-executing.

172 - Eliminates function of superintendent of education as secretary to board of education and provides that board shall have a staff of its own.

173 - Disqualifies from public office or employment any person who has been convicted of, instead of knowingly and intentionally committing, any act to overthrow or attempt to overthrow, or of conspiracy instead of conspiring with any person to overthrow the state or United States government by force or violence.

174 - Deletes section 1 of Article XIV requiring that civil service employment be governed by the merit principle. Redesignates section numbers in Article XIV.

175 - Deletes section 2 of Article XIV regarding membership in the employees' retirement system. Redesignates section numbers in Article XIV.

176 - Limits the terms of all state and political subdivision elected and appointed officials to 8 years in any one office. Allows persons holding such office when amendment takes effect or elected to office in 1978 to serve out the remainder of the term.

177 - Creates a unicameral legislature commencing with the first regular or special session to be held after the general election of 1980. Deletes all references to 2 houses, the senate and the house of representatives, in the constitution. Provides that all authority previously vested by the constitution or laws of the State in the senate, house of representatives or joint sessions are vested in a legislature of 1 chamber; that all references to the legislature, the senate, the house of representatives, joint sessions of the senate and the house of representatives, senator or member of the house of representatives shall apply to and mean the legislature of 1 chamber; that all references to the clerk or presiding officer of the senate or the house of representatives mean, when applicable, the presiding officer or clerk of the legislature of 1 chamber; that all references to the speaker of the house or president of the senate mean the speaker of the legislature; and that whenever any provision of the constitution requires submission of any matter to, or action by, the senate, the house of representatives, or joint session thereof, or the members of either or both bodies, it shall be construed to mean the legislature of 1 chamber.

Provides that the legislature shall be composed of 51 members elected from the respective legislative districts. Provides that until the next reapportionment the legislative

districts and the number of legislators to be elected therefrom shall be the same as those used to elect the 1978 constitutional convention delegates.

Provides that the presiding officer and the majority floor leader select 4 members of the reapportionment commission and that the members of the parties different from the speaker select 4 members of the commission. Deletes provisions for minimum representation for basic island units. Provides that not more than 1 member, instead of 4 members shall be elected from any district.

Requires the reapportionment commission to designate which district is to be represented by legislators whose terms extend past reapportionment. Provides in making such designation the legislator need not live in the district the legislator is designated to represent. Requires commission in making designation to consider (1) the legislative district the legislator was elected from, (2) the legislative district in which the legislator will reside under the reapportionment plan and (3) the requirement of continuing staggered terms and the number of legislators in a legislative district under the commission's reapportionment plan. Requires the commission to give no consideration to holdover legislators in redistricting. Provides that legislators must in addition to present qualifications be residents of the legislative district from which election is sought. Provides that regular sessions shall be 90 days, instead of 60 days. Deletes reference to adjournment by 1 house without the consent of the other house. Deletes requirement that every bill passing the house in which it originated shall be certified and transmitted to the other house and that before a carried-over bill is enacted it shall pass at least 1 reading in the house in which it originated. Deletes district and apportionment section in the constitution, provision concerning election of senators in 1968, allocation of an additional senator to Kauai, effective date of reapportionment and constitution of a reapportionment commission if reapportionment provisions were not ratified and provisions for superseding Senate Bill No. 1102 of the regular session of 1967.

Provides that senators elected in 1978 shall serve 2-year terms. Provides that members of the legislature elected in 1980 shall be divided into 2 classes: the members of the first class holding office for a term of 6 years and the members of the second class holding office for a term of 4 years, with the terms of office of all successors to be 4 years. Provides that legislators elected from odd-numbered legislative districts shall be in the first class and those from even-numbered districts shall be in the second class.

178 - Requires an income tax refund to individual taxpayers in an amount not less than 50 percent of any general fund surplus at the end of any fiscal year within 1 year after the end of the fiscal year in accordance with law. Surplus means the excess of general fund revenues over the general operating fund expenditures for each fiscal year.

179 - Provides that the board of regents of the University of Hawaii shall consist of 4 members elected by qualified voters as provided by law, 2 members elected from the Associated Students of the University of Hawaii, 2 members elected from the faculty of the university, and 3 members appointed by the governor.

180 - Provides that the legislature may establish an intermediate appellate court in the event it determines the supreme court, consisting of 7 members, cannot keep current with its caseload and that the intermediate appellate court may sit in panels.

Provides that the supreme court shall consist of a chief justice and 6 associate justices instead of 4. Allows instead of mandates the chief justice to assign a judge or judges of a circuit court to serve temporarily on the supreme court. Adds requirement that retired justices not be in active practice in order to serve temporarily on the supreme court. Provides that if the legislature establishes an intermediate appellate court, judges of that court may be assigned temporarily by the chief justice to the supreme court.

Allows the supreme court to sit in panels or en banc, consisting of all active justices, judges and retired justices temporarily assigned, to constitute a court of 5. Provides that the size and composition of panels shall be determined under rules of the supreme court and may consist of as few as 3 members of whom not more than one shall be a judge or retired justice temporarily assigned. Provides that any 3 active justices may direct the supreme court to conduct a hearing or rehearing en banc.

Deletes requirement that the governor nominates and, by and with the advice and consent of the senate, appoints the justices of the supreme court and the judges of the circuit courts and no nomination shall be sent to the senate, and no interim appointment shall be made when the senate is not in session. Requires the governor to fill a vacancy

by appointing within 60 days a person from a list of not less than 3 nor more than 5 nominees presented by the commission. Provides that if more than 1 vacancy exists in any of the courts, the governor may fill such vacancies from any list of nominees presented by the commission not more than 60 days prior to the appointment. Provides that if the governor fails to make an appointment within 60 days from the day a list is presented, an appointment shall be made by the commission from the same list or lists.

Deletes provisions that no justice or judge shall hold any other office or position of profit under the State or the United States; no person shall be eligible for the office of justice or judge unless admitted to practice law before the state supreme court for at least 10 years; and that justices or judges who become candidates for elective office forfeit office.

Deletes provisions concerning the term of office, compensation and retirement for justices, associate justices and circuit court judges.

Requires justices and judges to be residents and citizens of the State and of the United States and licensed to practice law by the supreme court. Requires a judge of the circuit court and members of any court superior thereto to have been so licensed not less than 10 years preceding nomination.

Requires that no justice or judge shall, during office, engage in the practice of law, or run for or hold any other office or position of profit under the United States, the State or its political subdivisions, or run for or hold any office in any political party or organization, directly or indirectly make any political contribution or take part in any political campaign.

Provides that the term of office of justices and judges of the circuit courts and any court superior thereto shall be 10 years and judges of inferior courts shall hold office for the periods prescribed by law. Requires that at least 6 months before the expiration of office, every justice and judge shall petition the commission to be retained in office or inform the judicial commission of intention to retire. Provides that if the commission determines that the justice or judge should be retained in office, it shall renew the term of office for the period prescribed by law.

Provides that justices and judges shall have salaries as prescribed by law; be included in any retirement law of the State and their compensation shall not be reduced while in office.

Deletes the commission or agency, authorized by law for such purpose, to certify to the governor for the retiring or the removal of a justice or judge from judicial office. Deletes provision that the governor shall appoint a board of 3 persons, as provided by law, to inquire into judicial behavior and if the board recommends that the justice or judge should not remain in office, the governor shall remove or retire him from office.

Provides that the supreme court has the power to discipline, suspend with or without salary, retire and remove from office for misconduct or disability, any justice or judge under supreme court rules.

Requires the legislature to provide for the creation of a commission on judicial discipline and disability retirement, consisting of not less than 9 members who shall be laymen, lawyers and judges (excluding justices of the supreme court) in equal numbers; having staggered terms and are appointed in the manner prescribed by law. Provides that the commission, on its own initiative or upon receipt of information from any source, has the authority to investigate and conduct hearings concerning allegations of misconduct or disability, and to make recommendations to the supreme court concerning discipline, suspension, retirement or removal, of any justice or judge. Requires the commission to keep all of its proceedings confidential until formal allegations of misconduct or disability based on probable cause have been served and provides the commission with absolute immunity from suit for its members and staff for all official conduct. Requires the commission to promulgate rules having the force and effect of law.

Provides that no member of the commission shall receive any compensation for his services except necessary expenses for travel, board and lodging incurred in the performance of duties. Requires the legislature to provide for the staff and operating expenses of the commission in a separate budget.

Provides that the chief justice of the supreme court shall be selected by the judicial

commission from among the justices of the supreme court for a term of 5 years, renewable upon the discretion of the commission and the chief justice may resign or retire from office without resigning or retiring from the supreme court.

Provides that there shall be a judicial commission existing apart from partisan political influence and charged to ensure the people of this State learned, capable and just courts.

Provides that the commission consists of 9 members: 2 members appointed by the governor, the members of the senate, members of the house of representatives and justices of the supreme court shall each elect 1 member. Requires all 5 such members to be persons not admitted to practice law anywhere in the world. Provides that members in good standing of the bar of the State shall elect 4 of their number in an election conducted by the supreme court or its delegate.

Provides that the commission shall be selected and operate in a wholly nonpartisan manner. Requires that after the initial formation of the commission, elections and appointments to the commission shall be for staggered terms of 4 years each. Provides that the legislature shall by statute provide for the time and manner of appointments and elections to conform with this section.

Requires each member of the judicial commission to be a resident of the State and a citizen of the United States. Requires that no member shall run for or hold any office or position of profit under the United States, the State, or its political subdivisions; run for or hold any office in any political party or organization or take part in any political campaign; shall be eligible for appointment to judicial office of the State so long as a member of the judicial commission and for a period of 3 years thereafter.

Provides that no act of the commission is valid unless concurred in by 6 of its members.

Requires the commission to select one of its members to serve as chairman. Provides that the commission shall promulgate rules having the force and effect of law. Requires the receipt and review of applications for judicial positions and the deliberations of the commission to be confidential.

Provides that no member of the commission shall receive any compensation for his services except necessary expenses for travel, board and lodging incurred in the performance of duties. Requires the legislature to provide for the staff and operating expenses of the commission in a separate budget.

Amends power of the supreme court to promulgate rules and regulations in all civil and criminal cases for all courts to provide the power is exclusive.

Provides that the current terms of justices and judges in office on the effective date hereof shall terminate as provided by law, subject to earlier termination and removal as provided in this amendment.

181 - Provides that the legislative power of the State shall be in one house called the senate, composed of 51 members. Substitutes the term "senate" for "each house", "house of representatives" or similar terms throughout the constitution.

Provides that the senatorial districts and the number of senators from each shall be as provided by the 1973 reapportionment plan until the next reapportionment. Deletes provision for house of representatives. Provides for selection of 2 members of reapportionment commission by majority floor leader instead of by speaker of house of representatives and of 2 members by minority party members (the party other than that of senate president) of the senate instead of 1 each by each house's minority parties. Deletes provision for minimum representation of basic island units in reapportionment. Deletes provision for inclusion of representative districts within senatorial districts, and changes from 4 to 3 the maximum members from a district.

Deletes provisions for term of office, qualifications and privileges for members of house of representatives.

Deletes provision prohibiting adjournment for more than 3 days without consent of other house. Deletes provision for sending a bill to the other house and for at least one reading in the house in which it originated to enact a carry-over bill.

Provides that the senate shall have the sole power of impeachment and to try impeachment of the governor and lieutenant governor. Makes amendment applicable to elections of 1982.

182 - Requires the legislature to enact laws deterring and limiting speculation on real property and stabilizing the cost of real property in Hawaii.

183 - Requires the codes of ethics of the State and its political subdivisions to hold its officers and employees, in the exercise of their duties, to a fiduciary duty, which shall be owed to the present and future generations of the people of the State.

184 - Provides that there shall be no discrimination instead of segregation based on race, religion, or ancestry and adds sex, in any public educational facilities.

185 - Deletes provision for convening of constitutional convention in the same manner with the same power and privileges as the 1968 convention, and requires the lieutenant governor to serve as the administrator of the convention and moderator of full sessions, without vote.

Requires the lieutenant governor before the convention to cause arrangements for facilities and equipment for delegates, prepare a temporary budget and a model convention handbook for the delegates.

Provides that not more than 21 days after the election of delegates, the lieutenant governor shall call the convention into session and delegate pay shall begin on that date.

186 - Requires public or governmental bodies, boards, bureaus, commissions and agencies, and organizations of the State or any political subdivision supported by public funds to hold meetings open to the public, unless otherwise provided by law. Requires sessions of the legislative assembly, including the committee of the whole and meetings of legislative committees to be open to the public.

187 - Provides that Hawaiian and English are the languages of the State.

188 - Prohibits segregation in public schools based upon sex, national origin, handicap or age.

189 - Provides that all surface and groundwater in the State derived from natural sources is owned and held by the State as a public trust for the benefit of the people; provided owners of land having appurtenant, vested riparian or vested correlative water rights shall not be deprived of the right to exercise such water rights on the lands where those rights originated.

190 - Requires that reapportionment occur every 12 years instead of every 8 years. Deletes provision for minimum representation of basic island units.

191 - Provides that any person in public employment less than full-time or on a temporary basis shall be included in and receive such collective bargaining rights as that person would receive if employed full-time and on a permanent basis.

192 - Creates a department of human rights under the supervision of the governor to be responsible for developing goals and coordinating planning, programming and action on human rights, affirming human rights, and performing other duties as provided by law. Requires all commissions, etc. dealing in human rights, other than principal departments, to be placed within department of human rights. Requires legislature to implement section.

193 - Provides that the legislature shall pass no special or local act when a general act is or can be made applicable.

Provides that it shall be a matter of judicial determination whether a general act is or can be made applicable.

194 - Provides that the charter counties of the State shall be designated as Charter County of Hawaii, Charter City and County of Honolulu, Charter County of Kauai, and Charter County of Maui-Molokai-Lanai-Kahoolawe.

195 - Provides that all legislative committee meetings shall be open to the public at all times unless the business of the committee concerns matters of national or state security or the investigation of a proposed impeachment.

Provides that a vote of 3/4 of those present and voting determines whether the committee meeting is dealing with matters of national or state security or the investigation of a proposed impeachment.

196 - Requires members of both houses of the legislature to meet on the first Monday following the general election in even-numbered years for pre-session organization and orientation, filing of bills and establishment of consent calendars and deadlines for the session. Requires pre-session meetings to be held on each working day up to the third Wednesday in January, the convening of the regular session.

197 - Provides that all water belongs to the State to be reserved for the common good of the people.

198 - Requires public hearings on all decisions made affecting major land use of public lands, coastal zones and other conservation land resources. Excludes cases of land transfers from requirement.

199 - Provides that the public shall have access to beaches, recreation areas and other natural reserves.

200 - Provides for public school attendance by students in areas outside their residential areas if their parents or guardians so wish it and as prescribed by law.

201 - Provides each public school to have a school advisory council which shall advise the school on operation and program improvements.

202 - Provides for the establishment of alternative education programs for students who cannot benefit from regular instruction courses in the public school system.

203 - Provides that local or special laws enacted prior to statehood may be repealed when superseded by general law.

204 - Establishes 10 percent instead of 15 percent of the total of the assessed values for tax rate purposes of real property in any political subdivision as the limit of the funded debt of such political subdivision outstanding and unpaid at any time.

205 - Grants the State with the power to provide financial and medical assistance and social services to those persons found in need of, as well as eligible for, such assistance and services. Deletes reference to the provision of assistance for persons unable to maintain a standard of living compatible with decency and health.

206 - Establishes an office of budget and finance responsible for the budget and finances of the state government, headed by a director of finance. Provides that the director shall be appointed by, and the office under the supervision of, the legislative committees of each house responsible for budget and finance.

207 - Provides that the people shall have access to all government records and proceedings in the absence of a proven and compelling state interest.

Provides that journalists shall not be compelled to divulge their confidential sources of information.

208 - Requires State to provide free public schools.

209 - Provides that person with leasehold interest in Hawaiian home lands may transfer or sublease such interest to, or mortgage, pledge, or otherwise hold such interest for the benefit of, any native Hawaiian as defined in Hawaiian Homes Commission Act.

210 - Provides for each county to have at least 1 member on board of education. Deletes requirement that at least part of the board shall represent geographic subdivision of the State.

211 - Provides that the Midway Islands together with appurtenant reefs and territorial waters are included in instead of excluded from the boundaries of the State of Hawaii.

- 212 - Requires each legislative house to determine rules of its proceedings except, unless otherwise provided by law, all sessions, including the committee of the whole and legislative committees shall be open to public.
- 213 - Requires the State to provide educational, social and cultural programs for residents of low income housing developments.
- 214 - Makes the Law of the Splintered Paddle, "let every elderly person, woman and child, lie on the road in safety", the symbol of the State's concern for public safety. Requires the State to provide for the safety of the people by enacting laws, developing programs and research to prevent, reduce and control crimes against persons and property.
- 215 - Allows the legislature to pass laws that repeal local or special laws enacted prior to statehood.
- 216 - Requires chief negotiator representing public employer in negotiations with an employee organization to be member of legislative body of that public employer selected by that body.
- 217 - Provides that partial membership representation based upon geographic subdivisions of the State on the board of education is met if each school district is represented by a member on the board. Requires the legislature to implement these provisions by appropriate legislation.
- 218 - Provides for an income tax credit by the State, as provided by law, to all taxpayers who vote in a general election.
- 219 - Requires the superintendent of education to be solely responsible to the board of education. Deletes limitation of board's power in accordance with law and provision that superintendent serve as secretary to the board. Empowers the board of education to submit a budget on public education to the governor and legislature which may approve or reduce the budget but not increase it.
- Provides that as of January 1, 1981 there shall be an 11-member board of regents of the University to be elected on a nonpartisan basis for staggered 6-year terms; except that at the first election in 1980 5 positions chosen by lot shall be filled for 3-year terms. Empowers the board to submit a budget to the governor and legislature which may approve or reduce the budget but not increase it.
- Empowers the board of regents to formulate policy and exercise control over the University through the president, to be appointed by the board and solely responsible to it.
- 220 - Provides that no person shall be deprived of life, liberty or property without due process of law, nor be denied the equal protection of the laws or the enjoyment of civil rights or be discriminated against in the exercise thereof because of age in addition to race, religion, sex or ancestry.
- 221 - Prohibits physical destruction by the armed forces of the State or the United States of conservation lands or historic sites.
- 222 - Requires all water resources, vested rights therein and rights to transmit the allocation and use of water to be condemned to the public use subject to appropriation for beneficial uses as provided by law. Requires the State to pay just compensation upon the condemnation of vested water rights.
- 223 - Provides for office of secretary of state, appointed by governor with approval of the senate to replace the office of lieutenant governor. Provides for secretary of state to be official custodian of state records and archives and to perform other duties as may be prescribed by law, to receive compensation not less than \$27,500 a year, to be first successor to governor, and subject to impeachment.
- 224 - Establishes a council on revenues and expenditures composed of 12 members who shall be recognized authorities on the state economy and governmental fiscal affairs, with 6 appointed by the governor and 3 by the presiding officer of the senate and 3 by the presiding officer of the house of representatives. Places council within office of governor for administrative purposes.

Requires the council, after due consideration of governor's state revenue estimate found in budget and other information relating to revenue estimates, to affirm the governor's estimate or establish its own state revenue estimate for the ensuing fiscal biennium. Makes the estimate binding upon the governor in submitting proposed appropriation bills and binding upon the legislature in enacting appropriation bills. Allows the council to amend the estimate as projections of revenues change. Requires estimate and amendments to be public. Requires the council to advise the governor and the legislature on fiscal implications of current state programs and on the fiscal relationship of the State and its political subdivisions.

Requires the legislature to appropriate funds necessary for council to perform its duties and to implement legislation for purposes of section.

225 - Provides the State with the power to establish a state police force.

226 - Provides for biennial sessions of the legislature to convene on the last Wednesday of February in odd-numbered years. Deletes requirements concerning supplemental budget submissions in even-numbered years.

227 - Provides that the budget of department of education shall not be less than percentage of the total budget of the State.

228 - Provides all shorelines, as provided by law, are free to the public subject to vested rights and regulation by the State. Requires the State to conspicuously mark and maintain rights-of-way to the shorelines and requires them to be placed at reasonable intervals, considering the topography and physical characteristics of the land.

229 - Provides that a judge shall be automatically disqualified from the proceeding whenever a party to any lawsuit, civil or criminal, makes and files an affidavit that the judge has a bias or prejudice either against that party or in favor of any opposite party to the lawsuit. Provides that the affidavit may be filed at any time prior to the commencement of trial but no later than 2 days after the assignment of the case for trial to a specific judge (Saturdays, Sundays and holidays excluded).

Provides that no party is entitled in any lawsuit to file more than one such affidavit seeking automatic disqualification and all other affidavits alleging such bias shall be filed in accordance with the same procedure and subject to the same constraint but must set forth the facts and reasons for the belief that bias or prejudice exists, to be ruled upon by a court of competent jurisdiction by a judge other than the one who is the subject of the affidavit.

Provides that any judge may disqualify himself from presiding over any phase of any lawsuit by filing with the chief clerk of the court of which he is judge a certificate that the judge deems himself unable for any reason to preside with absolute impartiality in the pending case or because the judge deems that the interests of justice make his disqualification desirable.

230 - Requires the State to give first priority to uses of its natural resources for purposes of self-sufficiency.

231 - Requires department of education to exempt from formal personnel requirements ethnic and cultural history instructors. Provides that such instructors who lack formal education, shall be considered equal to those teachers with 4-year college education certificates.

232 - Requires that there be a state plan to serve as a guide for the future long-range development of the State.

233 - Requires the members of the Hawaiian homes commission to be elected by the lessees of Hawaiian home lands as provided by law. Requires a majority vote of persons holding leases under the Hawaiian Homes Commission Act before rules and programs of the department of Hawaiian home lands may be adopted, amended, repealed or changed. Defines rule to mean a rule defined and adopted under the Hawaii Administrative Procedure Act or any successor statute.

Provides the blood requirement necessary for a child of a lessee to inherit the lease of a parent shall not be less than 25 percent; and that no higher blood requirement shall be required by law.

234 - Provides there shall be a judicial commission apart from partisan political influence to ensure the people learned, capable and just courts.

Provides that the judicial commission shall consist of 9 members: 2 appointed by the governor and 1 each by the members of the senate, members of the house of representatives and justices of the supreme court. Requires all 5 such members to be persons not admitted to practice law anywhere in the world. Provides that members in good standing of the bar of the State shall elect 4 of their number who shall serve on the commission, in an election conducted by the supreme court or its delegate.

Requires the commission to be selected and to operate in a wholly nonpartisan manner. Provides that after the initial formation of the commission, elections and appointments to the commission shall be for staggered terms of 4 years each. Provides that the legislature shall by law provide for the time and manner of appointments and elections to conform with amendment.

Provides each member of the commission shall be a resident of the State and a citizen of the United States; shall not run for or hold any other office or position of profit under the United States, the State or its political subdivisions or any political party or organization or take part in any political campaign. Provides that no member shall be eligible for appointment to judicial office of the State so long as a member of the commission, and for a period of 3 years thereafter.

Provides that no act of the commission shall be valid unless concurred in by 6 of its members.

Provides that the commission shall select one of its members to serve as chairperson and shall promulgate rules which shall have the force and effect of law. Requires the receipt and review of applications for judicial positions and the deliberations of the commission to be confidential.

Provides that no member of the commission shall receive any compensation for services, except necessary expenses for travel, board and lodging incurred in the performance of the duties of the member as such. Requires the legislature to provide for the staff and operating expenses of the commission in a separate budget.

Requires the current terms of justices and judges in office on the effective date hereof to terminate as heretofore provided by law, subject to earlier termination and removal as provided in this article.

Requires the judicial power of the State to be vested in addition to the supreme court and circuit courts, in other courts inferior to the supreme court as the legislature may from time to time establish. Provides that the legislature may establish an intermediate appellate court, constituted with 7 members, only in the event the supreme court cannot keep current with its caseload. Provides that the legislature may provide for the intermediate appellate court to sit in panels.

Provides that the supreme court shall consist of a chief justice and 6 associate justices, instead of 4. Provides that the chief justice may, instead of shall, assign a judge or judges of a circuit court to serve temporarily on the supreme court. Adds requirement that retired justices of the supreme court not be in active practice in order to serve temporarily on the supreme court at the request of the chief justice. Provides that in the event the legislature establishes an intermediate appellate court, judges of that court are eligible for assignment by the chief justice of the supreme court for the temporary service on the supreme court.

Provides that the supreme court may sit in panels or en banc and if sitting en banc shall consist of all active justices, judges and retired justices temporarily assigned, if necessary to constitute a court of 7. Provides that the size and composition of panels shall be determined in accordance with the rules of the supreme court.

Deletes requirement that the governor nominates and, by and with the advice and consent of the senate, appoints the justices of the supreme court and the judges of the circuit courts. Deletes provision that no nomination shall be sent to the senate, and no interim appointment shall be made when the senate is not in session.

Provides that the governor shall fill a vacancy in any court by appointing a person from a list of not less than 3 nor more than 5 nominees for the vacancy presented to the

governor by the judicial commission. Provides that in case more than 1 vacancy exists in any of the courts, the governor may fill such vacancies from any list of nominees for the court in question presented by the commission not more than 60 days prior to the appointment. Provides that if the governor fails to make an appointment within 60 days from the day any such list is presented, such appointment shall be made by the judicial commission from the same list or lists.

Deletes requirement that no justice or judge shall hold any other office or position of profit under the State or the United States; that no person is eligible for the office of justice or judge unless admitted to practice law before the supreme court of this State for at least 10 years; provision that any justice or judge who becomes a candidate for an elective office forfeits office.

Requires justices and judges to be residents and citizens of the State and of the United States and licensed to practice law by the supreme court. Requires a judge of the circuit court and a judge or justice of any court superior to that court, to be licensed for a period of not less than 10-years preceding nomination.

Provides that no justice or judge shall, during the term of office, engage in the practice of law, or run for or hold any other office or position of profit under the United States, the State or its political subdivisions or run for or hold any office in any political party or organization, or directly or indirectly make any political contribution, or take part in any political campaign.

Deletes provision that the term of office of a justice of the supreme court and of a judge of a circuit court is 10 years. Deletes amount of compensation justices, associate justices and circuit court judges shall receive for their services.

Provides that the term of office of justices and judges of the circuit courts and any court superior to the circuit court shall be 10 years. Requires judges of inferior courts to hold office for the periods prescribed by law. Requires that at least 6 months prior to the expiration of a justice's or judge's term of office, every justice and judge shall petition the judicial commission to be retained in office or shall inform the commission of the intention of the justice or judge to retire. Provides that if the judicial commission determines that the justice or judge should be retained in office, the commission shall renew the term of office of the justice or judge for the period prescribed by law. Requires that they be retired upon attaining the age of 70 years.

Provides that justices and judges shall have salaries as prescribed by law, shall be included in any retirement law of the State and their compensation shall not be reduced while in office.

Deletes commission or agency, authorized by law for such purpose, to certify to the governor for the retirement or removal of a justice or judge from judicial office.

Provides that the supreme court shall have power to discipline, to suspend with or without salary, to retire and to remove from office, for misconduct or disability, any justice or judge, according to such rules as the supreme court adopts.

Requires the legislature to provide for the creation of a commission on judicial discipline and disability retirement consisting of not less than 9 members who shall be lay persons, attorneys and judges (excluding justices of the supreme court) in equal numbers. Requires the members to have staggered terms and be appointed in the manner prescribed by law. Provides the commission, on its own initiative or upon receipt of information from any source, has the authority to investigate and conduct hearings concerning allegations of misconduct or disability and to make recommendations to the supreme court concerning discipline, suspension, retirement or removal, of any justice or judge. Provides the commission shall keep all of its proceedings confidential until service of formal allegations of misconduct or disability based on probable cause and the commission shall have absolute immunity from suit, for its members and staff, for all official conduct. Provides that the commission shall promulgate rules having the force and effect of law.

Provides no member of the commission shall receive compensation for services, except necessary expenses for travel, board and lodging incurred in the performance of duties as such. Requires the legislature to provide for the staff and operating expenses of the commission in a separate budget.

Requires the chief justice of the supreme court to be selected by the judicial commission from among the justices of the supreme court for a term of 5 years, renewable in the discretion of the commission. Provides that the chief justice may resign or retire from

the office without resigning or retiring from the supreme court.

Amends ability of supreme court to promulgate rules and regulations in all civil and criminal cases for all courts to state it has the sole power to so promulgate.

235 - Limits the number of terms a person may serve in the office of governor to 2 consecutive terms.

Provides that the term limitation imposed by this proposal shall become effective for the 1978 general election and shall not prevent any person in office at that time or elected to office in the 1978 general election from holding that office during the remainder of the term.

236 - Limits the number of standing committees each house has to 12 and provides that each house shall have the same standing committees. Provides that every bill passed by 1 house shall be referred to the same committee or committees as in the house of origin.

237 - Requires the membership of board of education to reside in, rather than represent, different geographic subdivisions of the State.

238 - Provides that the office of the governor and lieutenant governor shall be limited to 2 full terms.

Provides that the 2-term limitation of the governor and lieutenant governor becomes effective with the 1978 general election and that any person elected in 1978 as governor or lieutenant governor may complete the term of office to which such person was elected.

239 - Deletes requirement that the governor nominates and, by and with the advice and consent of the senate, appoints the justices of the supreme court and the judges of the circuit courts. Deletes provision that no nomination shall be sent to the senate nor interim appointments made when the senate is not in session.

Provides that whenever a vacancy occurs in the office of justice of the supreme court or judge of the circuit court, the governor shall fill the vacancy by appointing 1 of 3 persons possessing the qualifications for such office, who are nominated and whose names are submitted to the governor by the appropriate commission established and organized as provided herein.

Provides that each justice or judge appointed hereunder shall hold office for a term ending December 31st following the next general election after the expiration of 12 months in office. Requires any justice or judge holding office, or elected thereto, at the time of the election by which this amendment becomes applicable, unless removed for cause, to remain in office for the term to which entitled. Provides that not less than 60 days before a general election held before the expiration of a justice's or judge's term of office, any justice or judge may file with the chief election officer a declaration of candidacy for election to succeed in office. Requires that if a declaration is not filed, the vacancy resulting from the expiration of the term of office shall be filled by appointment as provided. Requires that if the declaration is filed, the justice's or judge's name shall be submitted at the next general election on a statewide basis, or circuit if the office is that of circuit judge, on a separate judicial ballot, without party designation. Sets forth the form of the ballot.

Provides that if a majority voting on the question vote against retention, upon the expiration of the term of office, a vacancy shall exist to be filled by appointment; otherwise, the justice or judge, unless removed for cause, remains in office for 10 years after December 31st following such election and at the expiration of each term is eligible for retention by election.

Provides that whenever a declaration of candidacy for election to succeed in office is filed by any justice or judge, the chief election officer shall place the justice's or judge's name on the ballot, and the election upon the question of retention shall be conducted in the manner now provided by the law governing elections.

Provides that nonpartisan judicial commissions whose duty it shall be to nominate and submit to the governor names of persons for appointment as provided by this section are established which shall be organized on the following basis: for vacancies in the office of justice of the supreme court, 1 commission to be known as "The Justice Commission"; for vacancies in the office of judge of any circuit and district court, 1 commission, to be known as "The Judge Commission", for each circuit.

Provides that the justice commission shall consist of 9 members: the chief justice of the supreme court, acting as chairperson and the remaining 8 members chosen as follows: the members of the bar of this State residing in each circuit shall elect one of their number and the governor shall appoint 1 citizen, not a member of the bar, from among the residents of each circuit.

Provides that each judge commission shall consist of 5 members: the presiding judge of the circuit court within the judicial circuit of such commission, acting as chairperson and the remaining 4 members chosen as follows: the members of the bar of this State residing in the judicial circuit of such commission shall elect 2 of their number and the governor shall appoint 2 citizens, not members of the bar, from among the residents of the judicial circuit. Provides that the terms of office of the members of such commission shall be fixed by the supreme court and may be changed from time to time, but shall not affect the term of any member then in office.

Requires all citizen members appointed by the governor to be subject to the advice and consent of the senate. Allows no member of any commission other than the chairperson to hold any public office or to hold any official position in a political party. Requires each commission to act only by a majority. Provides that none of the members shall receive a salary or other compensation for their services except necessary traveling and other expenses incurred while actually engaged in the discharge of their official duties. Provides that all commissions shall be administered, and all elections provided for shall be held and regulated, under supreme court rules.

Requires all expenses incurred in administering this provision when approved by the supreme court to be paid out of the state treasury.

Allows that no justice or judge, appointed to or retained in office in the manner prescribed herein to, directly or indirectly, make any contribution to or hold any office in a political party or organization, or take part in any political campaign.

Requires all of the provisions to be self-enforcing, except those as to which action by the legislature may be required.

Provides that except as otherwise provided, the term of office of a justice of the supreme court and of a judge of a circuit and district court shall be 10 years.

Deletes commission or agency, authorized by law for such purpose, to certify to the governor for the retirement or removal of a justice or judge from judicial office.

Provides that there shall be a commission on retirement, removal and discipline, composed of 2 citizens who are not members of the bar, appointed by the governor, 2 attorneys appointed by the governing body of the Hawaii bar association, 1 justice of the supreme court to be selected by a majority of the justices of the supreme court and 1 judge of the circuit court to be selected by a majority of the circuit court judges. Requires the commission to receive and investigate all requests and suggestions for retirement for disability and all complaints concerning misconduct of justices, judges, members of the justice and judge commissions of each judicial circuit, and of this commission. Allows no member of the commission to participate in any matter in which the member has a personal interest. Provides that if a member is disqualified to participate in any matter before the commission, the respective appointing or selecting authority shall appoint or select a substitute to sit during any such disqualification. Requires that of the members first appointed, each of the citizen members shall be appointed for a term of 2 years, each of the attorney members for a term of 4 years and each of the justice or judge members for a term of 6 years; thereafter members shall be appointed for a term of 6 years.

Provides that upon recommendation by an affirmative vote of at least 4 members of the commission, the supreme court *en banc* shall retire from office any justice or judge, or any member of any judicial commission, or any member of this commission found to be unable to discharge the duties of office with efficiency because of permanent sickness or physical or mental infirmity. Provides that a justice or judge so retired shall receive 1/2 of the justice's or judge's regular compensation during the remainder of the justice's or judge's term of office. Requires where a justice or judge, subject to retirement under other provisions of law, has been retired hereunder, the time during which the justice or judge was retired for disability hereunder shall count as time served for purposes of retirement under other provisions of law.

Provides that upon recommendation by an affirmative vote of at least 4 members

of the commission, the supreme court en banc, upon concurring, shall remove, suspend or discipline any justice or judge of any court or any member of any judicial commission or of this commission, for the commission of a crime, or for misconduct, habitual drunkenness, wilful neglect of duty, corruption in office, incompetency or any offense involving moral turpitude or oppression in office. Provides that no action taken hereunder shall be a bar to or prevent any other action authorized by law.

Provides that a justice or judge is disqualified from acting as a judicial officer while there is pending an indictment or information charging the justice or judge in any court in the United States with a crime punishable as a felony under the laws of Hawaii or the United States, or a recommendation to the supreme court by the commission for the justice's or judge's removal, discipline or retirement or after articles of impeachment have been voted by the house of representatives. Requires a justice or judge so disqualified to continue to receive the salary to which entitled.

Provides that on recommendation of the commission, the supreme court shall suspend a justice or judge from office without salary when in any court in the United States the justice or judge pleads guilty or no contest to, or is found guilty of, an offense punishable as a felony under the laws of this State or the United States, or of any other offense that involves moral turpitude. Provides that if the justice or judge is suspended and conviction becomes final, the supreme court shall remove the justice or judge from office. Provides that if the conviction of the justice or judge is reversed and the justice or judge is discharged from that charge by order of court or of the prosecuting officer, whether without further trial or after further trial and a finding of not guilty, the suspension of the justice or judge terminates and he shall be paid his salary for the period of suspension.

Provides that recommendations to the supreme court by the commission shall be made only after notice and hearing. Provides that rules for the administration and for the procedures hereunder shall be prescribed by supreme court rule unless otherwise provided by law.

Requires members of the commission to be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

Provides that all supreme court justices and circuit and district court judges serving when the amendments are ratified shall not be subject to the selection provisions until the expiration of their present terms or unless removed as provided herein.

240 - Provides that whenever a vacancy occurs in the office of justice of the supreme court or judge of a circuit court or district court, the governor shall fill the vacancy by appointing 1 of 3 persons possessing the qualifications for such office, to be nominated and whose names shall be submitted to the governor by the appropriate commission established and organized as provided herein.

Provides for a nonpartisan commission whose duty it is to nominate and submit to the governor names of persons for appointment as provided herein to be established and organized as follows: for vacancies in the office of justice of the supreme court, one commission known as "The Justice Commission;" for vacancies in the office of judge of any circuit or district court, one commission known as "The Judge Commission," for each judicial circuit.

Provides that the justice commission consists of 9 members, the chief justice of the supreme court acting as chairperson, and the remaining 8 to serve 4-year terms chosen as follows: the members of the bar residing in each judicial circuit elect 1 of their number to serve as a commission member and the governor appoints 1 citizen, not a member of the bar, from among the residents of each circuit.

Provides that each judge commission consists of 5 members, the presiding judge of the circuit court within the judicial circuit of such commission acting as chairperson, and the remaining 4 chosen as follows: the members of the bar residing in the judicial circuit of such commission elect 2 of their number to serve as members and the governor appoints 2 citizens, not members of the bar, from among the residents of the judicial circuit; the terms of office to be fixed by the supreme court and may be changed from time to time, but not so as to shorten or lengthen the term of any member then in office.

Provides all citizen members appointed by the governor are subject to the advice and consent of the senate; no member of any commission other than the chairperson shall hold any public office or any official position in a political party. Requires commissions

to act only by the concurrence of a majority of members. Provides that none of the commission members shall receive a salary or other compensation for their services but shall receive necessary traveling and other expenses incurred in the discharge of official duties. Provides that all commissions shall be administered, and all elections provided for shall be under such rules as the supreme court adopts.

Provides that all expenses incurred in administration when approved by the supreme court shall be paid out of the state treasury.

Provides that no justice or judge appointed to or retained in office under this amendment shall make any contribution to or hold any office in a political party or organization, or take part in any political campaign.

Provides that amendment is self-enforcing, except where action by the legislature may be required.

Requires the governor to nominate, subject to amendment, and, by and with the advice and consent of the senate, appoint the judges of the district courts as well as justices of the supreme court and judges of the circuit courts.

Provides that the term of office of the district court judges shall be 10 years, similar to a justice of the supreme court and judge of a circuit court.

Deletes commission or agency that certifies to the governor to remove justices or judges and requires that after a justice or judge has served for 5 years, the senate shall review performance and conduct through a public hearing and if the senate finds that any justice or judge is so incapacitated as substantially to prevent the justice or judge from performing judicial duties or has acted in a manner that constitutes wilful misconduct in office, wilful and persistent failure to perform duties, habitual intemperance, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute, that person may be removed or retired from office by a majority vote of the senate. Provides that the senate may remove or retire any justice or judge from judicial office before the expiration of a term of office for any of the above reasons.

241 - Provides that the lieutenant governor, rather than the governor, is given the power to grant reprieves, commutations and pardons.

242 - Provides for direct statutory and constitutional initiatives.

Provides that an initiative measure application to be signed by at least 100 registered voters may be submitted to the chief election officer for certification. Subjects denial of certification to judicial review. Limits an initiative measure to 1 subject.

Requires the chief election officer, after certification, to prepare a summary and title for the initiative measure prior to circulation among registered voters. Requires statutory and constitutional initiative measures to contain signatures of at least percent of voters of the State and not less than percent of the voters from at least 2/3 of the senatorial districts of the State and be filed with the chief election officer at least days prior to the next general election to qualify for placement on the ballot at that election.

Provides that initiative measures become effective day(s) after certification of the election results, if approved by a majority vote, unless otherwise provided in the measure. Provides that when 2 or more measures conflict, the one with the highest affirmative vote prevails.

Prohibits veto of initiative statutes. Prohibits legislative repeal within a -year period but allows legislative amendments at any time in open session and by recorded vote. Allows amendment of an initiative constitutional amendment in the same manner as other constitutional amendments.

Prohibits initiatives that name individuals to hold any office or private corporations to perform a function or to have a power or duty. Prohibits initiatives on revenue dedication, appropriations, creation of and rules for courts or local special legislation.

Requires the legislature to enact provisions for the public financing of initiative campaigns.

Amends the legislative provision to reserve the power of initiative to the electorate and to extend such power to all rightful subjects of legislation consistent with the State and U. S. Constitutions and to clarify that only laws passed by the legislature be by bill.

Amends revision and amendment provisions to allow constitutional revision and amendment by the electorate through the power of initiative. Provides that when the legislature and the electorate propose conflicting revisions or amendments and both versions are approved, the electorate's revision or amendment shall prevail. Further provides that when conflicting revisions or amendments proposed by the electorate and by the same body are submitted to the electorate at the same election and all or any combination thereof are approved, the revision or amendment with the highest number of votes shall prevail.

243 - Amends provisions of the legislative salary commission to provide that the commission shall be appointed on or before November 30, 1978 and every 4 years thereafter. Provides that the commission shall submit a legislative salary plan not later than the 40th day of the legislative session and every 4 years thereafter. Provides that the plan becomes effective as provided in the plan unless the legislature disapproves the plan by adoption of a concurrent resolution prior to the adjournment sine die of the legislative session to which the plan was submitted.

244 - Provides that the total appropriations from state tax revenues shall in no year exceed percent of the average of total state personal income for the 2 years preceding the previous legislative session. Excludes appropriations to be expended in consideration of federal funds from limitation. Provides that appropriations may exceed this limit upon a 2/3 vote of the members to which each house of the legislature is entitled. Provides that such an appropriation shall contain no other subject matter and shall set forth the dollar amount and percentage by which the limit will be exceeded.

Provides that the ratio expressed by appropriations to total state personal income shall decline by percent each year after the ratification of this amendment. Provides that ratio shall continue to decline by percent until it has reached percent, at which time the legislature may by a 2/3 vote of the members to which each house is entitled to stop additional decreases.

245 - Allows lands under the administration of the Hawaiian homes commission to be leased to the State or other governmental agencies for public purposes, provided just compensation is paid to perpetuate the Hawaiian Homes Commission Act.

246 - Provides that a law qualifies as a general law only if it is applicable to more than 1 county and deletes the ability of a law to so qualify even though it is inapplicable to 1 or more counties.

247 - Requires accused person who intends to rely upon defense of a mental disease, disorder, or defect excluding responsibility to notify court and prosecuting attorney. Requires bifurcated trial, first to determine whether accused committed the act, and if so, whether defense is valid. Requires legislature to implement section and permits legislation relating to this defense.

248 - Reserves the power of the initiative to the people and provides that an initiative measure shall be presented to the people upon presentation of a petition signed by not less than 10 percent of the registered voters in the case of a state law, and 15 percent in the case of an amendment to the constitution, of all votes cast for governor at the last general election. Requires the petition to be filed with the chief election officer no later than 60 days before the general election at which will be submitted the initiative. Requires each initiative to embrace only 1 subject. Provides that the initiative shall be enacted by a majority of those voting, or if conflicting measures are presented, by the highest number of votes. Disallows any initiative on the levying of taxes. Provides that if the legislature enacts a law which is similar or contrary to the initiative measure, both the law which remains in effect and the initiative measure shall be submitted to the people and the measure receiving the highest vote shall prevail. Voids the similar or contrary law if the initiative measure is approved. Provides that a defeated initiative shall not be submitted again, either affirmatively or negatively, within years.

Provides that prior to circulation for signatures, an initiative petition shall be submitted to the attorney general for preparation, within 30 days, of a title and summary not exceeding words. Provides that all such petitions shall be submitted to the chief election officer for certification of names and voter registration of the signers. Provides

that any registered voter may circulate such petitions as long as that person is not paid for such work and provides for the signing of the petition.

Prohibits the release of a petition for inspection by the public or any governmental agency, except upon the order of the supreme court, when a question is raised regarding the sufficiency of the petition. Requires an insufficient petition to be returned to the circulators within 30 days of its filing with notations of specific insufficiencies.

Requires the chief election officer to publish and distribute by mail to all registered voter households a brochure stating the arguments for and against an initiative measure. Also, requires the chief election officer to publish, in a newspaper of general circulation in each senatorial district, the arguments for and against an initiative measure 4 times during the month preceding the general election which will submit the initiative measure. Requires the measure to be presented in the form of a yes or no ballot, where a yes shall indicate an affirmative vote.

Provides that an initiative measure shall be effective, if approved, 1 day after the election returns are announced unless otherwise provided in the measure. Allows the legislature to amend an initiative statute by another statute subject to approval by the electorate unless otherwise permitted by the initiative statute.

Requires the petitioners to bear all costs of the preparation and circulation of the petition, except for the services of the attorney general, but after the petition is filed, all further costs shall be borne by the State.

Provides that while the legislative power of the State is vested in a legislature, the power of initiative is reserved to the electorate and both powers shall extend to all rightful subjects of legislation not inconsistent with the state or U.S. constitutions. Clarifies that only laws passed by the legislature need be by bill.

Provides that constitutional revisions or amendments may be proposed by the electorate as well as by constitutional convention or the legislature. Provides that if conflicting revisions or amendments are proposed by the same body or by the electorate and are submitted at the same election and all or any combination thereof are approved, the one receiving the highest number of votes shall prevail.

249 - Provides that the governor and the lieutenant governor be elected as a team, during the primary election in addition to the general election and provides the lieutenant governor shall perform duties commensurate with the responsibility of the executive branch and as may be delegated by the governor in addition to those delegated by law.

250 - Requires that any bonds issued not cause the debt service on the total of state indebtedness, for any fiscal year, to exceed 12 percent of the average of the general fund revenues of the State in the 2 fiscal years immediately preceding the session of the legislature authorizing such issuance and deletes limitation on authorization of bonds not to exceed a sum equal to 3-1/2 times the average general fund revenues in the 3 fiscal years preceding authorization.

251 - Provides that the legislature may submit to the electorate at any general or special election the question, "Shall there be a convention to propose a revision of or amendments to the Constitution which will probably require a budget of \$?"

252 - Provides for 5-day recess after 35th day of regular legislative session. Excludes 5-day recess in computing the 60-day session.

253 - Provides that no provision of this constitution shall impair the validity of any state laws securing privacy to men or women, boys or girls.

254 - Provides the provisions of the constitution shall not impair the validity of state laws exempting women from compulsory service in combat units of the state militia.

255 - Provides that the constitution shall make no legal distinction between the rights and responsibilities of males and females unless it is based upon physiological or functional differences between them.

256 - Requires board of education to be composed of chairpersons of school advisory councils created in accordance with law and representing school districts. Deletes provision that board be composed of members elected by voters and representing at least in part geographic subdivisions of the State. Requires establishment of school advisory councils

composed of members elected by qualified voters of the respective school districts, as provided by law.

257 - Prohibits segregation on the basis of sex and nation of origin and prohibits discrimination on the basis of age and handicap in public education institutions.

258 - Provides for equal opportunity of all people to have the best physical and mental health available; employment without discrimination; healthful, honorable and dignified retirement; meaningful civil, educational, cultural and recreational activities; efficient and accessible social and medical community services.

Provides that the administration and maintenance of public hospitals shall be provided by the respective political subdivisions.

259 - Provides that the total appropriations from state tax revenues shall in no year exceed percent of the average of total state personal income for the 2 years preceding the previous legislative session. Excludes appropriations to be expended in consideration of federal funds from limitation. Provides that appropriations may exceed this limit upon a 2/3 vote of the members to which each house of the legislature is entitled. Provides that such an appropriation shall contain no other subject matter and shall set forth the dollar amount and the percentage by which the limit will be exceeded.

260 - Provides that the legislature shall not impose increased expenditure requirements, decreased revenue collections or both on the political subdivisions without the State sharing in the cost.

261 - Mandates the legislature to provide for the recall of all elected state officials through a petition signed by registered voters equal to at least 10 percent of the votes cast in the official's election district at the last preceding general election.

262 - Provides that an elected state official may be recalled upon petition signed by registered voters equal to at least 10 percent of the votes cast in the official's election district at the last preceding general election.

Requires each elector signing a recall petition to add to the elector's signature, address, voting district and the date of signing. Provides that signatures on a recall petition may be on separate sheets but requires each sheet to have appended thereto an affidavit that to the best of the affiant's knowledge and belief the persons whose signatures appear on the sheet are registered electors of the State, that they signed with full knowledge of the contents of the petition, and that their residences are correctly given.

Requires a recall petition to be tendered for filing with the chief election officer. Requires the chief election officer to examine it to see whether it contains a sufficient number of apparently genuine signatures of registered voters. Allows the chief election officer to question the genuineness of any signature appearing on the recall petition and if any such signature is not genuine, to disregard them in determining the sufficiency of the petition. Requires the chief election officer to also disregard any signature dated more than 60 days before the petition was tendered for filing and to eliminate any sheet of the petition not accompanied by the required affidavit. Provides that the invalidity of any sheet of the petition shall not affect the validity of the petition if a sufficient number of signatures remains after eliminating the invalid sheet. Requires the chief election officer to complete the examination of the petition within 15 days after the submission and to file the petition if valid or reject it if invalid.

Provides that after the chief election officer accepts a recall petition for filing, the chief election officer shall notify the elected officer that the petition has been filed. Provides that upon receipt of such notice, such officer may resign from office and the proceedings shall terminate.

Provides that if the elected officer does not resign from office within 10 days after notice of the filing has been given, the chief election officer shall arrange a recall election. Provides that if a general election or special election is to be held not less than 30 days nor more than 90 days after the 10 days have expired, the recall question shall be placed before the electors at such an election; otherwise a special recall election shall be held not earlier than 30 days nor later than 90 days after the 10 days have expired. Provides that the elected officer may resign at any time prior to the recall election and if so no election shall be held. Provides for the appropriate question concerning recall to be presented to the electorate.

Provides that if a majority of the voters on the question at the election vote yes, the elected officer is recalled and removed from office, otherwise the elected officer remains in office.

Provides that no person, removed from elected office or resigning therefrom after a recall petition directed to the person has been filed, is eligible for election or appointment to any office of the State within 2 years after such removal or resignation.

Provides that no recall petition shall be filed within the first 6 months or the last 6 months of the term of office of the elected official or within 6 months after an unsuccessful recall election.

263 - Provides that no delegate of a constitutional convention shall be eligible to run for the house of representatives or the senate prior to or in the same election that submits convention proposals for ratification.

264 - Designates charter counties of the State as the charter counties of Maui-Lanai-Kahoolawe, Hawaii, Molokai, and Kauai and the charter city and county of Honolulu.

265 - Provides for a board of education composed of 13 members to be elected at large in accordance with law. Deletes requirement that board in part represent geographical subdivisions. Requires members of the board to reside in the following counties of the State: (1) 1 in the county of Hawaii, (2) 1 in the county of Maui, (3) 1 in the county of Kauai and (4) 10 in the city and county of Honolulu.

266 - Provides that the senate and house of representatives shall establish a rules committee consisting of members of both the house of representatives and senate to adopt joint rules of procedure.

267 - Requires senators elected in 1978 from the 1st, 3rd, 5th and 7th senatorial districts to hold office for a term of 2 years beginning with the election and ending on the day of the next general election. Provides that, thereafter, the term of office for those members of the senate shall be as provided in the section of the legislative article dealing with election of members and terms.

Requires senators elected in 1978 from the 2nd, 4th, 6th and 8th senatorial districts to hold office in accordance with the section in the legislative article dealing with election of members and terms.

268 - Provides that any person may be eligible for the office of justice or judge even though that person has not been admitted to practice law before the supreme court of this State. Deletes requirement that a person be admitted to practice before the supreme court of this State for at least 10 years.

269 - Provides that the question as to whether or not a constitutional convention should be held is to be raised at least once in every 20 years instead of every 10 years.

270 - Includes the words "aquaculture", "coral", "gases", "geothermal", "liquid", "ocean" and "solid" in the enumeration of natural resources in Article X, section 1.

271 - Provides for salaries of state representatives and senators to be percent of their federal legislative counterparts. Deletes provisions that until otherwise provided salary of legislators shall be \$12,000 a year, that salary may be prescribed by law, that change in salary shall not apply to enacting legislature, and all provisions concerning commission on legislative salary.

272 - Prohibits denial of human instead of civil rights and discrimination based upon language.

273 - Requires instead of giving the State the power to preserve, in addition to conserving and developing, its events in addition to its natural beauty, objects and places of historic and cultural interest, sightliness and physical good order.

274 - Requires the State to promote education and provide information to the people concerning suffrage and election rights.

275 - Provides that the year 1979 instead of 1973 and every sixth instead of eighth year thereafter shall be reapportionment years. Deletes provision for minimum representation for basic island units.

276 - Provides for sentence of either death or life imprisonment without parole for crime of murder. Requires person to be sentenced to death if the judge or jury finds that the aggravating circumstances of the crime outweigh the mitigating circumstances, at a full adversary hearing. Otherwise, the person shall be sentenced to life without parole. Provides for right to appeal and priority of hearing such appeal before supreme court. Requires the legislature to implement this section and to define aggravating and mitigating circumstances.

277 - Provides the political subdivisions with the power to impose a transient accommodation tax at a rate not to exceed 4 percent of the gross income derived from engaging in the business of providing transient accommodations.

278 - Provides that all citizens of Hawaii shall be exempt from an excise (sales) tax on medicine, medical supplies and food.

279 - Provides for all public institutions of higher education, not physically located in same county, to have separate boards of regents. Requires members of each board to reside in same geographic area of institution served and to be nominated and appointed by governor with approval of the senate.

Empowers each board to formulate policy and exercise control over its institution through the president, its executive officer, whom it shall appoint. Provides that membership of board of regents of the University of Hawaii shall be composed of chairpersons from each separate board. Gives board of regents of University of Hawaii coordinating power over all state institutions of higher learning.

280 - Provides for single member representative districts and deletes provision for minimum representation of basic island units.

281 - Provides that every elected or appointed public officer of the State or its political subdivisions, serving a term of 4 years or more, may be removed from office through recall, in addition to any other method of removal provided by law, at any time by the electors entitled to vote for a successor of the incumbent or entitled to vote for the elective officer having the authority to appoint a public officer or to appoint the person appointing a public officer.

Provides that the amendment is self-executing, but allows the legislature to enact legislation to facilitate its operation but that such legislation may not restrict or limit the provisions or the powers in the amendment.

Provides that physical or mental lack of fitness, incompetence, neglect of duty, conviction of malfeasance or misfeasance in office, violation of oath of office or a felony offense is the only basis for recall; that no person may be recalled for performing a mandatory duty of the office held or for not performing any act that, if performed, would subject the person to prosecution for official misconduct; and that a recall petition shall not name more than 1 officer to be recalled.

Requires a recall measure for elected officials to be submitted to the people for a recall vote with the signatures of registered voters of not less than _____ percent of all votes cast for all candidates for the office subject to recall at the general election preceding the filing of the recall petition. Provides that for offices for which the people cast their votes for multiple representation in a particular office, the total shall be divided by the number of persons in that particular office. Requires that only those registered voters entitled to cast votes for the officers named on the recall petition are qualified to circulate and sign them and to vote at the recall election. Requires the recall petition not to exceed _____ words, to state the reason for the recall vote.

Allows no recall petition to be filed against any elected officer until more than _____ months of the term of office have been served; nor to be filed within _____ days of a primary election in which an elected officer is required to seek nomination for reelection. Provides that if a recall petition is against an elected officer whose term of office expires at a general election after a forthcoming general election and the petition is filed not more than _____ days and not less than _____ days prior to such general election, the chief election officer shall cause the recall measure to be submitted to the people at that general election.

Provides that any person appointed to a public office may be recalled by the registered voters entitled to vote for the elective officer having the authority to appoint the public officer or to appoint the person appointing a public officer.

Requires recall petitions for appointed public officers to contain the signatures of registered voters equaling not less than _____ percent of the number of persons voting at the preceding general election for the officer having the authority to appoint the person subject to the recall petition.

Requires the governor to appoint another officer to fulfill the duties of the chief election officer when a recall against the lieutenant governor has been requested and taken out with the attorney general.

Requires a recall to be approved by the majority of the votes cast and any vacancy which may be created to be filled as prescribed by law.

Provides that if a recall vote fails to recall the affected officer, such officer shall not be subjected to another recall vote for the remainder of the term of office to which elected or appointed.

Requires that prior to the circulation of any recall petition for signatures, a copy shall be submitted to the attorney general for preparation of a title and summary of the chief purpose and aim of the proposed measure not to exceed _____ words.

Requires all recall petitions to be submitted to the chief election officer for certification and each sheet containing petitioner's signatures to be attached to the title, summary and text thereof. Provides that no law shall be enacted limiting the number of copies of a petition which may be circulated; that any state registered voter is competent to solicit signatures; that all signers shall add the address shown on their voter registration form and the date they sign the petition; that every sheet of the petition containing signatures shall be verified by affidavit of the petition circulator that the names thereon were signed in the presence of the affiant and that the affiant believes each signer a registered voter of the State and of the affected electoral subdivision in the case of the recall petition when so limited. Requires the chief election officer to certify that signers are registered voters of this State and of the affected electoral subdivision.

Requires the chief election officer not to release any petition for inspection by the public or any governmental agency, except where the supreme court orders inspection thereof when a question has been raised regarding its sufficiency. Provides that if any petition is determined insufficient, the petition shall be returned to the circulators within _____ days of its filing with the notations of specific insufficiencies.

Requires that if the officer named in the petition for recall resigns in writing, it shall be accepted, effective the day offered. Requires the vacancy created thereby to be filled as provided by law, provided that the officer subject to recall may not be appointed to fill such vacancy. Provides that if the officer subject to recall refuses to resign or does not resign within 5 days after the petition is filed and verified, a special election shall be called unless the filing is within _____ days of a general election, when the question shall be placed on a separate ballot at that election. Requires the call of a special election to be made by the chief election officer.

Provides that the recall measure shall be effective, if approved, 1 day after the election results are announced unless otherwise provided for in the measure.

Requires the petitioner to bear all cost of the preparation and circulation of the petition, except for the services performed by the attorney general. Provides that after the petition has been filed with the chief election officer, all further costs shall be part of the usual expenditures of the State. Sets out forms of the recall petition and notice of election.

Requires the ballot at a recall election to set forth the statement contained in the recall petition stating the reasons for demanding the recall of such officer and the officer's statement of reasons why the officer should not be recalled. Sets out the manner in which the recall question should be presented on the ballot. Requires the form of the ballot to be approved as provided by law.

Provides that the officer named in the recall petition continues in office until resignation or the declaration of results of the recall election. Provides that if a majority of those

voting on the question vote to remove the officer, the office becomes vacant and the vacancy shall be filled as provided by law, provided that the officer recalled shall not be appointed to fill the vacancy.

282 - Provides for establishment of school advisory councils at each school, in accordance with the law.

283 - Provides any beneficiary who has properly applied for, or been awarded, a residential, agricultural or pastoral lot under the Hawaiian Homes Commission Act has standing to enforce the Act. Provides compensation for the costs of the action, together with reasonable attorney's fees as determined by the court, in the case of any successful action brought by or on behalf of a beneficiary to enforce the Act. Requires the court to give due consideration to economy of administration in determining the reasonableness of fees.

284 - Requires the Hawaiian Homes Commission to comply with section 213(b)(7) of the Hawaiian Homes Commission Act creating the Hawaiian home education fund in order to ensure the further educational improvement of the children of lessees, the funds to be used primarily at the preschool and elementary grade levels.

285 - Requires each house to provide by rule for a date, applicable to both houses, by which date all bills to be considered in a regular session shall be introduced, but no earlier than the 20th day of the session. Requires a 5-day recess on the day immediately following this date.

286 - Provides that the supreme court shall consist, in addition to a chief justice, of administrative justices of criminal appeals, district court, family and probate appeals, civil appeals and 5 associate justices.

Allows the supreme court to authorize the hearing and determination of cases and controversies by 3 justice panels which shall sit at the times and places and hear the cases and controversies assigned as the court directs.

Requires cases and controversies to be heard and determined by a panel of not more than 3 judges, unless a hearing or rehearing before the court en banc is ordered by 3 of the justices of the supreme court who are in regular active service.

Provides that a justice of the supreme court who sat in the panel at the original hearing is also competent to sit as a justice of the court en banc in the rehearing of a case or controversy.

Provides that a majority of the number of justices authorized to constitute a panel constitutes a quorum.

Requires all appeals to be decided within 2 years of the filing of the notice of appeal.

287 - Deletes provision banning use of public funds for support or benefit of sectarian or private educational institutions. Allows legislature to appropriate funds from time to time for the support or benefit of such institutions.

288 - Provides that the salary of each member of the legislature shall be 1/2 the salary of a member of the United States House of Representatives.

289 - Establishes an intermediate appellate court and district courts. Provides for the governor to nominate and appoint judges of the intermediate appellate court and for the chief justice of the supreme court to appoint judges of the district courts.

Provides for a 10-year term for a judge of the intermediate appellate court. Provides there shall be a salary commission to renew and recommend salaries for justices and judges. Provides for a salary of not less than \$47,500, instead of \$28,000, for the chief justice and \$45,000, instead of \$27,000, for justices of the supreme court, not less than \$43,750 for appellate court judges and \$42,500, instead of \$25,000, for circuit court judges, with no reduction during the terms.

Provides that the supreme court instead of the governor shall remove or retire state court judges from office upon certification by a commission or agency. Deletes reference to justices of the supreme court and judges of circuit courts and deletes appointment of a board by the governor to inquire in the circumstances of charge and to make recommendations.

290 - Provides for the governor to nominate, in addition to the judges of the supreme court and circuit courts, judges of the intermediate appellate court and the chief justice to nominate judges of district courts. Provides there shall be a judicial confirmation commission to investigate the qualifications of individuals nominated by the governor and the chief justice and requires the commission to confirm nominees. Provides that if the commission rejects the nomination, another nominee will be submitted but if the commission fails to confirm or reject within 15 days, the nomination is confirmed. Provides that the commission be composed of 9 members, 3 appointed by the governor, 2 each by the house, the senate and the chief justice. Provides that only 1 member may be admitted to practice law anywhere in the world and who shall be appointed by the governor.

Provides that no member shall run for or hold any other office for profit under the United States, the State or its political subdivisions, nor in a political party or organization or take part in a political campaign.

291 - Provides for nonpartisan elections for the board of education.

292 - Provides that no member of the legislature shall hold any public office under the State, including the constitutional convention.

293 - Provides that there shall be 4 counties: Hawaii, Maui, Kauai and Honolulu. Hawaii county shall include the island of Hawaii and all other islands lying within 3 nautical miles of its shores. Maui county shall include the islands of Maui, Molokai, Lanai and Kahoolawe and all other islands lying within 3 nautical miles of the shores thereof. Kauai county shall include the islands of Kauai and Niihau and all other islands lying within 3 nautical miles of the shores thereof. The city and county of Honolulu shall include the island of Oahu and all other islands in the State of Hawaii, not included in any other county and the waters adjacent thereto. Provides that each county shall have and exercise such powers as shall be conferred under their respective charters and under general law.

Provides that the administration of real property taxes shall be under the jurisdiction of the respective counties. Provides that a sum equal to 10 percent of the state general excise taxes shall be reserved for the respective counties for their grant-in-aid assistance. Requires the legislature to establish a formula for the division of this sum for distribution to the 4 counties.

Deletes requirement that the legislature shall create counties and other political subdivisions within the State and provide for the government thereof and provision that each political subdivision shall have and exercise such powers as shall have been conferred under general laws.

Deletes the words political subdivision and replaces it with the word county.

Provides that the charter provision with respect to a county's executive, legislative and administrative structure and organization shall be superior to statutory provisions and deletes the authority of the legislature to enact general laws allocating and reallocating powers and functions.

294 - Changes title of section on Rights of Man to Human Rights and includes the right to a healthful environment therein.

295 - Provides that the people shall have a right to affordable and decent housing in a healthful environment.

Provides that this provision is self-executing but the legislature shall enact legislation to facilitate its operation.

296 - Requires establishment of a board of vocational education separate from the board of education and the board of regents whose members are to be appointed by the governor with senate approval and are to represent at least in part the geographic subdivisions of the State. Empowers the board, in accordance with law, to formulate policy and to exercise control over vocational education through its executive officer, the director of vocational education, whom it shall appoint.

297 - Requires both houses of legislature by joint resolution to establish a single set of rules for structure and function of all committees.

298 - Abolishes board of education and provides superintendent of education shall be appointed by the governor with the advice and consent of the senate.

299 - Requires the legislature to appropriate funds for adequate public television coverage of committee hearings and other activities of public interest during regular and special sessions.

300 - Provides for state-promoted programs leading to mutual understanding among Pacific peoples and to international ramifications deriving from State's geography and historical traditions.

301 - Provides that among the inalienable rights of man include the protection of life, liberty and the pursuit of happiness, and the protection of property.

302 - Provides that rehabilitation projects for native Hawaiians under the Hawaiian Homes Commission Act include projects to improve the general welfare and conditions of Hawaiians in the areas of education, culture, economics and social and political processes.

303 - Provides for a Hawaiian bill of rights recognizing and reaffirming all rights traditionally and customarily exercised by native Hawaiians inhabiting the Hawaiian Islands prior to 1778. Provides that such rights partially recognized under prior constitutions, laws of the monarchy and republic and the present state constitution be retained by the descendants of said native Hawaiians.

Provides all native Hawaiians possess the right to take fish from the ocean and waters of all natural streams, springs, lakes or other collections of water within state boundaries. Provides native Hawaiians may also take fish from ancient fisheries, both inland and seaward customarily and traditionally used by ancient Hawaiians. Prohibits interference with the exercise of these rights by any person.

Provides all native Hawaiians possess a first and preferential right to secure and use water arising in the ahupua'a in which they live and on state lands for drinking, domestic and agricultural purposes.

Provides all native Hawaiians possess the right to hunt on all lands within the ahupua'a in which they live.

Provides all native Hawaiians possess the right to take firewood, house timber, aho cord, thatch or ti leaf from the ahupua'a in which they live for private but not commercial use.

Provides no native Hawaiians shall be denied access to the products of the sea and mountain areas of the ahupua'a in which they live, nor shall they be denied access to historical and religious sites, such as heiaus, burial plots, petroglyphs, canoe lands, kuula (fish gods) and holua slides regardless of where they live.

Provides that the enumeration of these traditionally vested rights and privileges not be construed to limit, impair or deny other rights and privileges possessed by native Hawaiians through statutes, treaty, act of Congress or Hawaiian custom and use.

Defines native Hawaiian for the purpose of this Article as any individual whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778.

304 - Allows the State to use public funds as matching funds for all student loan and scholarship programs in public, sectarian and private educational institutions, except for those leading to theological degrees.

305 - Provides that 1981 and every 12th year instead of 1973 and every 8th year thereafter shall be reapportionment years. Deletes provision for minimum representation of basic island units.

306 - Changes convening date of regular session from third Wednesday in January to third Wednesday in February.

- 307 - Provides the counties with the power to assess, levy and collect real property taxes.
- 308 - Requires instead of allows the legislature to appropriate funds sufficient to carry out the intent of the Hawaiian Homes Commission Act.
- 309 - Requires the United States and Hawaii to comply with the physical and spiritual preservation of conservation lands and/or historic, spiritual and cultural sites.
- 310 - Provides that the department of Hawaiian home lands may exchange the title to available lands for land privately or publicly owned of equal value. Provides that the exchange of land publicly owned shall not be made without the approval of 2/3 of the members of the board of land and natural resources.
- 311 - Provides for a board of education appointed by the governor with advice and consent of the senate. Deletes election of board by voters as provided by law.
- 312 - Reduces the state debt limit from 3-1/2 to 3 times the average of the general fund revenues of the State in the 3 fiscal years immediately preceding the session of the legislature authorizing the issuance of bonds.
- 313 - Provides that not more than percent of land in the State may be owned by non-U.S. citizens in Hawaii. Requires legislature to implement and enforce this section.
- 314 - Provides that all government writing for the public will be in plain language, avoiding unfamiliar words, long, involved sentences and technical terms.
- 315 - Provides that the owner of land shall have the rights to all minerals underneath the land, including geothermal resources, unless the State has previously reserved such rights.
- 316 - Provides the legislature may require the governor to seek prior approval of the money committees of both houses before transferring funds between appropriations within expending state agencies or between expending state agencies and before failing to allocate or release for expenditure any funds appropriated by the legislature.
- 317 - Requires chief legal officer of the State to publish and make available to the public opinions by that officer or subordinates relating to interpretation of law, legality of contemplated or existing actions by or affecting the State or its political subdivisions and such other areas as provided by law.
- 318 - Requires publication of all ethics opinions rendered with respect to elected officials of the State and county.
- 319 - Provides for elimination of office of lieutenant governor and for president of senate to be first successor to the office of governor until special election can be held.
- 320 - Prohibits a legislator from serving in the same position as officer or leader of the legislature for more than 2 consecutive terms or 6 consecutive years, whichever is longer.
- 321 - Provides for 75-day regular session and for days recess after 30th day, excluding the recess in computing session days. Requires first cross-over of bill from house in which it originated to other house within first 30 days. Prohibits further consideration or enactment of bill which fails to meet deadline. Makes 30-day cross-over requirement applicable only to first cross-over.
- 322 - Provides that there shall be a statewide police force to preserve the public peace; arrest all persons who attempt to commit or who have committed a public offense; prevent and suppress affrays, breaches of the peace, riots, insurrections on state highways, at state harbors, at the state courts, at state airports, at or on the premises of state buildings and at state activities and functions.
- 323 - Provides in section prohibiting legislator from holding other public office that legislators may receive honorariums, royalties and other gratuities as provided by law. Provides that other than such gratuities legislator shall not hold any other employment for compensation or serve or take part in any business or be self-employed. Allows service for a nonprofit business where no compensation is given. Requires legislator within days of election to place all stocks and bonds, other than U.S. savings and municipal bonds, held by legislator, spouse and dependents in a blind trust.

Requires legislature to convene on third Wednesday of January of each odd-numbered year and to adjourn on June 30 of each even-numbered year.

Deletes limit on period of regular and special sessions and exclusion of certain days during recess in computing the number of days in any session.

Changes salary of legislator to \$ a year.

324 - Requires the State to provide counsel for all defendants charged with an offense punishable by imprisonment for more than 60 days and deletes limitation thereof to indigents.

325 - Changes from 10 to 15 years the period which may elapse after which the question concerning a convention to propose a revision of or amendments to the constitution must be submitted for vote.

326 - Provides that statutes and amendments to the constitution may be proposed by either the direct (direct submission to the voters) or indirect (submission to the legislature) initiative. Requires sponsors to declare the initiative measure direct or indirect before soliciting signatures and solicitors of signatures to be registered voters.

Requires the sponsors to incorporate in the initiative measure, a ballot title, statement of purpose, full text of the proposal and summary of no more than 150 words which shall all be descriptive or expository but not argumentative or prejudicial. Requires sponsors to submit the initiative petition to the lieutenant governor for certification before soliciting any signatures. Requires the lieutenant governor, within 10 days, to certify the measure's ballot title, statement of purpose and summary either in the original form or clarified to more accurately represent and more nearly conform to the text of the proposal.

Requires direct initiative measures to contain signatures of at least .1 percent of the number of registered voters of the State in the last election to qualify for a comment period. Requires the sponsors to resubmit the initiative measure to the lieutenant governor upon receiving the required signatures. Requires the lieutenant governor, within 10 days thereafter, to issue public notice of a 30-day comment period to begin immediately and to schedule a public hearing within this period. Allows sponsors to amend the specific wording of the text of the measure after the comment period; provided any amended measure shall be considered a new proposal and shall undergo a new qualifying process.

Requires signatures of 8 percent of the number of registered voters in the most recent prior general election for initiative statutes and 12 percent for constitutional amendments offered directly. Requires, for indirect initiatives, 7 and 11 percent respectively.

Provides that initiative measures be submitted to the lieutenant governor for initial certification no earlier than 1 day after the most recent prior general election. Requires indirect initiative measures to be filed with the lieutenant governor for certification no later than 30 days prior to the second legislative session following the general election and no later than 90 days before a general election for direct initiative petitions. Requires direct initiative measures to be submitted to voters at the first general election following certification.

Provides that an indirect initiative, if not enacted in the original form by the legislature to which proposed, shall be submitted by the lieutenant governor to the voters at the first general election thereafter together with the legislative version, if any. Provides that if both measures are approved, the one receiving the greater number of votes shall prevail.

Requires the legislature to provide methods of publicity of all initiative measures with arguments for and against the proposed measures, including the issuance of a voter education publication. Requires the lieutenant governor to send 1 copy of the publication to each individual residence in the State and to make such additional distribution to reasonably assure each voter the opportunity to study the initiative measures.

Requires initiative measures to be submitted to the voters by the lieutenant governor by its ballot title with the question appearing in such form that an affirmative vote is a vote for change. Provides that initiatives become effective only if approved by a majority of all the votes tallied upon the question, except that for constitutional amendments, the majority shall constitute 35 percent of the total votes cast at the election. Provides that all approved measures become effective immediately, except measures requiring authorization of funds, or providing for tax reductions or increases which shall take effect the following fiscal year. Limits an initiative measure to 1 subject.

Requires disclosure of funds contributed and expended to influence the outcome of initiative measures.

Prohibits veto of initiative statutes. Prohibits legislative repeal or amendment within a period of 2 years of adoption except by a 3/4 vote in each house of the legislature.

Provides that while legislative power is vested in a legislature, the people reserve the power to propose statutes and constitutional amendments and to enact or reject them through the initiative and clarifies that only laws passed by the legislature need be by bill.

Provides that constitutional revisions or amendments may be proposed by popular initiative as well as by constitutional convention and the legislature. Prohibits veto of constitutional amendments adopted in any manner provided in the constitution. Provides that when conflicting constitutional amendments submitted to the voters at the same election are approved, the amendment receiving the highest number of affirmative votes shall prevail. Deletes provision wherein a convention amendment shall prevail if there is conflict between amendments proposed by a constitutional convention and the legislature and provision wherein the amendment with the highest number of votes shall prevail when there is conflict between amendments proposed by the same body.

327 - Provides for popular initiative for constitutional amendments in the manner prescribed by law. Provides that when conflicting amendments are approved, the one with the highest affirmative votes shall prevail and deletes conflicting amendment provisions providing an amendment proposed by a constitutional convention is favored over one proposed by the legislature.

328 - Mandates the legislature, under the trust responsibilities of the State, to appropriate out of the state treasury sums necessary for provision of supplementary educational and cultural programs for the purpose of improving the educational achievements and abilities and cultural awareness of native Hawaiian lessees and their children residing on Hawaiian homestead lands.

Adds a proviso to the prohibition against segregation in public educational institutions because of race, religion or ancestry or against appropriation of public funds for support or benefit of any sectarian or private educational institution that this legislative mandate for appropriations shall be complied with.

Amends prohibition against levy of tax or appropriation of public money or property made or public credit used directly or indirectly for private purpose with proviso that public funds and credit used for the purposes of this legislative mandate shall not be deemed as a violation of this prohibition.

329 - Provides for superintendent of education to be nominated and appointed by the governor with the approval of the senate. Empowers the superintendent to exercise control over public school system. Deletes provisions for an elected board of education with powers to formulate policy and to exercise control over public school system. Creates an appointed board to advise the superintendent of education. Requires board membership to represent geographical subdivisions of the State. Establishes an advisory council for each school whose members are to be elected. Provides for each council to advise the school it serves on matters of school improvements.

330 - Requires the lieutenant governor to place on the ballot the question calling for a constitutional convention if the legislature does not submit the question after a 20-year period elapses rather than after 10 years as presently provided.

331 - Requires the State to promote the study of Hawaiian culture, history and language.

332 - Requires the State to promote citizen participation and interest in public school system.

333 - Provides that the right of the people to have uninterrupted public services whether performed by public employees or through contract for public services, including but not limited to public health, safety and general welfare services, shall not be violated.

334 - Prohibits public employees from having right to strike and assures the people a right to continuity of public services performed by persons in public employment.

335 - Provides that the board of land and natural resources shall consist of the chairperson of the department of land and natural resources, 1 member appointed by the mayor of each county, a zoologist, hydrologist, marine biologist, botanist and a state historic preservation officer.

336 - Requires a state land use commission to convene in 1980 and every 5 years thereafter to review state land classification boundaries. Provides the commission consists of 13 members including the chairperson of the board of agriculture, the director of the department of planning and economic development, the planning directors of each political subdivision and 7 public lay members to be appointed by the governor. Requires the 7 lay members to be neither employed nor have an interest in any firms affected significantly by boundary decisions 1 year before or after their appointed term. Requires the chairperson of the commission to be elected from among its members. Provides that after December 31, 1979, except as provided by this amendment, that no agency of the State or its political subdivision has the power to classify or reclassify lands or make any land use boundary changes and terminates any existing agency.

Requires the commission to act by majority vote of its membership and to establish its own procedures except as provided by law.

Empowers the commission to classify and reclassify lands for land use and to fix their boundaries. Requires the commission to convene in April and submit the final boundary plan to the governor before the beginning of the next following legislative session. Provides the plan as submitted becomes law upon its presentation to the governor and publication as provided by law, except that reclassification of agricultural and conservation lands requires the approval of a majority of the members of the council in the county of the proposed boundary amendment. Requires the council of the appropriate county to act or approve the proposed reclassification of agricultural and conservation lands within 180 days or there shall be no reclassification of such lands.

Provides that the commission terminates upon the publication and presentation of the final boundary plan to the governor.

Provides that the terms conservation and agricultural lands as used in this amendment be defined as provided by law on the date of ratification.

337 - Prohibits gambling other than social gambling as defined by the law upon ratification of this section. Provides that the legislature shall not enact any law or amend or repeal existing law to allow gambling other than social gambling.

338 - Establishes a review board for each profession receiving public contracts to render professional services. Provides that board has 9 members, with 5 appointed by governor (4 of whom are from that profession), and 1 each by senate president, house speaker, and minority parties of each house. Requires board to review all public contracts proposed or offered for the performance of professional services within its profession and either approve or disapprove them. Provides that any contract not yet offered which is disapproved by board shall be void and any contract which has been offered is void if disapproved. Does not apply to contracts offered prior to appointment of board. Requires members to be appointed within 30 days of ratification.

339 - Limits campaign contributions from a single donor to \$1,000 in the manner prescribed by law. Requires legislature to implement section.

340 - Provides for legislative vacancies to be filled by person with next highest vote in previous general election, or if none, then in previous primary election or if none, as provided by law. Requires successor to be member of same party. Deletes ability of governor to appoint for unexpired term if no provision is made by law.

341 - Recognizes the right of the people to the access and use of Kahoolawe. Requires the island to be preserved for its historic, religious and cultural heritage.

342 - Mandates the legislature to provide for the public financing of election campaigns for public offices of the State and its political subdivisions.

343 - Provides the supplemental appropriations shall be approved by no fewer than 3/5 of members of each house.

344 - Provides that the total amount of all operating and capital appropriations enacted in any even-numbered year to be expended in the fiscal biennium shall not exceed percent of the total amount of all operating and capital appropriations enacted in the prior odd-numbered year to be expended in the ensuing fiscal biennium.

345 - Abolishes the office of lieutenant governor and references thereto.

Provides that when the office of the governor is vacant, the speaker of the house of representatives shall serve as governor; if the speaker is absent from the State or unable to exercise and discharge the powers and duties of office, then the president of the senate shall serve as governor during such absence or disability.

Provides that the governor shall certify the question of "Shall there be a convention to propose a revision of or amendments to the constitution?" to be voted on at the first general election following the expiration of the 10-year period.

Provides amendment takes effect at the 1982 elections.

346 - Provides that the salary of each member of the legislature shall be \$17,000 a year, to be increased every even-numbered year in conjunction with the terms of the members of the house of representatives. Bases increase on the increase in the Honolulu Consumer Price Index published by the Bureau of Labor Statistics, United States Department of Labor, over the preceding 2 years. Deletes commission on legislative salary.

347 - Grants the State the power to make provisions in the field of preventive health in addition to having the power to provide for the public health, instead of being required to so provide.

348 - Deletes requirement that the governor nominates and, by and with the advice and consent of the senate, appoints the justices of the supreme court and the judges of the circuit courts and that no nomination shall be sent to the senate and no interim appointment shall be made when the senate is not in session. Provides that whenever a vacancy occurs in the office of a justice or judge, the governor shall fill such vacancy by appointing within 30 days a person from a list of not less than 5 nor more than 10 nominees submitted by the judicial commission and by and with the advice and consent of the senate. Provides that if more than 1 vacancy exists, the governor may appoint from any list of nominees for the court in question presented by the commission not more than 90 days prior to the appointment. Provides that if the governor fails to appoint anyone within 30 days after a list is presented, the appointment shall be made by the commission from the same list or lists.

Provides that the judicial commission consists of 9 members to be represented by all 3 branches of government: the supreme court shall appoint 2 members, the senate and house of representatives shall each elect 1 member, the governor shall appoint 2 members, members of the state bar, in good standing, shall elect 3 of their number. Requires members selected by the legislature and the governor to be persons not admitted to the practice of law anywhere in the world.

Requires each member of the commission to be a resident of the State and a citizen of the United States; provides that no member shall be eligible for appointment to judicial office so long as a member of the commission and for a period of 1 year thereafter. Requires members of the commission to conduct their duties, individually and as a whole, without regard to partisan politics.

Provides that members of the commission shall serve staggered terms of 4 years each, charter members to serve terms of either 2 or 4 years, such as to be determined by lot and thereafter all shall serve 4-year terms. Requires the legislature to provide for appointments and elections.

Requires the commission to select one of its members to serve as chairman and to promulgate rules and procedures as to the receipt and review of applications for judicial positions. Requires deliberations to be held in confidence and provides no act of the commission is valid unless concurred in by 6 of its members. Provides that if the commission fails to submit a list of nominees within 45 days after a vacancy occurs, the governor shall make an appointment.

Provides that no member of the commission shall receive any compensation for services except necessary expenses for travel, board and lodging incurred in the performance

of his duties. Requires the legislature to provide for staff and operating expenses of the commission in a separate budget.

Provides that the term of office of all justices and judges appointed by the governor shall be 10 years.

349 - Deletes the present Preamble. Provides that the people of Hawaii, grateful for Divine Guidance, and mindful of their Hawaiian heritage and uniqueness as an island State, dedicate their lives to fulfilling the philosophy decreed by the Hawaiian motto, "The life of the land is perpetuated in righteousness".

Reserves the right of the people to control their destiny, to nurture the integrity of the people and cultures of the State and to preserve the quality of life desired.

Reaffirms the belief in a government of the people, by the people and for the people, with an understanding and compassionate heart toward all the peoples of the earth.

350 - Provides for 30 session days to introduce bills in legislature, followed by 14-day recess with public hearings by all legislators in their districts on pending bills and 30 days for final passage wherein no bill shall be introduced except upon 2/3 vote by both houses.

351 - Provides that campaign contribution limits be established by law for contributions to candidates, or candidate organizations, for any elective office in the State and be proportional to the responsibilities of the elective office.

352 - Provides that charter revisions or amendments may be proposed by a charter review commission to be appointed as provided by charter or elected. Allows each political subdivision to submit to the electorate at any general election the question of whether members to a charter review commission should be elected. Provides that if a 10-year period elapses and the question has not been submitted, the lieutenant governor shall certify the question for a vote at the first general election following the expiration of such period. Requires members to the commission to be elected at the next general election if the question receives an affirmative majority of the ballots cast.

Requires each commission to be composed of not less than 7 members to be compensated as prescribed by law but no less than \$1,000 a month for each month in session. Requires the commission to act by majority vote of its membership and to establish its own procedures except as may be provided by law.

Requires the commission to provide for the time and manner of submittal of the proposed charter revision or amendments to the electorate. Provides that a revision or amendment shall be effective only if approved by a majority of all the votes tallied on the question; provided that the majority shall constitute at least 30 percent of the total vote cast at the election in the case of a general election and of the total number of registered voters in the case of a special election.

Provides that the provisions in this amendment shall be self-executing but requires each political subdivision to make the necessary appropriations and allows enactment of legislation to facilitate the operation.

353 - Requires the governor to prepare and publish in a newspaper of general circulation in the State a fiscal impact statement for each budget and supplemental appropriation bill submitted to the legislature.

Requires the legislature to prepare and publish in a newspaper of general circulation in the State a fiscal impact statement for each appropriation bill submitted to the governor.

354 - Provides that all appropriations for which the source is general obligation bond funds or general funds shall be for specific periods not exceeding 2 years. Lapses any such appropriation which is unencumbered at the close of such period and provides that where general obligation bonds have been authorized for an appropriation, the amount of the bond authorization shall be reduced in an amount equal to the amount lapsed. Provides that all such appropriations in effect on the date of ratification of this amendment which are unencumbered on June 30, 1980, shall lapse on that date unless earlier lapsed and that any bond authorizations shall be reduced in an amount equal to the amount lapsed.

355 - Provides for a commission on tax review, appointed as provided by law on or before July 1, 1980 and every 5 years thereafter, to meet and within 120 days to submit to legislature an evaluation of the State's tax structure, recommend revenue and tax policy and to then dissolve.

356 - Mandates a presidential preference primary on a nonpartisan basis to be held in accordance with law.

357 - Requires the legislature to provide for all mechanisms for voter registration, including registration by mail and on the day of election.

358 - Allows the legislature in enacting laws imposing a tax measured by income to define income by reference to provisions of the laws of the United States as they may or become effective at any time or from time to time, whether retrospective or prospective in operation. Allows legislature to provide that amendments to such United States law become the law of the State upon becoming the law of the United States and may provide for use of U.S. income tax forms for state purposes. Requires the legislature in any such law to set the rate or rates of such tax or to provide the state income tax as a percentage of the income tax paid the U.S. Allows the legislature in defining income to make exceptions, additions or modifications to the United States laws referred to and to provide for retrospective exceptions or modifications to the provisions which are retrospective.

359 - Disqualifies elected state and political subdivision officials from eligibility to membership in a constitutional convention.

360 - Requires the State to provide counsel for all defendants charged with an offense punishable by imprisonment.

Deletes the requirement that the defendant must be indigent and requirement that imprisonment must be for more than 60 days.

361 - Provides that an accused person unable to understand English has a right to an interpreter throughout the proceedings.

362 - Requires the legislature to submit to the electorate at any general or special election the question concerning a convention to propose a revision of or amendments to the constitution and eliminates their discretion in presenting the question. Repeals by omission all provisions concerning election of delegates, convention organization and procedure and ratification and procedure.

363 - Provides for merit promotion in addition to merit employment of persons in civil service.

364 - Provides board of education with power to assess, levy and collect a tax.

365 - Provides that no public money shall be expended, except under appropriations made by law and that expenditures shall not exceed the State's revenues and reserves, including the proceeds of any debt obligation for a year. Provides that no debt obligation, except those repaid within the fiscal year of issuance, shall be authorized for the current operation of any state service or program, nor shall the proceeds of any such obligation be expended for a purpose other than that for which authorized. Provides that the rate of growth of appropriations from state tax revenues shall not exceed the rate of growth of the total state personal income as determined by law. Allows appropriations in excess of such rate when the legislature by law sets forth the dollar amount and the rate by which the limit will be exceeded. Provides that any law requiring the expenditure of state funds shall be void unless an appropriation is made for the estimated first year's funding. Provides that no law of general application shall impose increased expenditure requirements on counties unless the legislature provides the State share in the cost. Requires an accurate financial statement of the State's fiscal condition to be published annually.

366 - Grants counties powers and authorities which shall be liberally construed to give the counties the largest measure of self-government. Deletes provision authorizing the legislature to create counties and other political subdivisions within the State and providing political subdivisions with such powers as conferred under general laws.

Establishes the following counties in the State: (1) Hawaii county, (2) Maui county, (3) Kauai county, (4) Honolulu city and county, and (5) Kalawao county and enumerates their boundaries.

Confers upon all the counties, except the county of Kalawao, all the powers of government not denied by the constitution, law or by charter. Provides that the county of Kalawao shall have only such powers as conferred under law.

Changes all references of "political subdivisions" to "counties" throughout the remainder of this proposal.

Provides each county the power to amend and repeal a charter in addition to its powers to frame and adopt a charter for its own self-government. Requires all charters or charter amendments to be submitted to the voters of the county to become effective if approved by a majority of those voting on the specific question; provided that a county charter ratified by the voters of that county remains in force as though adopted after the effective date thereof. Deletes provisions limiting the political subdivision's power to adopt and frame a charter under such procedures as prescribed under general law and prohibiting such prescribed procedures from requiring charter approval by a legislative body.

Provides that charter provisions are superior to statute with respect to the county's procedure in addition to executive, legislative and administrative structure and organization provisions. Deletes provisions subjecting charter provisions to the authority of the legislature to enact general laws allocating and reallocating powers and functions. Also deletes provision that a law qualifies as a general law even though inapplicable to 1 or more counties.

Provides counties exclusive power to levy a tax on real property. Allows any county, except Kalawao, to levy a general excise tax in an amount not to exceed 25 percent of any state general excise tax. Deletes provision allowing political subdivisions taxing power as may be delegated by the legislature.

Provides that any state law increasing expenditures by or reducing the income of a county shall not be effective unless approved by the affected county by ordinance and until the legislature appropriates funds equal to the increase or reduction to the affected county. Further provides that for enactments not applicable uniformly to all counties, a county may, by ordinance, exempt itself from the whole or any part of any enactment by the legislature which in effect or by legislative classification applies to such county.

Requires the State to designate all lands in the State as urban or nonurban. Defines nonurban land as land consisting of (1) agricultural districts which include activities characterized by the cultivation of crops, forage and forestry; farming operations or uses related to animal husbandry, and game and fish propagation; and (2) conservation districts which include areas necessary for protecting watersheds and water services; preserving scenic and historic areas; providing park lands, wilderness and beach and open space areas wherein the retention of existing openness, natural condition or present state of use would enhance the value of abutting or surrounding communities or would maintain or enhance the conservation of natural or scenic resources and areas of value for recreational purposes. Classifies land used for all other purposes as urban land.

Provides that subject to the permitted uses under nonurban and urban designations, the counties shall have exclusive power to control and regulate all land uses and development. Provides that land designated urban as of the effective date of this amendment shall continue in full force and effect until changed. Provides that any law changing land use designations is subject to approval by the county within which the affected land is situated.

367 - Prohibits introduction of bill affecting appropriations, revenues, fiscal liability or expenditures, with a combined total effect of \$50,000 or more in the next 6 years, without a fiscal note. Requires fiscal note to inform about source of funding, projected costs and change in revenues over next 6 years, source of information and basis for computation, and such other information as required by law. Requires amendment of note to reflect amendment of bill. Makes fiscal note only advisory and not to become law. Exempts executive budget and supplemental budget bills from requirements.

368 - Provides that no public money shall be expended, except under appropriations made by law and that expenditures shall not exceed the State's revenues and reserves, including the proceeds of any debt obligation for a year. Provides that no debt obligation, except those repaid within the fiscal year of issuance, shall be authorized for the current operation of any state service or program, nor shall the proceeds of any such obligation be expended for a purpose other than that for which authorized. Provides that the rate

of growth of appropriations from state tax revenues shall not exceed the rate of growth of the State's economy as determined by law. Allows appropriations in excess of such rate when the legislature by law sets forth the dollar amount and the rate by which the limit will be exceeded. Provides that any law requiring the expenditure of state funds shall be void unless an appropriation is made for the estimated first year's funding. Provides that no law of general application shall impose increased expenditure requirements on counties unless the legislature provides the State share in the cost. Requires an accurate financial statement of the State's fiscal condition to be published annually.

369 - Requires that 12 percent of excise and use tax revenues be set aside for apportionment to the State's political subdivisions as prescribed by law. Requires distribution of 60 percent of total available to be equally distributed and 40 percent on a per capita basis based on resident population defined and adjusted periodically in accordance with law.

370 - Changes the state indebtedness limitation from a sum not exceeding 3-1/2 times the average of the general fund revenues of the State in the 3 fiscal years immediately preceding the session of the legislature authorizing such issuance to the maximum annual debt service in any future year for all general obligation bonds outstanding which shall not exceed percent of the average of the general fund revenues of the State in the fiscal years immediately preceding the session of the legislature authorizing such issuance.

371 - Requires the State to provide counsel for all defendants charged with an offense punishable by imprisonment for more than 60 days and deletes limitation thereto to indigents.

372 - Provides for the nonpartisan election of legislative bodies of any political subdivision if such body is elected.

373 - Provides for single member districts for the state senate. Deletes provision in reapportionment for minimum representation for basic island units.

374 - Provides that the executive power of the State shall be vested in the lieutenant governor as well as the governor.

Provides that the lieutenant governor shall be the chief environment and conservation officer of the State. Makes the lieutenant governor responsible for the policy and administrative management of the natural resources of the State and for the faithful execution of the applicable laws.

Provides that each principal department shall be under the supervision of the governor or lieutenant governor.

Provides that the lieutenant governor in addition to the legislature shall promote the conservation, development and utilization of agricultural resources, and fish, mineral, forest, water, land, game and other natural resources.

Provides that the legislature shall vest in 1 or more boards or commissions within 1 executive department under the supervision of the lieutenant governor powers for the management of natural resources owned or controlled by the State and such powers of disposition thereof as may be authorized by law.

375 - Requires each member of the board of education to be elected from the school district in which the member resides. Provides for a 13-member board with election at-large of other members. Deletes provision that at least part of membership shall represent geographic subdivisions.

376 - Provides punishment by death is cruel and unusual punishment.

377 - Requires an elected state or county official to resign from office before seeking another public elective office, the term of which begins before that official's present term of office expires.

378 - Provides no person shall be disqualified to serve as a juror because of occupation in addition to sex.

379 - Provides that the terms for county chief executives shall be either 2 or 4 years and coincide with the governor's term.

380 - Provides that in all criminal prosecutions, the accused shall enjoy the right to a speedy trial by an impartial jury representing a wide cross section of the community and a right to a trial in the district wherein the crime was committed.

Provides that where the crime is serious, the juries shall consist of 12 persons.

Deletes the accused's right to a trial in the district wherein the crime shall have been committed and the district previously ascertained by law. Deletes 60-day imprisonment limitation concerning an indigent defendant's right to counsel.

381 - Provides the State and each person has the duty to provide and maintain a healthful environment for the benefit of present and future generations. Provides a healthful environment includes, but is not limited to, clean air and water, sustainable sources of food, freedom from excessive and unnecessary noise, unnatural or excessive levels of ionizing radiation, the preservation of the natural, scenic, historic and aesthetic qualities of the environment and population levels consistent with these qualities.

Prohibits interference by any party, public or private, with the right of the people, and each person to a clean, healthful environment. Provides that in case of disputes over a proposed action's environmental consequences, the agency or individual taking the disputed action has the burden of showing that the action will not have deleterious effects upon the environment or the public health.

Provides for enforcement of the rights and principles embodied in this amendment against any party, government or private, through appropriate legal proceedings. Provides each person has the right to a trial de novo in a judicial proceeding.

382 - Provides that the salary of each member of the legislature shall be \$18,000 instead of \$12,000 a year.

Provides that a commission on legislative salary shall be appointed by the governor on or before June 1, 1984, and every 10 years thereafter, instead of on or before June 1, 1971 and every 4 years thereafter.

383 - Provides there shall be a constitutional revision commission which shall undertake a continuous review of the constitution of the State and recommend amendments to the legislature and constitutional conventions. Requires the legislature by law to provide for the implementation of this section.

384 - Provides that right of police officers and firefighters to collective bargaining shall not include the right to strike. Requires the legislature to provide orderly, impartial and reasonable procedures for arbitration, mediation or conciliation to settle unresolved disputes involving police officers and firefighters.

385 - Provides that available water, in addition to lands, within those available lands or water within lands designated as Hawaiian home lands pursuant to the Act controlled by the department shall be sold or leased only in the manner and for the purposes set forth in the Act; deletes requirement that any valid agreement of sale or lease in effect at the time of passage of the Act be completed; deletes reference to the limitations on unselected portions of land and provides that the control of water within available lands or lands designated as Hawaiian home lands pursuant to the Act shall remain in the exclusive control of the department for the betterment of the conditions of native Hawaiians and that the law concerning available lands shall control if other provisions of the Act are inconsistent.

386 - Requires that the board of education be composed of members who are representatives of district school advisory councils, as provided by law. Requires establishment of district school advisory councils with duties and responsibilities as provided by law, to reflect geographic subdivisions of the State and to be composed of representatives of individual school advisory councils, which are to have duties and responsibilities and be composed of members elected, as provided by law. Deletes provision for board to be elected by voters in accordance with law and to represent at least in part the geographic subdivisions of the State.

Amends the power of the board to advise the superintendent of education in matters of policy rather than to formulate policy and to exercise control over the superintendent. Provides for administration of the public school system by a superintendent appointed by the governor with senate approval from a list of 3 nominees provided by the board

instead of by the board through the superintendent, its executive officer. Deletes provision that the superintendent serves as secretary to the board and provides for board to appoint its own secretary.

387 - Provides that right of people to possess and cultivate marijuana for personal use in the privacy of the home shall not be violated but shall be regulated by law.

388 - Mandates the legislature to provide for complete public disclosure of all campaign contributions and expenditures by candidates for any election.

389 - Reduces the maximum number of principal state departments in which state executive and administrative offices, departments and instrumentalities shall be placed from 20 to 10.

390 - Requires the organization of the legislature to assure proportional representation of all members regardless of political affiliation as committee chairpersons and members. Prohibits depriving member of full right to vote as committee member because of political party membership or leadership.

391 - Provides for the recall of single executive heads of a principal department appointed by the governor and excludes members of boards and commissions. Requires that a recall election be placed on a separate ballot at a general election. Requires the legislature to provide for the manner and procedure for the recall process; provided that a petition names only 1 officer and that no restrictions be placed on the basis for filing a petition. Provides that the recall shall be in addition to any other method of removal provided by law.

392 - Prohibits amendment or repeal of that portion of the Hawaiian Homes Commission Act which allocates 30 percent of the state receipts derived from the leasing of cultivated sugarcane lands under any provision of law or from water licenses to the native Hawaiian rehabilitation fund for the purposes enumerated in those provisions except by constitutional amendment. Provides no ceiling shall be established for the aggregate amount deposited into the native Hawaiian rehabilitation fund.

Amends Act to provide for the inclusion of the native Hawaiian rehabilitation fund increasing the number of Hawaiian special funds established in the treasury of the State to 8. Requires 30 percent of state receipts derived from the leasing of cultivated sugarcane lands under any other provision of law or from water licenses to be deposited into this fund. Requires the department of Hawaiian home lands to use this money solely for the rehabilitation of native Hawaiians including, but not limited to, the social, economic, cultural and social processes by which the general welfare and conditions of native Hawaiians are improved and perpetuated. Authorizes the Hawaiian Homes Commission to refund this money to the State.

393 - Requires the governor to submit to the legislature for review and approval all federal grants-in-aid and federal funding for state programs before the expenditure of such funds.

394 - Authorizes legislature to establish a budget review committee which shall, if established, be full-time and shall in odd-numbered years after due consideration of the budget and other information either affirm revenue projections contained in budget submitted by governor or establish its own projection for the ensuing fiscal biennium. Requires review committee, if established, to monitor budget and expenditures made thereunder, report as necessary to supervising committees and the governor and perform other duties as required by law. Makes review committee subject to joint supervision of legislative committees responsible for budget and finance. Allows review committee to amend projected revenue figures from time to time. Requires governor to obtain consent of legislative committees responsible for budget and finance in setting capital improvement priorities, fund restrictions, and transfer of funds. Requires the review committee to make the revenue estimate and amendments thereto available to the public and to submit them to the governor and legislature. Provides for lapse of capital improvement project funds after 4 years or less as provided by law.

395 - Establishes a joint committee made up of 5 members elected from each house to review rules and regulations of executive agencies of the State and its political subdivisions to determine whether such rules are adopted pursuant to law and to report to the legislature prior to the following session.

396 - Provides that special sessions may be convened at request of 1/2 instead of 2/3 of members of each house and that legislature may consider matters within its powers as deemed necessary or desirable in special session whether called by members of the legislature or the governor.

397 - Provides that the State shall provide counsel for a defendant charged with an offense punishable by imprisonment.

Deletes the requirement that defendant be an indigent charged with an offense punishable by imprisonment for more than 60 days before the State shall provide counsel.

398 - Amends the Bill of Rights to provide that the people delegate political power as set forth in the constitution but the people reserve the initiative power and the right to exercise that power. Amends legislative article to provide that while legislative power of the State is vested in a legislature, the people reserve the initiative power and the right to exercise that power.

Provides that the people individually or collectively reserve the initiative power to propose statutes and constitutional amendments and to enact or reject them by ballot vote.

Provides that an initiative petition signed by at least 1 registered voter of the State who shall become the sponsor(s) may be submitted to the chief election officer at any time. Requires the initiative measure to include a ballot title, statement of purpose, summary of the text and the full text of the proposed measure. Requires the chief election officer, within 10 working days of the filing of the petition, to certify that the sponsor is a registered voter and verify that the petition's ballot title, statement of purpose and summary of the text are written without prejudice. Provides that the chief election officer, with the concurrence of the attorney general, shall not verify petitions embracing local laws, private gain or more than 1 subject. Subjects verification to sponsor approval and judicial review.

Requires verified petition to be circulated in its entirety. Allows any registered voter of the State to circulate and sign a verified initiative petition.

Allows a sponsor to file a verified petition with the chief election officer at any time who shall certify the number of required signatures. Requires signatures of 3 percent or more for any initiative measure to be referred to the legislature and 5 percent or more for any initiative measure to be placed on a separate initiative ballot at the next general election.

Allows the legislature a full session to act upon a referred initiative measure in the original form. Qualifies the measure for the separate initiative ballot at the next general election if the legislature fails to enact the measure after the passing of 1 full session.

Allows the chief election officer at least 60 days to certify and prepare an initiative measure for the ballot. Requires an initiative measure to be placed on the ballot in such form that an affirmative vote for the measure as written is cast with a yes vote. Requires approval of initiative measures by a majority of votes cast thereon, except that for constitutional initiatives the majority shall constitute at least 35 percent of the total votes cast. Provides that approved initiatives become effective 1 day after certification of the election results. Provides that when conflicting measures are approved, the one with the highest affirmative votes prevails.

Prohibits veto of initiative laws; prohibits legislative repeal or amendment by the legislature, except by a 3/4 vote in each house.

Provides that if after a petition is verified a similar or contrary law is enacted by the legislature, both measures shall be submitted to the voters. Provides that the similar or contrary law shall remain in effect pending the general election. Provides that the measure with the highest number of votes shall prevail and voids the similar or contrary law if the initiative measure is approved. Provides that, with concurrence of the attorney general, if any law enacted is the same as or similar to and accomplishes the same purpose as an initiative measure, the chief election officer may by public announcement declare the initiative measure void and order it stricken from the ballot.

Prohibits resubmittal of a defeated initiative measure in the same form or essential substance, as determined by the chief election officer with the attorney general's con-

currence, either affirmatively or negatively prior to the opening and closing of 2 consecutive regular legislative sessions.

Prohibits the legislature from enacting any law or the chief election officer from making any regulation or rules which abridge the initiative power and its free exercise or denial.

Amends the legislative article to clarify that only laws passed by the legislature must be by bill.

Provides for constitutional revisions and amendments by the people as well as by constitutional convention or by the legislature. Prohibits veto of constitutional amendments adopted in any manner provided by the constitution. Provides that when the legislature and the people propose conflicting revisions or amendments and both are approved, the one with the highest vote shall prevail. Provides that when conflicting revisions or amendments are proposed by the people and are submitted at the same election and both are approved, the one with the highest number of votes shall prevail.

399 - Provides that the Hawaiian flag shall be a flag depicting the state seal on a field of white.

400 - Deletes section 3 of Article I relating to freedom of religion, speech, press, assembly and petition and provides that everyone has the right to communicate including a right to assemble, to participate, to inform, be informed, to privacy and freedom of speech and language; and establishes the claim of all citizens to communication resources required to implement such rights.

401 - Requires the State to be responsible for preserving and developing the cultural and traditional arts of its various ethnic groups as well as fostering the creative energy, imaginativeness and artistic skills of its people and for this purpose requires the State to promote and support activities and experiences of cultural and artistic value.

402 - Provides that the people shall have access to all government records and proceedings in the absence of a proven and compelling state interest as defined by law. Provides that journalists shall not be compelled to divulge their confidential sources of information. Provides that the people's right to know the sources of all money spent to influence political elections at any level of government shall not be diminished nor impugned.

403 - Requires all candidates for an office to appear on 1 ballot, whether a candidate is a nonpartisan or represents a political party. Allows voters to vote for any candidate for office in a primary election, regardless of the political party or nonpartisanship of the candidate. Requires preservation of secrecy of the political party of the voter, if the person is not a candidate.

404 - Provides that the code of ethics adopted by the legislature shall also apply to members of the constitutional convention.

Provides that no delegate to the constitutional convention shall appoint, employ, promote, advance or advocate for appointment, employment, promotion or advancement to the convention any individual who is a relative of that delegate or a relative of a fellow delegate. Defines relative as an individual who is related as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister.

Provides that no delegate to the constitutional convention shall accept, receive or solicit any compensation or other consideration for the performance of their official duties or responsibilities from government employment, private employment, unions or other groups.

405 - Provides for the establishment of a commission on Hawaiian affairs to have but not be limited to the functions of (1) coordinating all governmental affairs directly pertaining to the Hawaiian people, culture, history and lands except as executed by other parts of the amendment and (2) establishing facilities to protect and preserve the Hawaiian people, culture, history and lands.

Provides the commission consists of 28 members. Requires persons of full or part-Hawaiian ancestry in each of the 27 representative districts meet as provided by law and

submit a list of names to the governor from which the governor is to appoint 1 commissioner from each of the 27 districts, without the advice and consent of the senate. Provides the chairperson of the Hawaiian homes commission serves as an ex officio, nonvoting member. Requires the legislature to implement the amendment.

406 - Provides that there shall be an ombudsman commission, consisting of 2 legislators chosen by the legislature and the judicial commission, created by the constitution or by law, which is also the commission that recommends persons to the governor to fill judicial vacancies. Provides that the ombudsman commission shall appoint or remove an ombudsman with the confirmation of 2/3 of the legislature. Provides that the ombudsman commission shall not accept any applications for the position of ombudsman but shall solicit qualified nominees for such position. Provides that except for the appointment or removal the tenure, qualifications, compensation, vacancy and duties of the office of ombudsman shall be as prescribed by law.

407 - Provides that the constitutional convention's official opening shall be in any year other than a general election year.

Provides that there shall be the same number of delegates to the convention, who shall be elected from the same areas, and that the convention shall be convened in the same manner and have the same powers and privileges, as nearly as practicable, as provided for the convention of 1978 instead of 1968.

408 - Provides for 4-year term for state representatives. Provides that the members of the senate and house of representatives shall serve staggered terms. Provides that in the general election of 1978 the members to which each district is entitled shall be divided in half. The members obtaining the highest vote shall be members of the first class and elected for 4 years. The remaining members from the district shall be in the second class and shall be elected for 2 years. Thereafter the successors of the members of the second class shall be elected for 4 years. Provides that where unable to determine class due to tie, the tie shall be decided by lot supervised by the chief election officer with the winner to be in the class with the longest term.

Requires the reapportionment commission to designate which district is to be represented by senators or representatives whose terms extend past reapportionment. Provides in making such designation the senator or representative need not live in the district the senator or representative is designated to represent. Requires commission in making designation to consider (1) the senatorial or representative district the senator or representative was elected from, (2) the senatorial or representative district in which the senator or representative will reside under the reapportionment plan, and (3) the requirement of continuing staggered terms and the number of senators or representatives in a senatorial or representative district under the commission's reapportionment plan. Requires the commission to give no consideration to holdover senators or representatives in redistricting. Deletes minimum representation for basic island units.

409 - Prohibits levy on sales, transaction, gross income, general excise or similar tax upon food purchased for domestic preparation and consumption or upon prescription drugs, as defined by law. Provides that food and drugs shall be defined by law. Makes section effective July 1 following ratification and inapplicable to income taxed under Hawaii income tax law or its successor.

410 - Requires State to provide assistance to the aged as provided by law. Establishes an old age pension fund whose income sources include revenue from old age pension tax to be imposed by the State, percent of all general excise tax revenues each year, federal grants-in-aid for old age assistance and other moneys as provided by law. Prohibits use of moneys for purposes other than old age pensions and transfers of moneys in part or in whole to any other fund.

411 - Adds Aina Malama provisions. Defines Aina Malama as consisting of those waters and lands considered by the people to have important social, cultural, historical, ecological, environmental, agricultural, educational, recreational or aesthetic value, requiring protection under the constitution and laws for the benefit of each and every citizen. Provides that Aina Malama shall be designated only by vote of the people, and that designation shall be made from nominations submitted by the legislature, any county or by the people as provided by this section and by law. Requires lands nominated to be those areas designated as conservation districts or park and recreational areas on or after adoption of this amendment. Requires each nomination to contain a description of the land by traditional name, a metes and bounds description of the boundaries and an appropriate category of use as set forth

herein. Requires the legislature to provide for the manner and procedure of nominations but petitions by the people must contain a certain percentage of registered voters of the State and of the county where the land is located.

Requires lands nominated be presented for a vote at the next general or special election. Approval requires a majority of all votes cast statewide and a majority of votes in the county where the land is located.

Removal of lands or changes in the category of use is not permitted unless approved by the people. Provides 2 categories of use: conservation lands may be nominated for either category 1 or 2; parks and recreational areas may be nominated for only category 2.

Provides category 1 areas are subject only to those uses which preserve the natural resources of an area. Requires lands be protected and managed so as to preserve the existing resources and to insure their continued availability. Permits only those structures, improvements, recreational activities or historic sites having a minimum adverse impact on the natural environment and which are consistent with the physical geography and ecology of the area.

Provides category 2 areas are subject to only those uses which provide opportunities for recreational activities consistent with the existing environment. Provides preservation of historic sites is deemed a permissible use and preference shall be given to the repair and modernization of existing structures and facilities. Provides that unless specified in the nominating petition, permissible uses shall be determined by the commission after a public hearing.

Prohibits new nonconforming uses; requires existing nonconforming uses to terminate as early as possible and those remaining to be subject to the directives of the commission.

Entrusts the guardianship of Aina Malama lands to the Aina Malama commission consisting of 9 members with the president of the senate, the speaker of the house of representatives and mayors of the 4 counties each selecting 1 member and the governor selecting 2 members. Provides the 8 members shall select the ninth person to serve as the chairperson. Provides each member shall serve no more than terms of years. Requires the legislature to appropriate funds to facilitate the operation of the commission and to reimburse members for necessary expenses.

Requires the commission to exercise final approval over any proposed uses of Aina Malama lands and to impose conditions necessary to effectuate the restrictions imposed by the applicable category of use. Empowers the commission to terminate nonconforming uses and to require the dedication of lands to enforce the principles and standards embodied in this amendment.

Requires the commission to maintain a registry and establish rules and regulations for the supervision and administration of Aina Malama lands. Provides the people have the right to appeal decisions of the commission before the circuit courts of the State.

412 - Provides that the legislative power of the State shall be in one house called the senate, composed of 51 members. Substitutes the term "senate" for "each house", "house of representatives" or similar terms throughout the constitution.

Provides that the senatorial districts and the number of senators from each shall be as provided by the most recent reapportionment plan instead of according to the Schedule until the next reapportionment. Deletes provision for house of representatives. Provides for selection of 2 members of reapportionment commission by majority floor leader instead of by speaker of house of representatives and of 2 members by minority party members (other than that of senate president) of the senate instead of 1 each by each house's minority parties. Deletes provision for minimum representation of basic island units in reapportionment. Deletes provision for inclusion of representative districts within senatorial districts.

Deletes provisions for term of office, qualifications and privileges for members of house of representatives.

Provides for regular session limited to 60 days, split into 20- and 40-day sessions separated by 15-day recess. Limits bill introduction to the 20-day session. Provides that no more than 500 bills shall be identified and read no more than once during the 20-day session and that these bills shall be formally considered during the 40-day session, subject to waiver of requirement by 2/3 vote.

Deletes provision prohibiting adjournment for more than 3 days without consent of other house. Requires bill, to pass third or final reading in senate, shall be made available to the senators for at least 72 hours. Deletes provision for sending a bill to the other house and for at least one reading in the house in which it originated to enact a carry-over bill.

Provides that the senate shall have the sole power of impeachment and to try impeachment of the governor and lieutenant governor. Makes amendment applicable to elections of 1982.

413 - Provides that primary elections be held, in accordance with law, but in no case less than 45 days before a general election.

414 - Provides that lands owned or controlled by the State or any political subdivision, agency or instrumentality thereof, corporate or otherwise, as of November 7, 1978 or thereafter acquired in any manner shall not be sold or disposed of except by lease, but excludes lands designated in the Hawaiian Homes Commission Act, 1920.

415 - Provides that in any primary election a qualified voter may vote for any candidate regardless of party or nonpartisan affiliation of the voter or the candidate.

416 - Provides that it shall be the public policy of the State and the duty of each person to protect, maintain and preserve the natural, cultural and aesthetic resources of the State. Gives the people the right to insure that the use of any renewable or nonrenewable resources shall be beneficial. Provides for enforcement of the rights set forth in amendment against any party, governmental or private, through the appropriate legal proceedings.

Defines Aina Malama as those waters and lands considered by the people to have important social, cultural, historical, ecological, environmental, agricultural, educational, recreational or aesthetic value requiring protection under the constitution and laws for the benefit of each and every citizen.

Requires designations to be made from nominations submitted by the legislature, any county or petitions by the people accompanied by signatures of not less than 8 percent of all registered voters residing in the county in which subject land is located and not less than 5 percent of all registered voters in the State.

Requires petitions be received by the chief election officer not less than 90 days before the next scheduled general or special election.

Requires nominations to contain the popular, traditional or descriptive name of the proposed area, the metes and bounds description of the boundaries of the proposed area, if any, and an appropriate category of use.

Requires lands nominated be those areas designated as conservation districts or park and recreational areas as of the date of adoption of this amendment.

Provides that if nomination includes more than 1 area or proposed area to be divided with different uses, the nomination shall clearly define areas, boundaries and uses.

Requires that prior to circulation of a petition, a copy is to be submitted to the commission which shall within 15 days certify whether the language meets necessary requirements.

Provides there shall be no limit on the number of copies of petitions which may be circulated; every petition must be verified by affidavit of the circulator; the chief election officer must certify that the petitioners are registered voters of the State; any petition found to be insufficient shall be returned to the circulator within 30 days with reasons. Requires that once the petition is certified by the chief election officer for placement on the ballot, a moratorium be placed on the proposed, pending or existing land use designations of the lands in question. Requires petitioners bear all costs of preparation and circulation; after filing, costs are borne by the State.

Provides a majority of all votes cast statewide and a majority of all votes cast in the county in which the subject land is located are required for inclusion in Aina Malama on a ballot presenting the question in a yes or no fashion. Provides that unless otherwise

specified, designations become effective 1 day after the election results are announced and if the nomination is not approved, the moratorium on land use designations ceases 1 day after such announcement.

Provides that if 2 or more conflicting nominations are introduced and approved by the voters, the nomination receiving the highest number of votes shall prevail.

Provides that removal of lands from Aina Malama or changes in use are prohibited unless approved by the people and that upon removal the appropriate governmental agency shall assume jurisdiction of the land. Requires lands included in Aina Malama to be recorded in a registry to be maintained by the Aina Malama commission, which shall be published or otherwise made available to the public.

Provides 2 categories of use: conservation lands may be nominated for either category 1 or 2; parks and recreational areas may be nominated for only category 2.

Provides category 1 areas are subject only to those uses which preserve the natural resources of an area. Requires lands to be protected and managed so as to preserve existing resources and to insure their continued availability. Permits only those structures, improvements, recreational activities or historic sites having a minimum adverse impact on the natural environment and which are consistent with the physical geography and ecology of the area.

Provides category 2 areas shall be subject to only those uses which provide opportunities for recreational activities consistent with the existing environment. Deems preservation of historic sites a permissible use and gives preference to the repair and modernization of existing structures and facilities. Provides that unless specified in the nominating petition, permissible uses shall be determined by the commission after a public hearing.

Requires the appropriation of Aina Malama lands for the repair and expansion of public infrastructures not benefitting the land in question directly to be approved by the commission after public hearings and that land of at least equal size and substantially equal value is required to be replaced in Aina Malama before the use will be permitted.

Prohibits new nonconforming uses; requires existing nonconforming uses to terminate as early as possible and those remaining to be subject to the directives of the commission. Requires any proposed use of Aina Malama lands be shown to be for the long-term benefit of the people.

Entrusts the guardianship of Aina Malama lands to the Aina Malama commission consisting of 9 members with the president of the senate, the speaker of the house of representatives and mayors of the 4 counties each selecting 1 member and the governor selecting 2 members. Requires the 8 members to select the ninth person to serve as the chairperson. Provides commissioners may serve only one 4-year term and are to be reimbursed for their expenses incurred in facilitating the operation of the commission. Allows governor to reduce terms of those initially appointed so that terms are staggered.

Requires the commission act by majority vote of its membership and to establish its own procedures except as may be provided by this amendment. Requires the commission to exercise final approval over any proposed uses of Aina Malama lands and to impose conditions necessary to effectuate the restrictions imposed by the applicable category of use.

Requires the commission to establish rules and regulations assigning the administration of lands to an agency, providing supervision and administration of such lands, providing for surveys of parcels to be included in Aina Malama, if such descriptions are not available and are necessary, providing for timely certification or rejection of petitions submitted under this amendment and insuring the public health, safety and welfare from immediate dangers on such lands.

Requires all hearings of the commission be open to the public and all actions of the commission to be held in accordance with government agency procedures. Gives the people the right to appeal decisions of the commission before the circuit courts.

417 - Provides that every person has the right to examine public records or to observe the deliberations of public bodies of the state government and its subdivisions except when the public welfare or the right of privacy shall require otherwise.

Requires sessions of the legislature and meetings and hearings of its committees to be open to the public.

Provides that no bill shall pass third or final reading in either house unless a public hearing has been held on the bill.

418 - Provides that the code of ethics is intended to guide public officers and employees to avoid conflicts between private interests and public duty and to seek a high level of ethical conduct in order that the public interest is served.

Requires the code of ethics to conform with the principles and standards expressed in this section.

Provides that any officer or employee should: put loyalty to government service above loyalty to private persons and party; expose corruption whenever discovered; discharge the duties of office in a faithful, impartial and efficient manner; never use public office for private gain; never accept favors, gifts or other benefits under circumstances in which it can reasonably be construed as influencing the performance of official duties or as a reward for any official action; never disclose confidential information acquired in the course of official duties or use such information for other than official purposes; not engage in any activity or have any financial interest incompatible with the proper discharge of official duties tending to impair independence of judgment in the performance of official duties; not participate in any decision where there is substantial conflict between official duties and private interests; uphold principles, ever conscious that public office is a public trust.

Provides that any officer or employee should divulge those interests which might reasonably tend to create a conflict with the interest.

Requires any officer or employee who participates in decision making of a significant nature to file a disclosure of financial interests and those of that officer's or employee's immediate family concerning the businesses with whom the officer or employee is associated; the amounts and sources of principal income; stockholdings; real property holdings in the community; and creditors to whom significant debts are owed.

Provides that there shall be an ethics commission granted powers to administer the code of ethics, comprised of members who are not public officers or employees. Requires the major branches of government to participate in the selection of commission members.

Provides that there shall be appropriate sanctions against violations of the code of ethics to include fines and suspension, demotion or removal from office or employment.

Requires all disclosures of interests made under the article and all violations of the code found by the commission to become a matter of public record.

419 - Requires the lieutenant governor to be elected independently of the governor and deletes requirement that votes cast for governor are deemed cast for lieutenant governor.

Provides that the lieutenant governor shall perform, in addition to such duties as may be prescribed by law, the following:

1. Serve as secretary of state including the responsibilities for the supervision of elections, recordation of legislative and gubernatorial acts, certification of state documents and custodian of rules and regulations promulgated by governmental agencies.
2. Supervise the enforcement of all laws and rules governing the licensing, operation and conduct of trades, businesses and professions.
3. Serve as a coordinator of volunteer programs in the State.

Provides that the responsibilities of the chief election officer shall be as prescribed by law and shall include the existing constitutional duties and deletes requirement that legislature shall provide for a chief election officer.

420 - Provides for the recall of state and political subdivision elected officials by the electors entitled to vote for a successor of the incumbent which shall be in addition to any other method of removal provided by law. Allows the legislature to enact legislation

to facilitate the operation of this section; provided that such legislation does not restrict or limit the provisions or powers in this section.

Requires a recall measure to be submitted to the people for a vote when signed by _____ percent of all registered voters able to vote for the office subject to the recall at the general election preceding recall. Limits petition circulators and signers to those voters entitled to vote for the officer named on the recall petition. Prohibits solicitors from receiving payment for circulating petitions. Requires the petition to state in not more than 200 words, the reason for the recall vote.

Prohibits a recall petition against any elected officer until more than 6 months of the officer's term is served. Prohibits a recall petition within 60 days of a primary election in which the officer is required to seek nomination for reelection. Provides that a petition filed against an officer whose term expires at a general election after a forthcoming general election be submitted to the voters at the forthcoming election if the petition is filed not more than _____ days and not less than _____ days prior to that election. Provides that all other recall measures be submitted at a special election called by the chief election officer between 90 and 95 days after the filing of the recall petition.

Requires the governor to appoint another officer to fulfill the duties of the chief election officer when a recall petition is filed with the attorney general against the lieutenant governor.

Requires the certification of recall petitions by the chief election officer. Prohibits enactment of any law limiting the number of copies of a petition which may be circulated. Requires petition signers to add their address as shown on the voter registration form and date of signing the petition. Provides verification procedures for the petition signatures. Allows the removal of a signer's name upon the signer's request at any time prior to certification. Prohibits the use of the names of petition signers for any purpose other than certification. Prohibits the release of a petition for inspection except when ordered by the supreme court on questions regarding the sufficiency or validity of a petition. Requires an insufficient or invalid petition to be returned to the circulators within _____ days of its filing with the reasons for such return.

Requires that the text of a recall measure be published in a newspaper of general circulation once in each of 4 successive weeks within the 1-month period immediately preceding the election at which the measure is submitted.

Requires recall measures to be presented in such a form that a yes indicates an affirmative vote for the measure. Requires a recall ballot to contain 2 parts: (1) question on whether the officer shall be removed, and (2) selection of a successor from a list of nominees if the majority vote for the first question is for removal; provided that no vote for a candidate shall be counted unless the voter also voted "Yes" or "No" on the recall question. Prohibits the person against whom the recall petition is filed from appearing on the ballot as a candidate. Requires a majority vote for removal of an officer and the candidate with the highest number of votes for the office shall be declared elected for the remainder of the term.

Provides that once an officer is subjected to a recall vote no other recall petition may be filed against that officer for the remainder of the term of office.

Provides that the recall measure shall be effective, if approved, one day after the election results are announced, unless otherwise provided in the measure.

Requires the petitioner to bear the cost of the preparation and circulation of the petition, except for the attorney general's services. Requires the State to bear all costs after the petition is filed.

421 - Provides that all energy resources such as geothermal, water and oil shall be state property.

422 - Provides that "Ua mau ke ea o ka aina i ka pono" shall be the official state motto.

423 - Changes discretion of legislature in intergovernmental relations; requires it to provide for intergovernmental cooperation as to health and welfare and to do so by establishing and maintaining an up-to-date, interactive, electronic communication and information network. Requires funds to be appropriated for this purpose and eliminates discretion concerning funding.

424 - Requires selection of independent counsel for grand jury to act under supervision of circuit courts and to provide an investigative staff, training and legal counsel for grand jury. Provides for selection as provided for district court judges with compensation and tenure as provided by legislature. Requires counsel to have 5 years of legal practice in Hawaii and not to hold other public office, handle criminal matters or become a candidate for elective office.

425 - Provides that no person shall be eligible for the office of justice or judge unless he shall have practiced law before the supreme court of this State for at least 10 years instead of having been admitted to practice for at least 10 years.

Requires additional qualifications and criteria for the selection of judges and judicial offices to be prescribed by law.

426 - Provides that the initiative is the reserved power of the people to propose statutes and constitutional amendments and to adopt or reject them.

Allows the use of either the direct or indirect initiative. Defines direct initiative as a measure to be submitted directly to the voters and an indirect initiative as a measure to be submitted to the legislature. Requires sponsors to declare a measure either direct or indirect before soliciting signatures. Requires solicitors of signatures for an initiative measure to be registered voters in the State.

Requires the initiative petition to contain a ballot title, statement of purpose, full text of the proposal and a summary of no more than 150 words which shall be descriptive or expository but not argumentative or prejudicial. Limits an initiative measure to 1 subject. Requires the submittal of the petition to the chief election officer for initial certification before the solicitation of signatures no earlier than 1 day after the last general election for placement on the ballot for the next general election. Requires the chief election officer to certify, within 10 days, the ballot title, statement of purpose and summary either in the original form or clarified to more accurately represent and more nearly conform to the text of the proposal.

Requires direct initiative petitions to undergo public discussion during a comment period prior to final certification. Provides that after a direct initiative petition contains signatures of at least 1 percent of the registered voters of the last general election, the sponsors shall resubmit the petition to the chief election officer who shall issue, within 10 days, a public notice of a 30-day comment period during which time a public hearing shall be held. Provides that after the comment period, the sponsors of an initiative petition may amend the text of the petition provided that any amended petition shall undergo a new qualifying process.

Provides that for final certification and submission to voters, direct initiative petitions shall contain signatures of 8 percent of the registered voters in the last general election for a statute and 12 percent for a constitutional amendment. Requires that all direct initiative petitions be filed for final certification not later than 90 days prior to the forthcoming general election. Requires the chief election officer to submit the initiative measure to the voters at the first general election following final certification.

Requires indirect initiative petitions to contain signatures of 7 percent of the number of registered voters in the last general election for a statute and 11 percent for a constitutional amendment to qualify for final certification. Requires indirect initiative petitions to be filed for final certification not later than 30 days prior to the legislative session preceding the next general election. Provides that if an indirect initiative is not enacted by the legislature in the original form proposed, both the original and the amended versions shall be submitted to the voters at the next general election and the measure with the highest number of votes shall prevail.

Requires the legislature to provide methods of publicity for all initiative measures with arguments for and against the proposed statute or constitutional amendment, including a voter education publication. Requires the chief election officer to send such publication to each individual residence in the State and to make such additional distribution necessary to assure each voter an opportunity to study the initiative measure prior to the election.

Requires the initiative measure to be placed on the ballot in such form that an affirmative vote is a vote for change. Requires a majority vote approval on statutory and constitutional initiatives except that for a constitutional initiative the majority shall constitute

at least 35 percent of the total vote cast. Provides that approved measures become effective immediately except for measures requiring authorization of funds, or providing tax reductions or increases which shall take effect the following fiscal year.

Prohibits the governor from vetoing initiative statutes. Prohibits legislative repeal or amendment of an initiative statute within a 2-year period after its adoption, except by a 3/4 vote of the members to which each house of the legislature is entitled.

Requires the disclosure of funds contributed and expended to influence the outcome of an initiative measure.

Provides that while the legislative power of the State is vested in a legislature, the power of initiative is reserved to the electorate and both powers shall extend to all rightful subjects of legislation not inconsistent with the state or U.S. constitutions. Clarifies that only laws passed by the legislature need be by bill.

Provides that constitutional revisions or amendments may be proposed by the electorate as well as by constitutional convention or the legislature. Provides that when conflicting revisions or amendments are proposed by the same body or by the electorate and are submitted at the same election and all or any combination thereof are approved, the one receiving the highest number of votes shall prevail.

427 - Provides that a person may be held to answer on capital or otherwise infamous crime by information and preliminary hearing in addition to indictment by grand jury.

428 - Deletes reference to citizenship and 1 year residency requirement imposed upon appointed state executive and administrative officers.

429 - Requires auditor to conduct post-audits of programs and performances of all state and political subdivision departments, offices and agencies and to have the exclusive duty to certify accuracy of financial statements issued by state accounting officers of departments, offices and agencies,

430 - Requires all election ballots to offer, in addition to the names of candidates, the option to vote for "NONE OF THE ABOVE ARE ACCEPTABLE". Provides that while only votes cast for the named candidates shall be counted in determining nomination or election, the number of votes for "NONE OF THE ABOVE ARE ACCEPTABLE" shall be listed for each office following the names of the candidates and the number of their votes in every posting, abstract and proclamation of the results of the election.

431 - Provides for board of education budget to be submitted with governor's biennial or supplementary budget recommendations to legislature, which may approve or modify total expenditures, but shall not exercise budgetary initiative or amend specific items in budget.

Deletes provision that superintendent shall serve as secretary to board.

432 - Requires at least part of membership of board of education to reside in specific geographic subdivisions of the State. Deletes requirement that part of membership represent geographic subdivisions.

433 - Deletes provision against segregation in public education institutions and substitutes provision prohibiting discrimination in such institutions based on race, religion, and ancestry and extends prohibition to areas of national origin, sex, age or handicap.

434 - Provides that unless the legislature otherwise provides, there shall be the same number of delegates to the constitutional convention, who shall be elected from the same areas, and the convention shall be convened in the same manner and have the same powers and privileges as nearly as practicable, as provided for the convention of 1978 instead of 1968. Deletes provision that legislature may provide for election of delegates at a special election.

Provides that the political power of this State shall be inherent in the people and the responsibility for the exercise of political power shall rest with the people; that the government processes shall be open to public scrutiny and participation is the only viable and reasonable method of protecting the people's interest; and that therefore the convention shall establish an up-to-date, publicly accessible, interactive electronic communication and information network, compatible with other state and county networks, to facilitate complete decentralized access to all discussions, deliberations, decisions and actions.

435 - Provides that writ of habeas corpus shall not be suspended unless in cases of violent overthrow of government, instead of in cases of rebellion.

436 - Provides the right to work of all persons shall not be denied or abridged, whether they are members of unions or not.

437 - Limits the number of legislators elected from any district to 2 instead of 4 in the redistricting criteria set forth for the reapportionment commission.

438 - Proposes an amendment to the Constitution of the State of Hawaii by deleting masculine terms therein and rewriting such provisions with terms that have no gender. Deletes the words man, his, himself, him and he and deletes provision that whenever any personal pronoun appears in the constitution, it shall be construed to mean either sex.

439 - Continues provision that the constitutional convention shall determine its own organization and rules of procedure but provides for preconvention committees of finance, ethics, rules and budget to be established composed of duly elected delegates appointed by the president pro tem. Requires committees to submit reports to the convention.

440 - Deletes requirement that governor shall nominate and appoint, by and with the advice and consent of the senate, the justices of the supreme court and judges of the circuit courts.

Provides for a nonpartisan election of justices for the supreme court and judges for the circuit and district courts at the general election of the State, the term of office to commence the first day of January succeeding the election.

Requires the governor to appoint a person to fill a judicial office until the next general election at which the vacancy shall be filled. Provides that the justice or judge then elected shall hold office for the unexpired term.

Requires all justices and judges to serve full time and not engage in the practice of law while holding office. Provides that a justice or judge may become a candidate for an elective office by forfeiting office other than that of justice or judge.

Provides that the term of office of a district court judge shall be 6 years.

Provides that judges of the district court may be retired or removed in the same manner as supreme court justices or circuit court judges whenever a commission or agency, authorized by law for such purpose, certifies to the governor on a judge or justice's incapacity or removal.

441 - Excludes from the total indebtedness of the State and the funded debt of any political subdivision bonds that were refunded in advance of their maturity, for which monies have been irrevocably set aside to meet all payments.

442 - Changes all references of political subdivisions to counties in the local government article.

Grants counties powers and authorities which shall be liberally construed to give the counties the largest measure of self-government. Deletes provision authorizing the legislature to create counties and other political subdivisions with such powers as conferred under general laws.

Establishes the following counties in the State: (1) Hawaii county; (2) Maui county; (3) Kauai county; (4) Honolulu city and county; and (5) Kalawao county and describes their boundaries.

Confers upon all the counties, except the county of Kalawao, all the powers of government not denied by the constitution, general law or by charter. Provides that the county of Kalawao shall have only such powers as conferred under law.

Provides each county the power to amend or repeal a charter in addition to its powers to frame and adopt a charter for its own self-government. Requires all charters or charter amendments to be submitted to the voters of the county to become effective if approved by a majority of those voting on the specific question; provided that a county charter ratified by the voters of that county remains in force as though adopted after the effective date of these amendments. Deletes provisions limiting the political subdivision's power to adopt and frame a charter under such procedure as prescribed under general law and

prohibiting such prescribed procedures from requiring charter approval by a legislative body.

Provides that charter provisions are superior to statute with respect to the county's procedure and regulation of lands not under federal, state or Hawaiian homes commission jurisdiction in addition to executive, legislative and administrative structure and organization provisions. Provides that the statute shall be the superior authority with respect to judicial review of administrative proceedings. Deletes provisions subjecting charter provisions to the authority of the legislature to enact general laws allocating and reallocating powers and functions. Also deletes provision that qualifies a law as a general law even though inapplicable to 1 or more counties.

Provides counties with exclusive use of the net real property tax realizations and the power to determine real property tax rates and exemptions. Requires 3 percent of all general excise taxes to be equally distributed among the counties, excluding Kalawao, and an additional 12 percent to be distributed among the same counties in proportion to resident population as determined by law. Empowers the legislature to grant state revenues to the counties.

Provides that any state law increasing expenditures by or reducing the income of a county shall be subject to approval by the affected county by county ordinance. Further provides that for enactments not applicable uniformly to all counties, a county may, by ordinance, exempt itself from the whole or any part of any enactment by the legislature which in effect or by legislative classification applies to such county.

443 - Provides that civil service law relating to wages, hours and other terms and conditions of employment shall not apply to any public employee if similar provision is applicable under a collective bargaining agreement.

444 - Continues provision that the constitutional convention shall determine its own organization and rules of procedure but provides for pre-convention ad hoc organizational committees, composed of duly elected delegates, to be established. Requires these committees to consist of committees on facilities, rules, budget, and ethics, and requires committees to make a report to the convention delegates on opening day.

445 - Authorizes the commission on legislative salary to set legislative salaries whenever the governor appoints a commission. Provides that the commission's recommendations become law after being filed with the governor. Provides that no commission member shall be a candidate for any legislative office for the first 2 elections following the effective date of the salary plan. Requires commission to act by majority vote and to establish its own procedures.

Increases the salary of state legislators from \$12,000 to \$18,000. Deletes ability to prescribe legislative salary by law and deletes provision that changes in salary shall not apply to legislature which enacted it.

446 - Authorizes the commission on legislative salary to set legislative salaries whenever the governor appoints a commission. Provides that the commission's recommendations become law after being filed with the governor. Provides that no commission member shall be a candidate for any legislative office for the first 2 elections following the effective date of the salary plan. Requires commission to act by majority vote and to establish its own procedures.

Increases the salary of state legislators from \$12,000 to \$24,000. Deletes ability to prescribe legislative salary by law and deletes provision that changes in salary shall not apply to legislature which enacted it.

447 - Requires the rules of every state or county agency created after _____, 19____, authorized by law to issue rules be approved by a majority vote of each house of the legislature.

448 - Amends public employees' organizing and bargaining law to exclude faculty and academic staff in higher education.

Requires legislature to provide by a separate and specific law allowing right to organize for collective bargaining for public higher education faculty and staff that recognizes and protects the traditions and practices of shared governance in higher education.

449 - Prohibits the right to strike to public employees, but grants them the right to organize and to present and declare their grievances and proposals to State or any political subdivision. Provides negotiations shall be engaged in as established by law.

450 - Provides for budget to be submitted by governor annually instead of every 2 years. Deletes requirement that governor submit other appropriation, revenue or borrowing bills on opening day of session.

451 - Requires public education system to provide maximum accessibility to all citizens through a mechanism for coordination, uniformity and continuity among the programs and levels of all public education systems to guarantee citizens the freedom to move among and between all levels and programs of lower and higher public education. Amends provisions on public education to require State to afford all citizens the opportunity for lifelong learning.

452 - Adds to eligibility requirements for the office of justice or judge the requirement that they be citizens of the United States, the age of 30 years and residents of this State for 10 years immediately preceding selection. Deletes forfeiture of office requirement for a judge or justice upon becoming a candidate for elective office.

453 - Requires the State to provide for the economic security of the elderly to assure retirement in health, honor and dignity.

454 - Provides that citizens shall have rights which include but are not limited to adequate income in retirement in accordance with the American standard of living; the best possible physical and mental health which science can make available, without regard to economic status; suitable housing, independently selected, designed, and located with reference to special needs and available at costs which citizens can afford; full restorative services for those who require institutional care; opportunity for employment with no discriminatory personnel practices because of age; retirement in health, honor and dignity; pursuit of meaningful activity within the widest range of civic, cultural, and recreational opportunities; efficient community services providing social assistance in a coordinated manner, readily available when needed; immediate benefit from proven research knowledge which can sustain and improve health and happiness; freedom, independence, and the free exercise of individual initiative in planning and managing their own lives.

455 - Provides that in 1979 instead of 1973 and every eighth year thereafter, the legislative districts for both houses shall be reapportioned according to 25 single-member senatorial districts and 51 single-member representative districts. Deletes provision for minimum representation for basic island units.

456 - Amends the Preamble to add that the people are mindful of Hawaii's situation as an island state, cognizant of the necessity to be masters of their own destiny and dedicated to the principle of the state motto, "Ua mau ke ea o ka aina i ka pono," and to the preservation of Hawaii's unique culture.

457 - Deletes all references to political subdivisions and counties in the constitution including the article on local government.

458 - Provides that evidence obtained in violation of provision relating to searches, seizures and invasions of privacy is inadmissible in court against any person.

459 - Provides that legislative conference committees shall not consider items not in conflict nor recommend new items for final consideration.

460 - Provides that right of people to privacy is recognized and shall not be infringed. Requires legislature to implement section. Deletes existing provision relating to invasions of privacy.

461 - Prohibits enactment of any law infringing upon right of person over age of majority to engage in any activity which does not injure another person or any property. Makes such laws void after ratification of section.

462 - Provides for the consolidation of those provisions relating to fishing by deleting Article XVI, section 13, relating to the condemnation of fisheries and placing it under Article X, section 3, relating to sea fisheries.

463 - Prohibits discrimination against any person in exercise of civil rights because of age or confinement in a long-term medical care facility.

464 - Provides that it shall be the policy of the State to establish child care centers for all persons to enable parents to work if they wish, promote maximum creative development of children, and reduce demands on the welfare system of the State. Requires the legislature to implement this policy with funding and staffing.

465 - Provides other resources, as well as fisheries, in the sea waters of the State not included in any fish pond or artificial enclosure shall be free to the public, subject to the vested rights of the State to regulate the same.

466 - Mandates the State to assist the elderly to achieve: an adequate retirement income in accordance with the American standard of living; adequate medical and health care without regard to economic status; suitable housing designed for special needs and available at affordable costs; full restorative services for those requiring institutional care and opportunities to pursue civic, cultural and recreational offerings, including access to low-cost transportation.

467 - Establishes a merit nomination commission of 9 members, with the president of senate, speaker of house, and minority parties of each house each appointing 2 members and these 8 members appointing the 9th member. Provides that members shall not hold other public office and requires vacancies to be filled as in making appointments. Provides for staggered 4-year terms. Requires members to be compensated as provided by law. Requires commission to nominate 3 to 5 persons to fill vacancy on any state board or commission, other than those heading departments, making substantive decisions on land, natural resources, agriculture, water and energy. Requires governor or other person making appointments to make them from commission lists subject to advice and consent of the senate where required by law.

468 - Requires all commissions, offices, boards, programs and similar bodies with regulatory and other duties in the executive branch of state government, other than heads of or those placed within principal departments, to be placed within the office of lieutenant governor. Requires all such bodies in office of governor on date of ratification to be transferred to the office of lieutenant governor. Provides that temporary commissions or agencies for special purposes shall be placed in the office of the lieutenant governor unless allocated within a principal department and deletes the discretion of not placing such temporary commissions and agencies in a principal department.

469 - Requires appropriation bills to provide for ensuing fiscal year instead of biennium and that in no year shall the rate of growth of appropriations from general fund revenues exceed the estimated growth rate of the economy as determined by law. Prohibits appropriations in excess of limitation unless the legislature sets forth the dollar amount and rate of excess. Makes any law requiring state expenditures void unless in that session an appropriation for the first year's funding was made. Requires 5 percent cash funding as down payment to full financing for all capital improvement projects. Deletes provision relating to supplemental appropriations bill.

470 - Changes debt limit of State to issue bonds from 3-1/2 to 1-1/2 times the average of general fund revenues of 3 preceding fiscal years. Changes funded debt limitation of State's political subdivisions from 15 to 10 percent of total assessed real property (tax) values.

Requires existing authorized but unissued bonds to be reduced by canceling portions of authorized prior legislative appropriations unexpended or unencumbered as of 3 years from ratification date and reduction of corresponding bond authorizations. Provides that future bond authorizations shall be effective for 2 years after which any portion of the authorized but unexpended or unencumbered bonds lapse as provided by law but that lapsing date shall not apply to projects necessary to qualify for federal aid financing.

471 - Provides that if any 10-year period elapses or if it would elapse if 10 days were added to such period less than 10 years, during which the question, "Shall there be a convention to propose a revision of or amendments to the Constitution?" shall not have been submitted, the lieutenant governor shall certify the question, to be voted on at the first general election following the expiration of or within 10 days of the expiration of such period.

472 - Provides for apportionment of 5 rather than 4 basic island units by creating an

island unit composed of the islands of Molokai, Lanai and Kahoolawe in addition to existing basic island units. Deletes provision for minimum representation for basic island units.

473 - Provides that appointments to boards or commissions expire at the end of the term for which the appointing authority was elected, unless sooner removed by the same authority, and deletes provision that the term of office and removal of members shall be as prescribed by law.

474 - Prohibits any taxing unit (State or county) from levying a tax to raise revenues larger than its tax base, defined as either (1) the amount obtained by adding 6 percent to the total tax amount levied in any 1 of the last 3 years in which such a tax was levied, exclusive of any tax to pay bond debt or interest and of any tax specifically voted outside the limitation by a majority of the legal voters in the taxing unit voting on the question, or (2) an amount approved as a new tax base by a majority of the legal voters in that tax unit voting on the question, specifying the amount of the existing and proposed tax bases and making any new tax base apply to next fiscal year. Makes any tax levied in excess of limitation void.

Allows legislature to provide for time and manner of calling and holding elections, but requires question of new tax base for taxing unit other than State to be submitted at regular statewide general or primary election.

475 - Provides that laws of statewide concern shall not result in the creation of redundant governmental functions and programs. Requires such laws to clearly designate and assign responsibility for governmental functions and programs either exclusively to the State or exclusively to the counties. Provides that no transfers of functions or responsibilities shall be effected without just compensation.

476 - Eliminates appointment of superintendent of education by board of education. Provides for nomination and appointment by the governor with senate approval.

477 - Provides for a 9-member board of education, 1 of whom is appointed by the governor, 8 who are the representatives of the 8 respective school board districts, which are to be the same as senatorial districts. Provides for a district school board for each district composed of 3 members elected at-large by the qualified voters of the district. Provides for each district board to elect 1 of its members to represent the district on the board of education. Other duties and responsibilities of district boards to be provided by law.

478 - Deletes Article XI, Hawaiian Home Lands, and substitutes new article which requires the State to preserve, promote and restore the historical, cultural, social and human rights and privileges of the Hawaiian people. Requires the Hawaiian homes commission to be elected by eligible participants of the program.

479 - Provides for publicly funded campaigns for all public offices of the State and its political subdivisions. Allows a taxpayer to designate \$1 of the taxes paid to the State for the financing of campaigns.

480 - Allows taxpayer with dependents in private or sectarian educational institutions to deduct tuition paid by the taxpayer in that tax year from adjusted gross income. Allows deduction of up to \$300 for elementary school, \$400 for secondary school, and \$500 for college, but the tuition deductions shall not exceed the per capita direct school expenditures for students in public elementary and high schools and colleges in Hawaii as determined by department of education and University of Hawaii for school year prior to tax year. Limits married couples filing joint returns to one deduction for each student.

481 - Requires the constitutional convention to convene not less than 5 months prior to the next regularly scheduled general election.

482 - Amends the section relating to public sightliness and good order to provide that the State has the duty as well as the power to provide for public sightliness and physical good order. Deletes reference to the State's power to "conserve and develop its natural beauty, objects and places of historic or cultural interest".

Deletes Article X, section 1, relating to resources; conservation, development and use.

Adds a new provision to provide that the State has the duty and power to conserve and protect the natural resources of the State from damage, destruction, unreasonable

development and depletion. Requires the State to develop and utilize its natural resources in the public interest.

Adds a new provision to provide that the State has the duty and power to protect and maintain objects and places of historic or cultural importance.

483 - Deletes Article XVI, section 13, relating to the condemnation of fisheries.

Changes the title of Article X, section 3, from sea fisheries to marine resources. Provides marine resources including those located in the channels between the islands shall be under the control of the State.

Requires the State to condemn for public use vested rights to all fisheries in the sea waters of the State not included in any fish pond or artificial enclosure.

484 - Provides that the acquisition, establishment, operation or administration of a public transportation system within each political subdivision of the State is an essential governmental function and public purpose and the political subdivisions may acquire, condemn, lease, construct, own, maintain, operate and expend public funds for such systems.

485 - Authorizes political subdivisions to dispose of air rights and subsurface rights above and below public lands or improvements thereon, for private and public use by lease, mortgage, sale or otherwise. Defines air rights as the estates, rights and interests in the space above and subsurface rights as the estates, rights and interests in the space below the surface of lands both of which include improvements thereon owned by the political subdivisions including access, support and other appurtenant rights required for the utilization thereof.

486 - Establishes, within 30 days after the adjournment of the regular session of the legislature convened in 19 and each year thereafter, a 37-member constitution revision commission composed of the attorney general, 15 members selected by the governor, 9 members selected by the speaker of the house of representatives, 9 members selected by the senate president, and 3 members selected by the chief justice of the supreme court with the advice of the justices. Requires the governor to designate 1 member of the commission as its chairperson and requires commission vacancies to be filled in the same manner as the original appointment.

Requires each constitution revision commission to convene at the call of its chairperson, adopt its rules of procedure, examine the state constitution, hold public hearings, and, not later than days prior to the next general election, file with the chief election officer its proposals, if any, of a revision of the constitution or any part. Requires proposed amendments to be submitted at the next general election to the electorate for approval or rejection upon a separate ballot. Provides that the conditions of and requirements for ratification of such proposed amendments shall be the same as provided in the constitution for amendments proposed by a constitutional convention.

Allows constitutional revisions and amendments to be proposed by a constitution revision commission as well as by constitutional convention or the legislature. Provides that when a revision or amendment proposed by a constitutional convention or constitution revision commission is in conflict with a revision or amendment proposed by the legislature and both are submitted to the electorate at the same election and both are approved, the revision or amendment proposed by the constitutional convention or the constitution revision commission prevails.

487 - Provides that the election of delegates to the constitutional convention be held on the third Saturday of March of even-numbered years instead of at the next regular election unless the legislature provides for a special election.

Requires the lieutenant governor to serve as administrator of the convention and moderator of full sessions, without vote and prior to the convention, to prepare the necessary arrangements for facilities and equipment for the delegates, a temporary budget and a model convention handbook for the delegates. Provides that on the 1st Monday of May in even-numbered years, the lieutenant governor shall call the convention into session and delegate pay shall begin on that date.

488 - Requires establishment of a 13-member board of education with election at-large by registered voters of the city and county of Honolulu of 10 members, 4 of whom to be each a resident of the 4 respective school districts within the city and county of Honolulu,

and with election at-large by the registered voters of the counties of Hawaii, Maui and Kauai of 3 members, each of whom to be a resident of the 3 respective school districts within the counties of Hawaii, Maui and Kauai.

Provides designation of the school districts as follows: Hawaii school district, Maui school district, Honolulu school district, Central Oahu school district, Leeward Oahu school district, Windward Oahu school district and Kauai school district, the boundaries of which are enumerated by representative districts.

Deletes provision that members be elected in accordance with law and represent, at least in part, geographic subdivisions of the State.

489 - Requires lands, including inland and nearshore waters, considered by the people to have important social, cultural, historical, environmental, recreation or aesthetic value requiring protection under the constitution and laws of the State for the benefit of each citizen to be designated as Aina Malama. Requires lands designated as Aina Malama to be classified as conservation, agricultural or park and recreation lands and activities on such lands to be restricted to protect, preserve and maintain the lands in accordance with the will of the people.

Provides lands identified as conservation, prime, unique or other important agricultural lands and park or recreation areas on or after adoption of the amendment shall be eligible for nomination for protection as Aina Malama.

Allows designations to be made from nominations submitted by the legislature, any county for those areas within their respective jurisdictions or the people. Requires the legislature to provide by law that petitions by the people contain signatures of no more than 10 percent of the registered voters on the island where the proposed land is located and no more than 10 percent of the registered voters statewide.

Requires the nominating body to include a description of the proposed area and category of use; and it may also include a statement of guiding principles or conditions governing the use of the area. Requires nominated lands to be presented to the people at the next general or special election. Provides that lands approved by a majority of the voters statewide as well as a majority of the voters on the island where the land is located shall be designated as Aina Malama, provided that individual parcels in which the approved category of use significantly differs from that prior to voter approval shall become effective only if not disaffirmed by the legislature at the session immediately following the designation.

Prohibits changes in approved uses or removal of lands from Aina Malama, except in the same manner as required for designation. Permits changes in approved uses designed to protect the public health and safety from immediate and pressing danger or to maintain essential public services.

Permits existing structures and activities not in consonance with the categories of use and guiding principles or conditions only when their continued existence does not substantially conflict with the protections of this amendment. Requires such nonconforming uses to be terminated at the earliest feasible opportunity. Permits recreational activities consistent with the categories, conditions and guiding principles of use.

Requires conservation lands to be protected and maintained in order to preserve and enhance the natural environment or resources of an area.

Requires agricultural lands to be protected and maintained for agricultural uses; necessary accessory uses and services are permissible. Permits conservation activities where consistent with the guiding principles or conditions stated in the nomination.

Requires park and recreation lands to be protected and maintained for passive and active recreational activities consistent with the environment and having a minimum adverse impact on surrounding areas. Permits agricultural and conservation activities where consistent with the guiding principles or conditions of use stated in the nomination.

Entrusts the guardianship of Aina Malama to the Aina Malama Commission. Requires commission to be elected by the people to terms of 4 years. Requires the legislature to provide for the election of the commission and appropriate funds necessary to facilitate the operations of the commission and reimburse the commissioners for their expenses.

Requires the commission to establish rules and regulations governing the nomination

and administration of Aina Malama lands and to specify conditions necessary to effectuate the restrictions imposed by the applicable category, guiding principle or conditions of use.

Provides the people have the right to a trial de novo on decisions of the commission before the circuit courts of the State.

490 - Allows the State to acquire private lands of not less than 5 acres in advance of immediate and specific development for public land banking purposes where such lands are identified as important to state or county development plans.

491 - Guarantees the right to refuse medical treatment and to die.

492 - Provides that justices and judges shall be subject to a code of ethics as with other appointed officers of the State.

493 - Requires establishment of the office of the King or Queen of Hawaii, occupancy of which is open to any person descending from the races inhabiting the Hawaiian Islands previous to 1778, the term of which begins at noon on the first Monday next following the election of the office and ends at noon 20 years later. Provides that every descendant having attained the age of is qualified to vote in any election of the office.

Requires the King or Queen to perform state ceremonial functions, to open and close legislative sessions, to act as Hawaii's goodwill ambassador to the world, to serve as symbol of Hawaiian heritage and aloha and to perform other functions as provided by law.

Requires the legislature to appropriate a year to the King or Queen for purposes related to the function of the office.

494 - Mandates the legislature to submit to the electorate at every general election the question, "Shall the State of Hawaii seek commonwealth status?"

495 - Provides for a 3-year residency requirement for officers appointed to executive and administrative offices and departments and deletes the residency exception for the president of University of Hawaii thereof.

496 - Establishes an intermediate appellate court and district courts. Provides for the governor to nominate and appoint judges of the intermediate appellate court and for the chief justice of the supreme court to appoint judges of the district courts.

Provides for a life term for a justice of the supreme court and judges of the intermediate appellate court. Provides for a salary for justices of the supreme court to be the same as that received by the judges of the United States Court of Appeals for the Ninth Circuit and for judges of the intermediate appellate court to be the same as that received by judges of the United States District Court for the District of Hawaii. Provides that the salary of all full-time judges shall not be decreased while in office. Deletes salaries of \$28,000 for the chief justice, \$27,000 for associate justices and \$25,000 for circuit court judges.

497 - Establishes an energy resource agency in the office of the governor with a director appointed by the governor, subject to advice and consent of the senate. Requires director to employ necessary staff. Requires agency to make State less dependent upon outside energy sources, develop other sources of energy, insure priority use of state energy resources for public use, establish conditions and procedures for export, lease and sale of resources and perform other duties established by law. Requires legislature to implement amendment.

498 - Replaces grand jury requirement for holding person to answer for capital or otherwise infamous crime with requirement of finding probable cause at preliminary hearing.

Requires impaneling of a grand jury by each circuit court each January, or more often as provided by law to continue until impaneling of another grand jury. Gives grand jury discretion to investigate possible criminal conduct by public officials and employees and as otherwise provided by law. Requires public presentment or indictment upon finding probable cause of commission of a crime by public official or employee. Allows grand jury to retain counsel and other staff and to issue subpoenas.

499 - Requires the legislature to apply, in accordance with the United States Constitution, for an unlimited national constitutional convention for the purpose of proposing amendments to the United States Constitution.

500 - Includes justices and judges in the code of ethics. Provides that financial conflict of interest provisions in the code of ethics shall apply to all state legislators without exception.

501 - Reserves the power of referendum to the people of a political subdivision for approval or disapproval of all decisions on land use, including zoning, Aina Malama, land banking and on other local issues.

Requires the procedures for the referendum to be prescribed by law, except that when neighborhood boards exist in a political subdivision, percent of the voters in the affected neighborhood board district shall be included on the petition and approval of a referendum measure shall also require a majority of the votes cast in the affected neighborhood board district.

502 - Deletes requirement that governor shall nominate and appoint the justices of the supreme court and the judges of the circuit courts and that no nomination shall be sent to the senate and no interim appointment shall be made when the senate is not in session, until after 10 days notice by the governor.

Provides that the justices of the supreme court and the judges of the circuit and district courts shall be elected by the qualified voters of this State at a general election. Provides that the justices of the supreme court shall be elected by qualified voters of the entire State, judges of the circuit court by the qualified voters of the respective senatorial districts and judges of the district court by the qualified voters of the respective representative districts. Requires all candidates seeking such positions to run as nonpartisan candidates. Provides that the term of office of justices and judges shall be 8 years beginning with the first Monday after their election and ending on the day of the fourth general election after their election. Provides that the justices and judges shall not be allowed to seek re-election to their previous office following the expiration of their term.

Deletes 10-year term of office of a justice of the supreme court and of a judge of a circuit court.

Provides that a vacancy in the office of a justice or judge caused by death, resignation, removal or disqualification to hold office shall be filled as follows:

1. If the unexpired term is for less than 1 year, the governor shall fill the vacancy by appointment.
2. If the unexpired term is for 1 year or more, it shall be filled by a special election called by the lieutenant governor within 10 days and held within 90 days after the vacancy occurs at which the qualified voters of the State shall elect a qualified successor for the remainder of the term. Provides that if any other special or general election is to be held in the State after 30 days and within 180 days after the vacancy occurs, then the election shall be held in conjunction with that election.

503 - Provides that no restrictions as to time and place shall be placed on the exercise of legislative functions. Provides that legislative functions shall include, but shall not be limited to, a member keeping the public informed on such subjects as alleged criminal activity and other areas of wrongdoing.

504 - Provides that that portion of public rights-of-way and utility easements in use are totally exempt from real property tax.

505 - Provides that assessed values of real property shall be updated once every 10 years and published in a newspaper of general circulation indicating the tax map key, assessed land value, assessed building value and exemptions. Provides that each tax map key shall be assessed not less than one dollar for such update and publication.

506 - Grants the people the right to possess and cultivate marijuana for personal use in privacy of the home.

507 - Provides for a 7-member board of education composed of the chairpersons of the district school advisory councils. Provides members of the 7 district school advisory councils to be elected by qualified voters in accordance with law. Deletes election of

members of the board by voters, part of the membership of which is to represent state geographical subdivisions.

508 - Requires the legislature to adopt a public employee performance plan to improve government productivity and responsiveness. Requires plan to include incentives for superior performance and methods of productivity assessment.

509 - Requires the board of education to submit a budget for public schools and libraries with the governor's budget. Allows legislature to approve or modify the proposed total expenditure but not to exercise budgetary initiative or amend specific items. Relieves superintendent of education from role of secretary to the board.

510 - Provides for a state fiscal officer who shall have the same qualifications, and be elected for same term, in same manner and at same time, as governor. Makes state fiscal officer responsible for the enforcement of state tax revenue laws, the collection, deposit, custody and investment of state funds, development and implementation of state fiscal policy, management of the state government's budget and finances and such other duties as provided by law.

511 - Defines the term "salary plan" for purposes of provisions on salary; allowances; commission on legislative salary to include salary in addition to other benefits, direct or indirect, made to legislators whether by way of compensation, allowance, reimbursement, health benefits or retirement system benefits.

512 - Mandates the legislature to enact appropriate measures to assure job security in private and public employment.

513 - Requires sessions of the legislature, including committee of the whole and legislative committees, governmental bodies, boards, bureaus, commissions and agencies, and organizations supported by public funds to hold meetings open to the public, except as provided by the law relating to when meetings may be closed to the public on the date the amendment is ratified.

514 - Gives power to tax real property exclusively to the counties and gives any county, except county of Kalawao, power to levy general excise tax not exceeding 25 percent of state general excise tax.

Provides that legislature shall have power to apportion state revenues among the counties, instead of among the political subdivisions and deletes power of legislature to delegate taxing power to political subdivisions. Substitutes counties for political subdivisions in provision relating to mandating the payment of previously accrued claims.

515 - Guarantees the right of people over 60 years of age to protection in the enjoyment of their home and requires the legislature to provide appropriate legislation.

516 - Requires the State and its political subdivisions to establish and maintain within 2 years of ratification of this amendment, a compatible, state-of-the-art, biennially updated, publicly accessible, interactive electronic communication and information network in as many public locations as possible to open up governmental processes to public scrutiny and participation and, thus, to facilitate access to all discussions, deliberations, decisions, actions, regulations, and services of the government and its agencies, except in areas where compelling interest of the State or its political subdivisions proves to be contrary as provided by law.

517 - Provides that the State and its political subdivisions shall do everything within their power to enhance, expand and extend the means for public access to information and participation in the government processes which shall include discussions, deliberations, decisions, actions, regulations, policy formulation and services of the government and its agencies; except where compelling state interest as defined by law would prohibit such public access and participation.

518 - Requires the legislature to promote the conservation of agricultural and natural resources and allow their development and use consistent with the promotion of conservation. Deletes the provisions regarding the promotion of the development and utilization of agricultural and other natural resources.

519 - Lowers the minimum voting age from 18 years to 16 years.

520 - Preserves right to jury trial for civil case where value exceeds \$1,000, instead of \$100.

Provides that no person shall be acquitted of crime or released from a sentence based solely on a technicality which does not bear directly on guilt or innocence.

521 - Amends the Preamble by deleting, "mindful of our Hawaiian heritage, reaffirm our belief in a government of the people, by the people and for the people, and with an understanding heart towards all the peoples of the earth" and inserts, "blessing our State with a unique natural beauty and cultural heritage, reaffirm our pledge to protect the individual rights to life, liberty and property; promote the health, safety, education and welfare of the people; maintain a representative and orderly government; encourage family unity; secure and transmit to succeeding generations our profound respect for our land and Hawaiian legacy."

522 - Provides that the governor shall submit to the legislature, on an annual basis, instead of biennial basis, a budget for the ensuing fiscal year. Requires the legislature in each regular annual session to transmit to the governor an appropriation bill or bills providing for the anticipated total expenditures of the State for the ensuing fiscal year. Provides that no appropriation bill, except bills recommended by the governor for immediate passage or legislative expense bills, shall pass on final reading until the bill authorizing operating expenditures for the ensuing fiscal year, to be known as the general appropriations bill, shall have been transmitted to the governor. Deletes reference to the passage of the budget in odd-numbered years and to supplemental appropriations in even-numbered years.

523 - Explains that the people seek to promote the highest standard of ethical conduct by government officials. Includes justices and judges in the code of ethics. Requires that each code be administered by an ethics commission composed of members selected from a list of recommendations made by the judicial council and submitted to the respective appointing body. Requires each code to include provisions on the acceptance of gifts, use of confidential information, use of position, contracts with government agencies, post-employment and financial disclosure. Requires elected and appointed officials, candidates for office and justices and judges to make public financial disclosure. Requires other officials with significant discretionary or fiscal powers, as provided by law, to make confidential financial disclosure in at least the following areas: sources and amounts of income, ownership and officership interests in businesses, ownership of real property, debts, creditor interests in insolvent businesses and the names of persons represented before government agencies.

524 - Empowers the State to regulate and control all waters of the State. Provides reasonable beneficial use to be the basis, measure and limit of the right to the use of the water subject to reasonable limitations prescribed by the legislature.

525 - Provides that any owner or owners of a parcel of land who conveys an undivided interest of 5 percent of land to the State shall be compensated for such conveyance at no more than fair market value and shall receive a 10 percent reduction in real property taxes based on assessment not including State's interest. Provides that ownership shall be as tenants in common. Requires legislature to implement section.

526 - Provides State declares in keeping with the traditional State and American concept of the inherent dignity of the individual, the kupuna of our islands are entitled to a position of respect and equality.

Makes it the duty of the State and counties to provide equal opportunities for the elderly to: an adequate income in retirement in accordance with the American standard of living; the best possible physical and mental health which science can make available and without regard to economic status; suitable housing, independently selected, designed and located with reference to special needs and available at costs which older citizens can afford; full restorative services for those who require institutional care; opportunity for employment with no discriminatory personnel practices because of age; retirement in health, honor and dignity after years of contribution to the economy; pursuit of meaningful activity within the widest range of civic, cultural and recreational opportunities; efficient community services, including access to low-cost transportation, which provide social assistance in a coordinated manner and which are readily available when needed; immediate benefit from proven research knowledge which can sustain and improve health and happiness; freedom, independence and the free exercise of individual initiative in planning and managing their own lives.

527 - Limits election of board of education members to no more than 2 terms. Provides for vacancies to be filled in accordance with law, except that persons filling vacancies for more than 2 years and 1 day shall be eligible for only 1 additional consecutive term. Deletes provision that at least part of the membership shall represent geographic subdivisions of the State and provides instead for each county to have at least 1 member on the board.

528 - Establishes state-supported public colleges, community colleges and technical schools. Requires the legislature to provide for board of regents for other institutions deemed necessary.

529 - Provides that no grant of public money or property shall be made except under standards prescribed by law.

530 - Adds provision that unless otherwise provided in this constitution the public credit shall not be used except for a public purpose. Provides that the use of public funds and credit for matching federal programs for resident students in sectarian or private accredited nonprofit post-secondary educational institutions shall not be deemed to violate the establishment of religion clause of the constitution.

Allows public funds to be used for matching federal programs to provide scholarships, loans and grants to resident students in sectarian or private accredited nonprofit post-secondary educational institutions in Hawaii.

Provides that the qualifications of these institutions shall be determined as provided by law.

531 - Provides that the State of Hawaii shall consist of all the islands located in the Pacific Ocean about 2,100 miles southwest from San Francisco which are between 18 degrees and 23 degrees north latitude and 154 degrees and 161 degrees west longitude, together with their appurtenant reefs and territorial and intermediary waters as set forth in the provision.

Provides that the State consists of the islands of Hawaii, Maui, Oahu, Kauai, Molokai, Lanai, Niihau, Kahoolawe, Molokini, Lehua, Nihoa, Laysan, Gardeners Island, Liscansky Island, Ocean Island, Necker Island, Palmyra Island, Kaula and the French Frigate Shoal, the areas of which and distances from Honolulu are described.

Provides that the State of Hawaii shall claim and assert jurisdiction to all lands and waters within the defined boundaries listed herein.

Deletes description that the State of Hawaii shall consist of all the islands together with their appurtenant reefs and territorial waters, included in the Territory of Hawaii on the date of enactment of the Admission Act; except the atoll known as Palmyra Island, together with its appurtenant reefs and territorial waters.

532 - Staggers terms of senators as of 1978. Requires senators elected in 1978 to draw lots to determine whether they serve 6 or 4 years. After staggered terms established, all run for 4-year terms. Provides that in districts with: 1 senator - the senator serves a 4-year term; 2 senators - 1 senator serves 6 years and 1, 4 years; 3 senators - 2 senators serve 6 years and 1, 4 years; 4 senators - 2 senators serve 6 years and 2, 4 years.

Requires the reapportionment commission to designate which district is to be represented by senators whose terms extend past reapportionment. Provides in making such designation the senator need not live in the district the senator is designated to represent. Requires commission in making designation to consider (1) the senatorial district the senator was elected from, (2) the senatorial district in which the senator will reside under the reapportionment plan, and (3) the requirement of continuing staggered terms and the number of senators in a senatorial district under the commission's reapportionment plan. Requires the commission to give no consideration to holdover senators in redistricting. Deletes minimum representation for basic island units.

533 - Provides for elimination of office of lieutenant governor and for president of senate to be first successor to the office of governor for a period of not more than 60 days until special election can be held.

534 - Provides the policy of the State shall be to preserve, protect and improve Hawaii's natural resources. Requires shoreline open spaces, scenic resources and land resources to be used wisely in order to insure future availability.

535 - Deletes role of superintendent as secretary to the board. Requires board of education to submit the budget for the support of public schools and libraries to legislature with governor's biennial or supplementary budget recommendations. Provides the legislature with power to approve or modify the total expenditures in such budget, but prohibits it from exercising budgetary initiative or amending specific items in budget.

536 - Provides the people have the right to a healthful environment, clean air, pure water and the preservation of the natural scenic, historic and aesthetic values of the environment. Provides Hawaii's public natural resources are the common property of all the people, including future generations. Requires the State to conserve and maintain these resources for the benefit of all the people.

537 - Requires the powers and authorities granted to political subdivisions under the local government article to be liberally construed in order to give them the greatest measure of self-government.

538 - Deletes provision for a board of education with power to formulate policy and to exercise control over the public school system through the superintendent of education whom it appoints and who serves as secretary to the board.

Requires superintendent to be appointed by the governor with senate approval, to have power in accordance with law to exercise control over the public school system with the advice of an advisory board of education.

Requires establishment of an advisory board of education whose members are the chairpersons of the school advisory councils, representing geographic subdivisions of the State known as school districts, established by law, to advise the superintendent on policy and administration concerning the public school system.

Deletes provision that the board of education members be elected by qualified voters and represent at least in part the geographic subdivisions of the State.

Requires establishment of a school advisory council in each school district with members elected in accordance with law.

539 - Provides that there shall be a state ethics commission under the supervision of the chief justice of the supreme court for investigative and administrative purposes.

Provides that the members of the state ethics commission shall be nominated by the judicial council and appointed by the governor.

Provides that the duties of the state ethics commission shall include: implementing the provisions of the state code of ethics; investigating possible violations by any state official, elected or appointed; recommending disciplinary actions for such violations to the appropriate governmental subdivisions; registering and regulating lobbyists and performing other duties as provided by law.

540 - Requires the State to protect, manage and regulate the natural resources of the State for public benefit. Requires the legislature to regulate, in a manner similar to public utilities, natural resources, which are scarce, essential to the public well-being or otherwise vitally affected with the public interest. Requires the legislature to vest in 1 or more executive boards or commissions powers for the protection and regulation as well as the management of natural resources regulated as well as owned or controlled by the State. Allows the legislature to provide for the regulation of natural resources owned by or under the control of a political subdivision in a manner similar to public utilities, when required by the public interest.

541 - Provides for regional boards of education composed of members elected in accordance with law. Provides each school district shall have at least 1 regional board of education. Gives each regional board of education the power, in accordance with law, to formulate policy affecting public schools in its region, including matters affecting personnel and curriculum, provided that the state board of education shall formulate comprehensive statewide policy.

Establishes a state board of education composed of all of the members of the regional boards of education. Deletes the election provisions concerning the board of education and the representation in part of the state geographical subdivisions. Provides each regional board of education is to formulate policy affecting its region which is not otherwise in conflict with statewide policy. Provides that the state board of education appoints the superintendent of education who serves as the secretary of the state board.

542 - Deletes requirement that salary and allowances of members of the legislature shall be prescribed by law and provisions on commission on legislative salary.

Provides that the salary of each member of the legislature shall be \$12,000 per annum, with a 4 percent annual increase, that shall take effect after the general election of 1980.

Provides that the legislature shall receive the same pension and retirement benefits as all other state employees.

543 - Requires the auditor to perform post-audits of programs and operations to determine whether such programs and operations have used resources efficiently and achieved their intended objectives.

544 - Provides that any person, including corporations, who appropriates, excavates, injures or destroys without permission, any object of historic value on either state land or privately owned historic properties nominated or listed on the Hawaii or national register of historic places may be imprisoned for 90 days, fined, or both, as provided by law, if permission is not received from the chairperson of the board of land and natural resources and, if privately owned historic property is involved, the private owner.

545 - Creates a judicial commission of 7 members. Requires the governor, the chief justice, the president of the senate, and the speaker of the house of representatives to each appoint 1 person to serve on the judicial commission. Requires the president of the Hawaii bar association to appoint 2 persons to serve on the judicial commission. Provides that the chief counsel of the office of the disciplinary counsel shall serve as chairperson of the judicial commission.

Provides that judicial commission members serve without regard to political affiliation. Requires appointments to be made within days after commencement of regular sessions of the legislature and failing the making of appointment or election, selection to be made by the supreme court within days after such failure.

Requires each member of the judicial commission to be a resident of the State and a citizen of the United States. Prohibits any commission member appointed by the chief justice or bar association from holding any other public office or office in a political party or organization. Disqualifies commission members from appointment to a judicial office of the State while serving as a member of the commission and for a period of 3 years thereafter. Requires commission members to exercise their duties without regard to partisan politics. Provides that each member of the judicial commission shall serve 2-year terms of office.

Provides that vacancies arising from death, resignation, disqualification or incapacity in the judicial commission shall be filled by the appropriate appointing or electing authority.

Requires the judicial commission to recommend a list of the highest qualified persons to be appointed to the vacant position in the supreme, circuit or district courts and binds the governor to such recommendations.

Provides for the nomination of district court judges in addition to supreme court justices and circuit court judges by the governor, subject to the provisions of this amendment, and by and with the advice and consent of the senate. Deletes provision enumerating minimum annual salaries of \$28,000 for chief justice, \$27,000 for associate justices and \$25,000 for circuit court judges. Allows legislators to serve as judicial commission members.

546 - Provides that insanity shall not be a defense of the accused and that in event of a conviction, insanity shall be considered as a mitigating factor before sentence is imposed.

547 - Provides that where the value in controversy exceeds \$5,000, instead of present \$100, the right of trial by jury shall be preserved.

548 - Provides that in filling the vacancy of chief justice, the highest consideration shall be given to the associate justices; in filling a vacancy of an associate justice, the highest consideration shall be given to the circuit court judges; in filling a vacancy of circuit court judges, the highest consideration shall be given to the district court judges.

549 - Prohibits cruel and, instead of or, unusual punishment. Deletes provision authorizing court to dispense with bail if reasonably satisfied that defendant or witness will appear when directed.

550 - Exempts native Hawaiians, able to demonstrate their descent from the races inhabiting the Hawaiian Islands prior to 1778, from paying entrance fees to any state site, building, memorial or monument significant to Hawaiian history or culture or to any museum containing objects or artifacts related to Hawaiian history or culture which receives, holds or administers funds or properties for any state agency.

551 - Provides that the news media shall be governed by a code of ethics as provided by law.

552 - Provides it is the duty of the people and the responsibility of the State to preserve historic sites. Requires sites on the Hawaii Register of Historic Sites to remain intact and unharmed. Requires the State to implement a program of maintenance and restoration for such sites. Provides that in addition to the selection of sites by the review board of the Hawaii Register of Historic Sites, the people of each county may place sites within their respective county on the register by petition and vote as provided by law.

553 - Amends Preamble to provide the people of the State are grateful for the lessons of their native past and mindful of the preservation of Hawaiian cultural and environmental heritage. Provides the constitution is established for the well-being of the lands and waters of the State as well as its people.

554 - Requires State to provide preventive programs for mental and physical health problems.

555 - Defines health as a state of mental, social, environmental and physical well-being.

556 - Substitutes human being for person in the bill of rights provisions concerning the rights of man and due process and equal protection and provides for enjoyment of her as well as his civil rights.

557 - Limits total combined tax revenues of the State and its political subdivisions to 12 percent of the total per capita personal income in the State. Requires the State to return the excess revenues through a tax credit as provided by law.

558 - Provides that members of the legislature shall receive for their services allowances reasonably related to expenses and compensation for time served in session. Provides that members of the legislature shall receive as compensation for services, the sum of \$ for each regular session, payable in 3 equal installments and the sum of \$ for each special session. Substitutes compensation for session time for salary and deletes references to salary. Also deletes provision that changes in salary shall not apply to legislature enacting them; provisions on legislative salary commission; and provision setting salary at \$12,000 until otherwise provided.

559 - Requires, instead of allowing, the State to conserve and develop its natural beauty, objects and places of historic or cultural interest, sightliness and physical good order. Empowers the State to procure native Hawaiian artifacts and to provide financial or other assistance to private groups seeking procurement of the objects for public enjoyment.

560 - Requires the names of all candidates for an office to appear on 1 ballot and allows voters to vote for any candidate for office in primary or special primary election, regardless of the political party or nonpartisanship of the candidate. Provides for secrecy of the voter's political party if the voter is not a candidate.

Requires primary elections to be held on the first Tuesday after the first Monday in September in all even-numbered years. Prohibits a person from being a candidate for any general or special election unless that candidate has been nominated in the immediately preceding primary or special primary election.

561 - Allows board of education by 2/3 vote to override governor's disapproval of rules, regulations and other measures adopted by the board.

562 - Limits the number of terms of elected officials as follows: state representative - 6 consecutive terms totalling 12 consecutive years; state senator - 3 consecutive terms totalling 12 consecutive years; elected state executive officer - 2 consecutive terms totalling 8 consecutive years. Provides that in computing the total years of service, the number of years a person serves as an appointee to an elective office shall not count. Provides that the term limitations imposed by amendment become effective for the 1978 general election but shall not prevent a person elected to office at that time from completing the term of office to which elected.

563 - Provides for the office of an elected secretary of state to replace the office of lieutenant governor.

Provides for the secretary of state to be head of the state department vested with the power to protect consumers, depositors, and investors and the power to set standards and enforce laws governing the licensing and operation of, and register and supervise the conduct of trades, business and professions, including banks, insurance companies, brokerage firms and other financial institutions and to perform such duties as may be prescribed by law.

Provides that the secretary of state shall receive compensation not less than \$27,500 a year, to be first successor to the governor and to be subject to impeachment.

564 - Provides that the control of natural resources and water rights is reserved to the State. Deletes nonapplicability of Article X, section 2, concerning the management and disposition of natural resources of those owned or controlled by a political subdivision or its agencies.

565 - Provides that the members of the legislature shall receive as compensation including allowances reasonably related to expenses and a salary, as prescribed by the constitution, instead of by law. Deletes provision that any change in salary shall not apply to the legislature that enacted the same.

Provides that there shall be a commission on legislative compensation instead of legislative salary. Requires the commission to submit to the legislature within 60 days after its appointment a plan, instead of recommendations, for compensation for members of the legislature which becomes law after publication as provided by law.

Requires the plan to specify the annual salary and to include a procedure for reimbursement of actual and necessary expenses incurred by a member during the course and scope of his legislative duties provided that such reimbursement shall not exceed an amount set by the commission. Provides that the procedure may include a plan for reimbursement of such expenses upon receipt of a voucher certifying the amount and the reason for the reimbursement. Requires the commission to specify the nature and amount of medical and retirement benefits to be received by a member.

Provides that the members of the commission shall fairly represent the community and shall not be eligible to become candidates for election to either house, until the election immediately following the plan of the next commission on legislative compensation.

566 - Provides for the appointment of a pre-auditor by majority vote of the legislature in joint session to serve for a period of 8 years and until a successor is appointed, who shall not be the same person as the post-auditor. Allows the legislature by a 2/3 vote of the members in joint session to remove the pre-auditor from office at any time for cause. Requires that the pre-auditor prepare a comprehensive analysis of the governor's budget, special appropriation bills, and other bills, to provide information to the legislature to facilitate its evaluation of the governor's budget, special appropriation bills, and other bills, to determine the availability of federal and other funds for state programs and to make such additional reports and conduct investigations as directed by the legislature.

Amends auditor provisions to make the auditor a post-auditor who shall not be the same person as the pre-auditor.

567 - Eliminates the power of the governor to veto specific item or items in any appropriation bill by striking out or reducing the same.

568 - Deletes provision prohibiting appropriation of public funds for the support and benefit of sectarian and private educational institutions.

569 - Prohibits discrimination against a person in exercising due process, equal protection or civil rights because of physical or mental handicap.

570 - Provides the policy of the State shall be to promote the research, development and use of indigenous and renewable energy resources and to reduce dependency on energy derived from nonrenewable sources.

Prohibits the construction or operation of nuclear power stations unless the question, "Shall there be a nuclear power station located at _____ in the year ____?" has been

approved in a general election by a majority of votes cast statewide as well as by a majority in the county where the proposed power plant is to be located.

571 - Prohibits appropriation transfers or changes between departments, offices, programs or agencies by the governor without prior approval of the legislature.

572 - Requires the legislature to vest in an executive department of environmental protection powers to provide for the abatement of excessive and unnecessary noise and protect the natural resources of the State, including, but not limited to the land, air, parks, reservoirs, rivers, and other water resources, coastal areas, marshes, swamps, flora, fauna, minerals, open spaces, natural areas, natural or man-made places of historic interest.

573 - Requires the legislature to provide for full public disclosure of all campaign contributions, receipts and expenditures of all candidates and organizations on behalf of candidates for any public office.

574 - Creates a unicameral legislature commencing with the first regular or special session to be held after the general election of 1982. Deletes all references to 2 houses, the senate and the house of representatives, in the constitution. Provides that all authority previously vested by the constitution or laws of the State in the senate, house of representatives or joint sessions is vested in a legislature of 1 chamber; that all references to the legislature, the senate, the house of representatives, joint sessions of the senate and the house of representatives, senator or member of the house of representatives shall apply to and mean the legislature of 1 chamber; that all references to the clerk or presiding officer of the senate or the house of representatives mean, when applicable, the presiding officer or clerk of the legislature of 1 chamber; that all references to the speaker of the house or president of the senate mean the speaker of the legislature; and that whenever any provision of the constitution requires submission of any matter to, or action by, the senate, the house of representatives, or joint session thereof, or the members of either or both bodies, it shall be construed to mean the legislature of 1 chamber.

Provides that the legislature shall be composed of 100 members elected from single-member legislative districts. Provides that the legislative districts shall be established by the reapportionment commission in 1981.

Provides that the reapportionment commission shall be as provided by law instead of as provided in the constitution and provides that the chief election officer shall be the lieutenant governor. Provides that every political subdivision shall have at least 1 legislator. Provides that the term of legislators shall be and that terms shall be staggered and that no member shall serve more than 5 consecutive terms.

Requires the reapportionment commission to designate which district is to be represented by legislators whose terms extend past reapportionment. Provides in making such designation the legislator need not live in the district the legislator is designated to represent. Requires commission in making designation to consider (1) the legislative district the legislator was elected from, (2) the legislative district in which the legislator will reside under the reapportionment plan, and (3) the requirement of continuing staggered terms and the number of legislators in a legislative district under the commission's reapportionment plan. Requires the commission to give no consideration to holdover legislators in redistricting. Deletes minimum representation for basic island units.

Provides that vacancies shall be filled by the person from the same political party with the next highest vote in the preceding general election; if none are qualified in the preceding general election, then in the preceding primary election; and if none in the primary, then the governor shall fill the vacancy. Provides that legislators must in addition to present qualifications be residents of the legislative district from which election is sought for a period of 1 year before seeking election.

Requires resignation of a legislator in order to hold another public office in the State, either elected or appointed, and prevents such legislators from holding the public office of delegate to the constitutional convention.

Changes the start of regular sessions from the third Wednesday in January to February. Calls for a 90-day legislative session. Provides that special sessions are limited to 30 days, to 1 a year, and that an extension of a regular session may be granted by request of 1/2 instead of 2/3 of the members. Requires 4 readings for bill, but does not allow any amendments after third reading. Requires bill to be in final form for 72 instead of 24 hours.

Deletes provision that days in recess under a concurrent resolution are excluded

from computing the number of session days. Requires the legislature to establish a deadline for bill introduction and for third reading. Requires a 5-legislative-day recess between first and second readings and a 10-legislative-day recess between the third and fourth readings. Provides that 90-day limit for regular session includes these recesses. Requires all votes to be entered in the journal, instead of at the desire of 1/5 of the members.

Deletes reference to adjournment by 1 house without the consent of the other house. Deletes requirement that every bill passing the house in which it originated shall be certified and transmitted to the other house and that before a carried-over bill is enacted it shall pass at least 1 reading in the house in which it originated. Deletes district and apportionment section in the constitution, provision concerning election of senators in 1968, allocation of an additional senator to Kauai, effective date of reapportionment provisions were not ratified and provisions for superseding Senate Bill No. 1102 of the regular session of 1967.

Provides that members of the legislature elected in 1982 shall be divided into 2 classes. Provides that members of the first class shall hold office for a term of _____ years, and members of the second class shall hold office for a term of _____ years. Provides that their successors shall hold office for a term of _____ years. Provides that legislators elected from odd-numbered legislative districts shall be in the first class and members elected from even-numbered legislative districts shall be in the second class.

575 - Deletes requirement that all executive and administrative offices, departments and instrumentalities of the state government and their functions, duties and powers shall be allocated by law among not more than 20 principal departments in groupings by major purposes. Provides instead that agencies, departments, boards and commissions be grouped according to major purposes and functions into 5 offices: governor, general planning, resource management, social services and life-long learning.

Places within the office of the governor, agencies dealing with budgeting, accounting, taxation, personnel, law enforcement and regulatory functions. Places within the office of general planning, agencies dealing with social, resource, energy, housing, transportation and economic planning. Places within office of resource management, agencies dealing with Hawaiian affairs, agriculture, water resources, land use, ocean resources, environmental protection and recreation. Places within office of social services, agencies dealing with health, labor, industrial relations, housing and social services. Places within office of life-long learning, agencies dealing with lower and higher education, continuing and special education and library services. Provides that the 5 offices shall include but not be limited to these enumerated agencies.

Provides that each office shall be under the supervision of the governor, administered by an executive director and headed by a board of executives of the various agencies under that office with the executive director as chairman. Requires that each board shall approve rules, policies and plans of agencies under that office.

Deletes provision that each principal department shall be under governor's supervision and headed by a single executive unless otherwise provided.

576 - Deletes requirement that the governor nominates and, by and with the advice and consent of the senate, appoints justices of the supreme court and the judges of the circuit courts. Deletes provision that no nomination shall be sent to the senate nor interim appointments made when the senate is not in session.

Provides that whenever a vacancy occurs in the office of justice of the supreme court or judge of the circuit or district court, the appropriate commission shall compose a list of 3 highly qualified candidates with 1 candidate to be selected at random from the list to fill the vacancy.

Requires each justice or judge appointed to hold office for a term ending December 31st following the next general election after the expiration of 12 months in office. Allows any justice or judge holding office or elected thereto, at the time of the election by which this amendment becomes applicable, unless removed for cause, to remain in office for the term to which entitled. Provides that not less than 60 days before a general election held before the expiration of a justice's or judge's term of office, any justice or judge may file with the chief election officer a declaration of candidacy for election to succeed in office. Provides that if a declaration is not filed, the vacancy resulting from the expiration of the term of office shall be filled by appointment as provided. Provides that if the declaration is filed, the justice's or judge's name shall be submitted at the next general election on

a statewide basis, or circuit if the office is that of circuit judge, on a separate judicial ballot, without party designation. Sets forth the form of the ballot. Provides that if a majority voting on the question vote against retention, upon the expiration of the term of office, a vacancy shall exist to be filled by appointment and a justice or judge failing to be retained shall not be a candidate for appointment. Provides a justice or judge, unless removed for cause, remains in office for 10 years after December 31st following such election and at the expiration of each term is eligible for retention by election.

Provides that whenever a declaration of candidacy for election to succeed in office is filed by any justice or judge, the chief election officer shall place the justice's or judge's name on the ballot, and the election upon the question of retention shall be conducted in the manner now provided by the law governing elections.

Provides that nonpartisan judicial commissions whose duty it shall be to fill judicial vacancies are established which shall be organized on the following basis: for vacancies in the office of justice of the supreme court, 1 statewide commission to be known as "The Justice Commission"; for vacancies in the office of judge of circuit and district courts, 1 commission, to be known as "The Judge Commission", for each circuit.

Requires the justice commission to consist of 11 members: the chief justice of the supreme court or a designee, acting as a nonvoting chairperson except when there is an impasse, and the remaining 10 members chosen as follows: the persons admitted to practice law in this State residing in the second, third and fifth judicial circuits shall elect one of their number and the first judicial circuit shall elect 2 of their number to serve as members; the governor shall appoint 1 citizen, not admitted to practice law anywhere in the United States, who has no party affiliation and the governor shall appoint 2 citizens, not admitted to practice law anywhere in the United States, from a list prepared by the chairperson of the Democratic party and 2 citizens, also not so admitted from a list prepared by the chairperson of the Republican party. Requires each such list to contain the names of not less than 4 qualified persons.

Requires 6 votes to decide any issue before the justice commission.

Requires persons admitted to practice law in this State electing commission members to vote only in the judicial circuit where the person resides or practices law, there being only 1 declared residence: either where a person resides or where the person is doing business or practices law.

Requires each judge commission to consist of 7 members: the senior judge of the circuit court within the judicial circuit of such commission or a designee, acting as a nonvoting chairperson except when there is an impasse, and the remaining 6 members chosen as follows: the persons admitted to practice law in this State residing in the judicial circuit of such commission shall elect 3 of their number to serve as members; and the mayors of each judicial circuit shall appoint 3 citizens, not admitted to practice law anywhere in the United States from the residents of each judicial circuit. Requires each such citizen appointed by the mayor to be selected as follows: 1 each from a list submitted by the chairperson of the Democratic party and from a list submitted by the chairperson of the Republican party of that county and 1 shall be appointed having no party affiliation. Requires each such list to contain the names of not less than 2 qualified persons.

Requires 4 votes to decide any issue before a judge commission.

Requires all citizen members appointed by the governor to be subject to the advice and consent of the senate. Allows no member of any commission other than the chairperson to hold any public office; to hold any official position in a political party; or to be eligible for appointment to judicial office so long as a member of the justice or judge commission and for a period of 2 years thereafter. Provides that the legislature may extend the waiting period to more than 2 years but shall not shorten the period to less than 2 years. Provides that none of the members shall receive a salary or other compensation for their services as such, except necessary traveling and other expenses incurred while actually engaged in the discharge of their official duties. Requires all commissions to be administered and all elections provided for to be held and regulated, under such rules as the supreme court shall adopt.

Requires all expenses incurred in administering this provision when approved by the supreme court, to be paid out of the state treasury.

Allows no justice or judge, appointed to or retained in office in the manner prescribed herein, to, directly or indirectly, make any contribution to or hold any office in a political

party or organization, or take part in any political campaign.

Requires members of the commissions to serve 4-year staggered terms.

Provides that the commissions may make necessary rules, regulations and criteria for the selection of judicial candidates subject to a public hearing.

Requires all of the provisions to be self-enforcing, except those as to which action by the legislature may be required.

Provides that except as otherwise provided, the term of office of a justice of the supreme court and of a judge of a circuit and district court shall be 10 years.

Deletes the commission or agency, authorized by law for such purpose, to certify to the governor for the retirement or removal of a justice or judge from judicial office.

Provides that there shall be a commission on retirement, removal and discipline, composed of 2 citizens who are not admitted to practice law anywhere in the United States appointed by the governor, 2 attorneys appointed by the governing body of the Hawaii bar association, 1 justice of the supreme court to be selected by a majority of the justices of the supreme court and 1 judge of the circuit court to be selected by a majority of the circuit court judges. Requires the commission to receive and investigate all requests and suggestions for retirement for disability and all complaints concerning misconduct of justices, judges, members of the justice commission and of the judge commissions of each judicial circuit, and of this commission. Allows no member of the commission to participate in any matter in which the member has a personal interest. Provides that if a member is disqualified to participate in any matter before the commission, the respective appointing or selecting authority shall appoint or select a substitute to sit during any such disqualification. Provides that of the members first appointed, each of the citizen members shall be appointed for a term of 2 years, each of the attorney members for a term of 4 years and each of the justice or judge members for a term of 6 years; thereafter members shall be appointed for a term of 6 years.

Provides that upon recommendation by an affirmative vote of at least 4 members of the commission, the supreme court en banc shall retire from office any justice or judge, or any member of any judicial commission, or any member of this commission found to be unable to discharge the duties of office with efficiency because of permanent sickness or physical or mental infirmity. Provides a justice or judge so retired shall receive 1/2 of the justice's or judge's regular compensation during the remainder of the justice's or judge's term of office. Provides that where a justice or judge, subject to retirement under other provisions of law, has been retired hereunder the time during which the justice or judge was retired for disability hereunder shall count as time served for purposes of retirement under other provisions of law.

Provides that upon recommendation by an affirmative vote of at least 4 members of the commission, the supreme court en banc, upon concurring, shall remove, suspend or discipline any justice or judge of any court or any member of any judicial commission or of this commission, for the commission of a crime, or for misconduct, habitual drunkenness, wilful neglect of duty, corruption in office, incompetency or any offense involving moral turpitude, or oppression in office. Provides that no action taken hereunder shall be a bar to or prevent any other action authorized by law.

Provides that a justice or judge is disqualified from acting as a judicial officer while there is pending an indictment or information charging the justice or judge in any court in the United States with a crime punishable as a felony under the laws of Hawaii or in the United States, or a recommendation to the supreme court by the commission for the justice's or judge's removal, discipline or retirement, or after articles of impeachment have been voted by the house of representatives. Provides that a justice or judge so disqualified shall continue to receive the salary to which entitled.

Provides that on recommendation of the commission, the supreme court shall suspend a justice or judge from office without salary when in any court in the United States the justice or judge pleads guilty or no contest to, or is found guilty of, an offense punishable as a felony under the laws of this State or the United States, or of any other offense that involves moral turpitude. Requires that if the justice or judge is suspended and conviction becomes final, the supreme court shall remove the justice or judge from office. Provides that if the conviction of the justice or judge is reversed and the justice or judge is discharged from that charge by order of court or of the prosecuting officer, whether without

further trial or after further trial and a finding of not guilty, the suspension of the justice or judge terminates and he shall be paid his salary for the period of suspension.

Requires recommendation to the supreme court by the commission to be made only after notice and hearing. Provides that rules for the administration and for the procedures hereunder shall be prescribed by supreme court rule unless otherwise provided by law.

Provides that members of the commission shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

Provides that all supreme court justices and circuit and district court judges serving when the amendments are ratified shall not be subject to its selection provisions until the expiration of their present terms or unless removed as provided herein.

577 - Proposes an appointed attorney general from a list submitted by the merit nomination commission without the advice and consent of the senate.

Provides that the attorney general shall have the same qualifications as the governor and shall have been admitted to practice law before the supreme court of this State for at least 5 years.

Provides that the attorney general shall perform such duties as may be prescribed by law.

Provides the attorney general shall not become a candidate while in office or at the first election after leaving office.

Establishes a merit nomination commission of 9 members, with the president of the senate, speaker of the house, and minority parties of each house each appointing 2 members and these 8 members appointing the 9th member. Provides that members shall not hold other public office. Requires commission to nominate 3 to 5 persons to fill the vacancy of the office of the attorney general. Requires appointments to be made from commission lists.

578 - States that the purpose of article on local government is to provide maximum local self-government. Provides that liberal construction shall be given to the powers of local government units. Deletes provision authorizing the legislature to create counties and other political subdivisions and to provide for the government thereof. Deletes provision giving such power to each political subdivision as conferred under general laws.

Establishes the following 4 counties in the State: county of Hawaii, county of Maui, county of Kauai, and county of Oahu, and describes the boundaries for each county.

Requires the legislature to provide by general law applicable to all population centers exceeding 25,000 persons, for the incorporation and establishment of cities as home rule units of equal class as counties. Requires the legislature to provide methods for the establishment and alteration of city boundaries, and the merging or consolidation and dissolution of cities.

Authorizes each county or home rule city to frame and adopt a charter for its own self-government. Provides that all charters or amendments shall be submitted to the voters of the county or city and shall become effective upon approval by a majority of the votes of the specific question. Further provides that any charter which has been ratified by the voters shall remain in force as though adopted after the effective date hereof. Deletes provision limiting a political subdivision's power to frame and adopt a charter within such limits and under such procedures as prescribed by general law provided that such procedures do not require charter approval by a legislative body.

Provides that charter provisions with respect to a political subdivision's personnel and procedures in addition to the executive, legislative and administrative structure and organization provisions shall be of superior authority to statute; provided that the legislative body be chosen by popular election and that administrative proceedings be subject to judicial review. Deletes provision allowing the legislature to enact general laws allocating and reallocating powers and functions.

Provides that a chartered home-rule county or city may exercise any legislative power or perform any function for the management of its affairs not specifically denied by its charter, this constitution or general law. Qualifies a law as a general law if it

is applicable to more than 1 political subdivision. Deletes provision qualifying a law as a general law even though it is inapplicable to 1 or more counties.

Allows any home rule unit to exercise and perform concurrently with the State any power or function of a home rule unit to the extent that the legislature, by law, does not limit the concurrent exercise or declare the State's exercise to be exhaustive.

Provides that the taxing power shall be reserved to the State except that each political subdivision shall have power to assess, levy and collect real property taxes and a general excise tax and use tax in an amount not exceeding 25 percent of any such tax levied by the State.

Deletes the provision stating that the legislative power to enact laws of statewide concern shall not be limited by this article.

579 - Requires superintendent of education to establish procedures for and to direct school principals to permit the maximum utilization of public school physical facilities for community activities during periods when facilities are not being actively used by students.

580 - Provides for representation of at least 1 member from islands of Molokai and Lanai on the board of education.

581 - Provides that lands constituting forest and water reserve zones as they exist on the ratification of this amendment and any lands placed in such zones thereafter shall be forever kept and managed as preserves of Hawaii's endangered flora and fauna, natural watersheds and waterways, archaeological sites and natural geological accomplishments.

582 - Makes it the duty of the State and the people to preserve and promote wise use of agricultural lands.

Provides that all lands designated as of date of ratification as "prime, unique or other important agricultural land" by the department of agriculture under the classification system adopted on January 28, 1977 be permanently classified to remain within agricultural districts and all other agricultural land shall remain within agricultural districts unless removed by a vote of approval by the board of agriculture and a referendum approving removal by the voters of the county where the parcel of land is located.

583 - Requires the State in order to preserve agricultural lands now zoned urban to purchase the development rights to all undeveloped urban lands designated as prime, unique or other important agricultural lands upon the ratification of this amendment by the board of agriculture under the classification system and criteria adopted on January 28, 1977. Requires that once the development rights are purchased, the lands shall be classified and placed within the boundaries of an agricultural district.

Empowers the State to purchase the development rights to any other lands needed for agriculture and that once the development rights are purchased, the lands shall be placed in an agricultural district and so classified.

Provides a formula for computing the value of these development rights as the difference between the agricultural and urban assessed values of the property as determined by the department of taxation at the time of the proposed classification change.

Requires land owners requesting reclassification from agricultural to rural or urban classification to purchase the development rights to such lands from the State. Provides the development rights be appraised as the difference between the agricultural value assessed by the department of taxation and the value of the land under the proposed classification as assessed at the time of the requested change.

584 - Provides civil defense agencies of the State and its political subdivisions with the power to require public shelters for natural and nuclear disasters in buildings constructed with public funds.

585 - Provides that lands designated as of the date of ratification as "prime", "unique" or "other important" agricultural lands by the board of agriculture under the classification system adopted on January 28, 1977 shall be protected for agricultural purposes. Provides such lands may be subdivided under political subdivision laws only for the purpose of creating agriculturally productive farms or ranches.

586 - Requires the state department vested with the power of protecting and promoting the public health to regulate all effluents that directly or indirectly enter Hawaii's fresh and salt waters and shall have the power to prohibit private or public projects that show sufficient risk of polluting Hawaii's rivers, streams, lakes, ponds and near shore waters.

587 - Requires the State to conserve nonrenewable energy resources and to promote the use of renewable resources for energy production. Prohibits nuclear power plants within the State.

588 - Provides for a state land use commission to convene on January 15, 1980 for 6 months and every 5 years thereafter consisting of 9 members. Provides for 4 members to be appointed by the governor, 1 from each of the following professions: agricultural economics, environmental biology, land use planning and hydrology. Provides for 1 member to be appointed by each of the councils of the 4 political subdivisions with the ninth member being the lieutenant governor who is to chair the commission. Requires that after December 31, 1979, except as provided by this amendment, no agency of the State or its political subdivisions shall have the power to classify or reclassify lands or make any land use boundary changes. Requires any existing agency to terminate.

Provides the appointment of the commissioners be made during the 30-day period following the deadline for the filing of requests for land use reclassifications. Requires commissioners to be employed full time and compensated as provided by law. Prohibits commissioners from holding other private or public paying positions during their appointments.

Requires all requests for land use reclassification to be submitted to the lieutenant governor not less than 6 months prior to the convening of the commission, provided that requests submitted to any prior convening of the commission shall be resubmitted to the current convening of the commission for consideration. Requires a completed environmental impact statement to be submitted with each request. Requires each application to be reviewed by the state agency vested with the power to review impact statements. Requires the processing of an application for a land use reclassification to terminate if the reviewing agency determines the proposed reclassification will cause a significant, unavoidable, adverse environmental impact. Requires all requests for land reclassification to be reviewed by such agency before the January 15 convening of the commission.

Requires public hearings be held by the commission within each senatorial district where a land use reclassification is proposed and final approval or disapproval by the commission shall take place at a public hearing in such district.

Provides that if the commission approves the reclassification, the voters of the election precinct or precincts in which the land use reclassification was approved shall vote for approval or disapproval at the next general election in even-numbered years following the commission action. Prohibits the reclassification of land if the voters do not approve the proposal.

589 - Deletes requirement that all members of the board of regents of the University of Hawaii must be nominated and, with senate approval, appointed by the governor.

Requires new selection process to be as follows:

1. Five members, 2 of whom must be University alumni, to be nominated and appointed with senate approval by the governor.
2. One member selected by graduate and undergraduate students of baccalaureate-granting campuses.
3. One member selected by students of community college campuses.
4. One member selected by faculty of baccalaureate-granting campuses.
5. One member selected by community college's faculty.
6. One member selected by the university system's nonacademic employees; and
7. The lieutenant governor to serve as ex officio voting member.

Requires staggered 6-year terms for governor-appointed members and staggered 3-year terms for members selected by students, faculties and nonacademic employees. Requires lieutenant governor to serve during term of office.

590 - Provides that no person shall be deprived of the right and freedom to work at a chosen occupation for any employer because of membership or nonmembership in any labor organization or because of payment or nonpayment of dues, fees, assessments or other charges of any kind to any labor organization. Provides that any contract contravening this right is illegal and void.

591 - Prohibits title changes on bills introduced in the legislature except to correct grammatical, typographical errors or to delete references to appropriations if the original bill made provisions for funds which were subsequently deleted from the bill.

592 - Provides that no person shall be eligible to serve as a member of the senate unless he is a resident of the senatorial district for not less than 1 year or had voted in that senatorial district in the preceding election and makes similar provision for members of the house of representatives.

593 - Provides for a 15-member board of education elected at-large by voters in accordance with law. Deletes requirement that at least part of membership represent geographic subdivisions of the State. Requires at least 1 member each to reside in first, second and eighth senatorial districts and at least 2 members to reside in third, fourth, fifth, sixth and seventh senatorial districts. Provides for chairpersons of district school advisory councils to meet, in accordance with law, to select 2 of their chairpersons to serve on the board.

594 - Provides the boundaries of the State shall include archipelagic as well as territorial waters included in the Territory on the date of enactment of the Admissions Act.

595 - Declares wise zoning of land to be responsibility of political subdivisions of State and neighborhood citizens. Provides for referendum to disapprove any zoning change made if 8 percent of all registered voters in each precinct in which a change is made petition and the petition is submitted within 60 days after such change. Places question on next general election ballot. Makes change effective or void as of date change is made by political subdivision, depending on whether it is disapproved by majority vote of all voters voting from those precincts on the question.

596 - Provides that there shall be an attorney general who shall have the same qualifications as the governor and shall have been admitted to practice law before the supreme court of this State for at least 5 years.

Provides that the attorney general shall be elected on a nonpartisan basis, for a term of 4 years beginning in 1980. Provides that if a candidate for the office of attorney general receives a majority of all votes cast in a primary election, no general election shall be necessary, but if no candidate receives a majority of all votes cast in a primary election, the 2 persons receiving the highest number of votes shall run in the forthcoming general election.

Provides that the attorney general succeeds the lieutenant governor, if there is none, as governor of this State.

Provides that compensation of the attorney general shall be prescribed by law and shall not be decreased during the term of office unless by general law applying to all salaried officers of the State.

Provides that no person holding the office of attorney general shall be eligible to become a candidate for election to any state or political subdivision elective office while holding the office of attorney general.

Provides that until the general election in 1980, the removal of the attorney general shall continue to be subject to the advice and consent of the senate.

597 - Prohibits discrimination based upon age or marital status.

598 - Provides no person shall be disqualified to serve as a juror because of race, religion or ancestry in addition to sex.

599 - Provides that public lands shall be used for cultural and recreational purposes as well as for the development of farm and home ownership.

600 - Provides that the power of taxation shall be used only for the purpose of raising revenues:

601 - Amends provisions that all persons are free by nature and are equal in their inherent and inalienable rights by adding the right to make childbearing decisions .

602 - Adds provision that weapons shall be well regulated by law in provision on right to bear arms .

603 - Requires State to provide counsel for indigent defendant charged with offense punishable by imprisonment for more than 30, instead of 60 days .

604 - Changes from 10 to 20 years the period which may elapse after which the question concerning a convention to propose a revision of or amendments to the constitution must be submitted for vote .

Provides that the convention shall convene not less than 8 months before the next regularly scheduled general election and delegate pay shall begin no earlier than the official opening date, except per diem allowances for expenses may begin prior to that date .

605 - Requires computation of state taxes and of real property taxes collected from, and expenditures made within, each house of representative district. Requires computation and publication at least once annually and makes computations available to public. Allows computation and publication of taxes with different tax years to be made separately .

606 - Provides that upon petition of not less than 15 percent of the qualified voters of a representative district or 2 or more representative districts to create a county of that district(s), the lieutenant governor shall place the request on the ballot at the next general election in such district(s). Provides that if approved by not less than 2/3 of all votes cast in the district(s) concerned the county shall be created by the legislature which shall provide for the government thereof .

607 - Provides that the position count in each political subdivision and in each branch of the state government shall not increase more than percent a year. Provides that the limitation does not apply to transfers of functions and personnel between political subdivisions and the state government or between branches of the state government. Allows the limit to be exceeded by a 3/4 vote of the members to which each house of the legislature is entitled or to which each county council is entitled .

Defines position count as any position occupied by an officer or employee paid by state or county funds, including civil service and exempt civil service positions, and employees under a federal or state comprehensive employment and training act .

608 - Provides for budget to be submitted by governor annually instead of every 2 years. Deletes provision for supplemental appropriations bill. Provides for annual budgeting to start for the annual period beginning July 1, 19 .

609 - Requires the legislature to provide for the registration of voters and absentee voting and prescribe the method of voting at all elections except as provided in this proposal. Provides that the voters', except declared candidates, privacy rights in their choice of political affiliation and candidates shall be preserved. Deletes provision requiring that secrecy of voting be preserved .

Requires candidates to be nominated for and elected to all state and county public offices in either a primary, special primary, general, special general or special election .

Requires all candidates for each elected public office to be listed on 1 primary or special primary election ballot in alphabetical order with a party or nonpartisan designation. Allows voters to cast votes equal to the actual number of offices to be elected for a position, or within a district, and for any candidate on the ballot. Requires the number of candidates being nominated and advancing to the general election to be equal to twice the actual number of offices to be elected for a position or within a district. Provides that the candidates receiving the greatest number of votes shall be nominated and placed on the general or special general election ballot, except that any candidate receiving a majority of the votes cast for all candidates for an elective public office for a position, or within a district, shall be duly elected to that office .

Requires a general election to be conducted to elect nominated candidates to the offices not filled in the primary or special primary election. Requires all candidates to be listed on the general or special general election ballot in the same manner as for the primary or special primary election. Allows voters to cast votes equal to the number of unfilled

offices to be elected for a position, or within a district, and for any candidate on the ballot. Provides that the candidates receiving the greatest number of votes, not to exceed the number of unfilled offices to be elected, shall be duly elected.

Requires primary elections to be held on the third Saturday in September in all even-numbered years.

610 - Provides that no person shall be discriminated against in the exercise of due process, equal protection or the enjoyment of civil rights because of marital status in addition to race, religion, sex and ancestry.

611 - Provides that primary elections be held on the first Saturday in September in all even-numbered years. Further provides that run-off primaries be held on the first Saturday in October if a candidate for a statewide executive office fails to secure a majority vote.

612 - Provides the public has the right to know a news reporter's sources with adequate precautions as prescribed by law.

613 - Makes the legislature responsible for prudent appropriations of tax revenues and borrowings. Requires any appropriation bill for which there are insufficient tax or borrowed funds to be paid for from the accumulated pension funds and then from salaries of those legislators voting for the bill, and if still insufficient, then from the accumulated pensions and salaries of the governor and heads of expending departments involved. Provides that if budgeted tax revenues exceed appropriations, 10 percent of excess at end of year shall be added to the pensions of the legislators and at the end of legislative service the amount may be taken in cash or added to that legislator's pension. Provides that if expenditures by the administrative branch are less than amounts appropriated under a balanced budget, 10 percent of the savings shall be shared by the governor and the respective department heads involved, to be held in reserve until the end of public service and to be paid in cash or as pension.

614 - Provides that the budgets for the executive branch and the judicial branch shall be submitted in a form prescribed by law.

Provides that the chief justice in addition to the governor shall also, upon the opening of each such session, submit bills to provide for the proposed expenditures of their respective branches.

Limits the duty to submit bills for any recommended additional revenues or borrowings by which the proposed expenditure for the State are to be met upon the opening of session to the governor.

615 - Deletes section 202(a) of the Hawaiian Homes Commission Act, 1920, relating to department officers, staff, commission, members compensation.

Provides for a department of Hawaiian home lands to be headed by a 10-member executive board to be known as the Hawaiian homes commission. Requires members to be elected by beneficiaries that are registered voters of the respective commission districts. Provides that the first commission district, the island of Hawaii, has 2 members; the second district, Maui, 1 member; the third district, Molokai, 1 member; the fourth district, Oahu, 5 members and the fifth district, Kauai, 1 member.

Requires commissioners to be at least 18 years of age and a descendant of the blood of the race inhabiting the Hawaiian islands prior to 1778. Requires each voter to be an identified beneficiary, certified by the department of Hawaiian home lands.

Requires election of members to be nonpartisan with candidates listed on the ballot in alphabetical order. Provides that each voter in the general election shall receive the ballot by mail at least 10 days before the election to vote for the number of seats available for such commission district. Provides that ballots marked contrary to these procedures shall not be counted.

Provides that commissioners serve 4-year terms beginning the day of the general election of the year in which they are elected, expiring on the day of the second general election after their election. Provides there is no limitation on the number of terms a commissioner may serve. Requires the governor to fill vacancies which occur through any cause other than the expiration of office in accordance with law with the appointee being from the appropriate district.

Makes the commission responsible for the general management and control of the

affairs of the Hawaiian home lands department. Requires commission to formulate policy, adopt rules without the governor's approval and to exercise control over the department through its executive officer, the chairman of the commission, elected from among the members.

Allows the commission to delegate to the chairman such duties, powers and authority as may be lawful or proper for the performance of commission functions. Provides the chairman serves full time in order to carry out delegated duties.

Requires the board to meet within 1 month after the general election to elect a chairman, vice chairman and a secretary who is not to be a board member. Provides the officers serve until adjournment of the commission's first meeting after November 30 of the next year or thereafter until successors are elected whose election shall be immediately certified by the board to the lieutenant governor. Requires the commission to meet at least 10 times a year and may from time to time hold meetings on the islands of Hawaii, Maui, Molokai and Kauai.

Provides commissioners are to be compensated for each day's actual attendance at meetings at a rate of \$50 a day; are to be allowed transportation fares between islands and abroad; and personal travel expenses of \$25 a day to cover the costs of board and lodging while attending meetings on an island outside the commissioner's district or while traveling abroad on official business authorized by the chairman.

616 - Abolishes present elected board of education whose membership, at least in part, represents the geographic subdivisions of the State. Establishes local boards of education whose members are elected in accordance with law, who, in turn, appoint or elect from their own bodies the members of a state board of education. Requires that the state board shall have a membership represented in equal apportionment of the demographic subdivisions of the State as shown by the local boards.

Provides the state board with power to formulate statewide policy and to exercise control over public school system through its executive officer, the superintendent.

Provides the local boards with power to formulate policy for their districts under state guidelines and to exercise control over their public school districts through local superintendents of education, who shall be appointed by the boards and serve as their secretaries.

617 - Provides that no citizen qualified to vote in any local or state election shall be deprived of the right to be eligible for elective office on the basis of age.

Deletes provision that a person must be 30 years of age to be eligible for the office of governor.

618 - Requires the legislature to promote the diversified and open ownership of newspapers, television stations, radio stations and other media in the broadcasting and publication of news. Requires the press to abide by antitrust provisions of federal and state law and provides for a fiduciary relationship between newspapers and newspaper subscribers.

Requires the legislature to provide for a media abuse commission to receive, publicize and investigate citizen complaints and to record such complaints for use by the Federal Communications Commission.

Provides that the press shall not be covered by qualified or absolute privileges and shall be treated like any other person for purposes of appearance before state and federal grand juries and other proceedings and disclosure of sources of information.

619 - Reserves to the people the power to initiate legislation, except for legislation relating to public employee collective bargaining and taxation and finance, by indirect initiative. Requires all sponsors or solicitors of signatures for an indirect initiative measure to be registered voters in the State.

Requires the sponsors of an indirect initiative measure to incorporate a ballot title, statement of purpose, full text of the proposal and summary of no more than 150 words which shall be descriptive or expository but not argumentative or prejudicial. Requires sponsors to submit initiative petitions to the chief election officer for certification no earlier than 1 day after the most recent prior general election and before soliciting any signatures. Requires the chief election officer, within 10 days thereafter, to certify the indirect initiative measure's ballot title, statement of purpose and summary either in the original form or

clarified to more accurately represent and more nearly conform to the text of the proposal.

Requires indirect initiative measures to be signed by percent of the registered voters in the most recent general election. Requires indirect initiative petitions to be filed with the chief election officer for certification no later than 30 days prior to the second legislative session following the general election. Requires approval by a majority vote of each house of the legislature for an indirect initiative measure to be enacted. Provides that an indirect initiative measure, not enacted in the original form proposed, shall be submitted by the chief election officer to the voters at the first general election thereafter, together with the legislature's amended version, if any, and the one receiving the greater number of votes prevails.

Requires the legislature to provide methods of publicity for all indirect measures with arguments for and against the proposed statutes or amendments, including the issuance of a voter education publication, designed to reasonably assure that each voter will have an opportunity to study the indirect initiative measures prior to the election. Requires each indirect initiative measure submitted to the voters to be identified by its ballot title with the question appearing in such form that an affirmative vote is a vote for change. Provides that indirect measures approved at the general election by a majority of the votes tallied on the question shall be effective immediately. Limits indirect initiative measures to one subject.

Requires disclosure of funds contributed and expended to influence the outcome of indirect initiative measures in the manner and according to the laws and regulations prescribed for campaign spending disclosure by candidates for legislative office.

Prohibits the governor from vetoing laws adopted by the indirect initiative method and prohibits legislative repeal or amendment within a period of 2 years of adoption except by a 3/4 vote in each house of the legislature.

Provides that while the legislative power of the State is vested in a legislature, the power of indirect initiative is reserved to the people and both powers shall extend to all rightful subjects of legislation not inconsistent with the state or U.S. constitutions. Provides that no law, except for laws enacted by the indirect initiative method, shall be passed except by bill. Deletes the provision requiring that the enacting clause of each law shall be, "Be it enacted by the legislature of the State of Hawaii."

620 - Empowers each political subdivision to formulate policy and exercise control over all land and growth rates within its boundaries. Requires the legislature to enact laws only with respect to state-owned lands.

621 - Requires both houses of the legislature to recess for 10 working days between the 20th and 40th day of each regular session to conduct district public hearings. Provides that the time of the recess shall be set by a concurrent resolution adopted by a majority of the members to which each house is entitled provided that both houses recess at the same time.

Provides that during this recess, called the district recess, each member of both houses shall return to the member's respective representative or senatorial district to conduct district public hearings on bills pending before the legislature and other subjects of public interest. Requires the district public hearings to be held on each of the 10 working days of the recess and to be held within each member's respective district. Provides that the members of the same district may meet jointly or severally.

Provides that no bill shall be introduced after the district recess except by 3/4 vote of the house in which it originated.

622 - Deletes provision that any bill pending at the final adjournment of a regular session in an odd-numbered year shall carry over with the same status to the next regular session and before the carried-over bill is enacted, it shall pass at least 1 reading in the house in which the bill originated.

Provides instead that any bill pending at the adjournment sine die of a regular session shall not carry over to the next regular session.

623 - Provides that the members of the legislature shall receive allowances reasonably related to expenses paid on a vouchered, expense-incurred basis. Provides that any change in salary shall not be effective until approved by the electorate at any general or special election by a majority of the votes cast. Deletes provision that changes in salary shall not apply to the enacting legislature. Deletes provisions on salary commission.

624 - Provides that the committee to which a bill has been referred shall decide at a public meeting if the bill warrants a public hearing and upon the affirmative vote of a majority of those members present at the meeting, the bill shall be scheduled for a public hearing. Provides that the public meeting shall be held within 12 working days of referral of a bill to a committee.

625 - Mandates the State to insure the health and well-being of all residents through the provision of health care services, facilities and materials, through the establishment by the legislature, within 2 years of the adoption of this amendment of a comprehensive health care program defining the limits and coverage of health services and establishing a payment system by the government for all health care provided. Establishes, in accordance with law, a comprehensive health care panel to administer the program.

Requires all residents of the State to be eligible for the program's benefits. Requires all health care institutions and entities, physicians and dentists providing health care services in the State and such other health care providers, as provided by law, to participate in membership of the program. Stipulates that all health care provided must be offered or administered to any state resident for compensation as provided by this program.

Requires the program coverage to include all medical, surgical, psychiatric and psychological care, all drugs, all dental care and all therapeutic and rehabilitative devices and all other necessary and appropriate materials for healthful maintenance or restoration or the diagnosis and prevention of disease or rehabilitation of disabled persons.

Requires the comprehensive health care program to also include for the health care provided a schedule of payments which shall be the sole compensation payable to the provider and shall be made by the State which is the sole source of liability. Permits a comprehensive health care panel to amend the payment schedules from time to time.

Mandates the provider to render services and the State to fund without charge to the recipients all payments and costs of program from the state general revenues. Allows any health care recipient to seek health care at own expense in a private arrangement with a health care provider for discretionary services, but prohibits any denial of appropriate and necessary health care to residents. Mandates the State to penalize any failure to provide appropriate and necessary health care, as provided by law.

Requires all claims of error or omission in the provision of medical services provided hereunder to be made under law; all payments for such claims to be resolved either by settlement, judgment or otherwise to be paid out of the general revenues of the State, with final approval of settlements to be made by the circuit court of the circuit wherein the injury occurred. Requires all claims to be forwarded when made, to the attorney general, which office shall participate in the processing, settlement and litigation, if any, of all such claims.

626 - Gives legislative auditor the authority to audit and review financial records and operations of businesses created or regulated by law to determine whether excess profits not in the public interest are being made. Requires all reports to be made available to all legislators.

627 - Amends provisions on political power by deleting "and the responsibility for the exercise thereof rests with the people. All government is founded on this authority."

Provides instead that all political power of the State inherent in the people be grounded in the recognition that each citizen makes a difference.

Provides the purpose of government is to enable every citizen to seek and experience a personal responsibility for choosing and creating the destiny most befitting the islands. Provides the aim of government is to empower citizens, not restrain them; to join freedom with responsibility in creating a government of the people, not separate from them.

628 - Provides for treatment, rehabilitation and domiciliary care of otherwise seriously handicapped persons in addition to mentally and physically handicapped persons.

629 - Voids all laws setting minimum consumer prices for sale of intoxicating liquors and for goods and services in effect on the date amendment is ratified. Prohibits enactment of new laws in these areas.

630 - Requires the legislature to provide a program designed to assure that a person on fixed income does not pay total state, county and federal taxes out of proportion to the total of that person's fixed income.

631 - Deletes current provision that the 27th representative district shall consist of the islands of Kauai and Niihau with 3 state representatives to be elected therefrom and instead provides for 3 representative districts with one representative elected from each district. Provides that the 27th representative district consists of the island of Niihau and certain portions of Kauai, and the newly created 28th and 29th representative districts consist of the other enumerated portions of Kauai.

632 - Provides that in situations where normal judicial processes would be inadequate to secure the right of due process and equal protection, the parties involved shall enjoy the right to a fair hearing and that such hearing must be conducted in a manner consistent with the requirements of due process and equal protection and include the opportunity of one whom the decision will affect to present evidence in his favor, as well as to be apprised of the evidence against him in the manner so that he will be fully aware of the basis for the judgment.

633 - Provides that the State shall have the power to provide for the education of the handicapped as well as for their treatment and rehabilitation.

634 - Prohibits alien, defined as individual who is not United States citizen, from acquiring interest in real property in Hawaii after ratification of section and provides all such acquisitions are void. Prohibits formation of any business entity in which majority of ownership is by aliens. Prohibits transfer of ownership interest in businesses which result in majority ownership by aliens or while majority owned by aliens.

635 - Provides that there shall be an attorney general selected at random as prescribed by law from a list of candidates submitted by the state commission provided in this section.

Requires attorney general to have the same qualifications as the governor and to have been admitted to practice law before the supreme court of this State for a period of at least 5 years preceding selection.

Provides that the attorney general selected to, or retained in office shall not, directly or indirectly, make any contribution to or hold any office in a political party or organization, or take part in any political campaign. Provides that any attorney general who becomes a candidate for an elective office shall forfeit the office.

Provides that each person selected as attorney general shall hold office for a term ending December 31st following the next general election after the expiration of 12 months in office. Provides that the attorney general holding office, or elected thereto, at the time of the election when this amendment becomes effective shall, unless removed for cause, remain in office for the term to which the attorney general would have been entitled had this section not become effective. Provides that not less than 60 days prior to the holding of the general election before the expiration of the attorney general's term, the attorney general may file with the chief election officer a declaration of candidacy for election to succeed in office. Provides if such declaration is not filed, the vacancy resulting from the expiration of the term of office shall be filled by selection as herein provided. Provides that if the declaration is filed, the attorney general's name shall be submitted at the next general election to the voters, on a separate ballot, without party designation and the election shall be conducted and the votes counted in the manner now provided by the law governing elections. Provides that, if a majority of those voting on the question vote against retaining the attorney general in office, upon the expiration of the term of office, a vacancy will exist to be filled by selection as provided and the attorney general failing to be retained shall not be a candidate for selection. Provides that the attorney general shall, unless removed for cause, remain in office for the number of years after December 31st following such election as a full term of the office, and at the expiration of the first term shall be eligible for retention in office by election as prescribed.

Provides that the term of office of the attorney general shall be for a period of 4 years; that no person shall serve as attorney general for more than 2 consecutive terms or a total of 8 years; and that compensation shall be as prescribed by law.

Provides that the state commission which shall review applicants and submit for random selection names of persons qualified for the office of attorney general shall establish and organize in such manner that there shall be 1 statewide commission of 5 members,

who shall be selected in the following manner: the legislature shall select 1 citizen from each county, not a member of the bar, and the governor shall appoint 1 member of the bar as the fifth member of the commission. Provides that no member of the commission is eligible for selection as attorney general so long as a member of the commission and for a period of 2 years thereafter; and that members serve staggered 4-year terms.

Allows commission to make necessary rules, regulations and criteria for the selection of attorney general candidates subject to a public hearing.

Provides commission shall receive and investigate all requests or suggestions for retirement for disability and complaints concerning misconduct of the attorney general. Provides the attorney general may be removed from office as prescribed by law and upon an affirmative vote of the commission.

636 - Prohibits any person not a citizen of the United States from acquiring title to or owning land in the State. Provides that no corporation, copartnership or association, a majority of the stock or interest of which is owned or controlled by aliens or persons who are not citizens of the United States, shall acquire title, leasehold or other interest in land in the State.

637 - Mandates the State, rather than permitting it, to provide assistance for persons not able to sustain a living standard compatible with decency and health.

638 - Requires the State to protect public health, provide basic health care, assure a healthful environment and promote health education and preventive care. Deletes provision permitting the State to provide for public health protection and promotion.

639 - Provides that the legislature may prohibit certain classes of individuals deemed dangerous to society from owning and keeping arms and may require that all firearms be registered in the name of the owner or owners.

640 - Provides that types of uses authorized within conservation districts, instead of a reserve for conservation purposes, need not be placed under the jurisdiction of a board or commission.

641 - Establishes state ethics commission whose membership, duties and responsibilities are to be provided by law.

Provides for commission to hear case appeals from political subdivisions, but mandates that decisions made by commission on appeals be based upon code of ethics of respective political subdivisions.

642 - Authorizes State to establish pension fund for the aged, with eligibility based on a stated age and number of years of service within the State, including self-employment, housewives and househusbands, and public or private employment. Allows benefits to be decreased as outside income increases and fund to be contributory or noncontributory. Requires appropriations until fund achieves solvency.

643 - Provides that legislature shall appoint an ombudsman who shall serve for a term of 6 years and thereafter until a successor is appointed and who may be removed from office by a 2/3 vote of its members in joint session.

Provides that the duties of the ombudsman shall be to receive, investigate and resolve complaints concerning the administrative agencies of the State and its political subdivisions and the officers and employees thereof.

Provides that the ombudsman shall be nominated by an ombudsman commission consisting of the speaker of the house, president of the senate, the minority leaders of the house and senate and the chairperson of the judicial commission.

Prohibits commission from accepting applications for the position of ombudsman but requires it to solicit qualified nominees and to recommend a nominee to the legislature.

Provides that the tenure, qualifications, compensation, duties and the filling of the vacancy of the office of the ombudsman shall be as prescribed by amendment and by law.

644 - Provides no taxes shall be imposed upon kuleana lands in the possession, use and control of any individual who is a direct lineal descendant of a person given an original award under the Great Mahele of 1848.

645 - Requires a comprehensive education program stressing Hawaiian language, culture and history in the public school system.

646 - Provides the people have the right to use traditional rights-of-way to the ocean, freshwater and public lands; also provides for the enforcement of this right by each person against any party, governmental or private, through appropriate legal action, subject to reasonable limitation and regulation as provided by law. Prohibits destruction or abridgement of these rights-of-way by private or public sectors.

647 - Provides for partial public financing in primary and general elections for elective state executive and legislative offices with funds derived from a voluntary check-off system on the state income tax form and from state general revenues. Requires a candidate to raise an amount established by law in private contributions before qualifying for public funds. Requires that candidates immediately receive the public funds upon qualifying. Authorizes the legislature to implement amendment and to extend its provisions to other elective offices.

648 - Requires public employment to reflect ethnic ratios in the State and gives this requirement priority over merit principle of civil service. Requires State and its political subdivisions to implement section and to hire people whose ethnic group is underrepresented until the group is proportionately represented. Does not require termination of employees whose ethnic group is overrepresented in public employment on the date amendment is ratified.

649 - Requires legislature to provide for individual income tax refunds where in regular session it finds that sum of 25 percent of the state general fund balance at the close of the previous fiscal year exceeds 10 percent of the total individual income tax collections for the previous income tax year.

650 - Provides that all persons are entitled to access to the courts for resolution of disputes and it is the policy of the State to encourage the use of the courts for this purpose. Provides that no law restricting, limiting or denying the right to sue to any person who has failed to incur a certain level or amount of medical or medically related expense for injuries sustained in an automobile accident shall be enacted or enforced. Provides that nothing contained herein shall limit the right of the legislature to establish jurisdictional limits designating which court has jurisdiction over claims on the basis of the amount claimed as damages.

651 - Requires State to establish state human organ registry, funded out of general revenues of the State, to register all human organs available or intended for transplantation and to assist in procurement and disbursement of these organs to needy recipients. Permits the State to contract its responsibilities and duties to 1 or more private agencies.

652 - Provides the cultivation or possession for personal use of marijuana or cannabis derivatives shall not be subject to criminal penalty, fine or imprisonment. Provides that marijuana and cannabis derivatives shall remain illegal as provided by law and shall be subject to forfeiture. Provides that no person found to have possessed or cultivated these substances shall have the status of a criminal law violator.

653 - Allows political subdivisions to have and exercise such powers as conferred under the laws of the State rather than general laws.

Provides a manager for each county and political subdivision, to be nominated and, by and with the advice and consent of the senate, appointed by the governor. Provides that the manager shall hold office for a term to expire at the end of the governor's term unless sooner removed by the governor.

Requires all executive and administrative offices, departments and instrumentalities of each political subdivision and the respective functions, powers and duties to be allocated by law to the same group according to major purposes so far as practicable, except that temporary commissions or agencies for special purposes, which may be established by law, need not be allocated within a principal department. Requires principal departments to be supervised by the manager and, unless otherwise provided in this constitution or by law, be headed by a single executive to be nominated and, by and with the advice and consent of the senate, appointed by the governor for a term of office to expire at the end of the governor's term unless sooner removed by the governor.

Requires the members of a board, commission or other body which is head of a principal department to be nominated and, by and with the advice and consent of the senate, appointed by governor, unless otherwise provided. Requires the term of office

and removal of such members to be prescribed by law. Allows such a board, commission or body to appoint a principal executive officer who, when authorized by law, may be an ex officio voting member and may be removed by a majority vote of the members of the appointing body.

Disqualifies a person from eligibility to an interim appointment to an office if that person was nominated for appointment to that office but did not receive senate consent. Requires every officer appointed under the provisions of this amendment to be a U.S. citizen and state resident for at least 1 year immediately preceding the appointment.

Empowers the legislature, instead of political subdivisions, to frame and adopt a charter for the government of each political subdivision within such limits as prescribed by law rather than general law. Deletes the provision prohibiting prescribed procedures from requiring charter approval by a legislative body. Deletes provision giving charter provisions, with respect to a political subdivision's executive, legislative and administrative structure and organization, superior authority to statutory provisions subject to the authority of the legislature to enact general laws allocating and reallocating powers and functions. Deletes provision qualifying a law as a general law even though it is inapplicable to 1 or more counties by reason of the provisions of this amendment.

654 - Amends proviso allowing political subdivisions to have and exercise such powers as shall be conferred under general laws by providing that each political subdivision shall have the same rights and privileges as every other political subdivision.

655 - Requires 5 percent of all state general fund tax revenues to be reserved for apportionment to the political subdivisions of the State and to be distributed quarterly. Requires 1/2 of such amount to be distributed equally among subdivisions and 1/2 on a per capita basis in accordance with each political subdivision's resident population as defined by law.

656 - Requires establishment in each school district, in accordance with law, of a district school advisory council to make recommendations on policy development in district school operations and programs to the board of education. Requires district school advisory council chairpersons to meet to select 2 council chairpersons for service on the board of education, in accordance with law.

657 - Deletes section 1 of Article X requiring the legislature to promote the conservation, development and utilization of resources. Adds new provision that all public natural resources of the State are held in trust by the State to benefit the people and the State shall conserve and protect such resources from destruction, impairment, pollution and depletion to the greatest extent possible and shall manage and regulate such resources consistent with public trust.

658 - Deletes Article VIII, section 5, relating to public sightliness and good order, Article X, section 1, relating to conservation, development and use of resources, Article X, section 2, relating to management and disposition of natural resources.

Adds provision that the State shall have the power and the duty to protect and conserve all natural resources of the State from destruction, impairment, pollution and depletion and shall manage and regulate all natural resources consistent with this policy and for the benefit of the people. Provides that the State shall have the power and duty to protect and maintain historical or culturally important objects, events and places and to regulate and plan population growth.

Requires legislature to vest in an executive department or board powers to manage, conserve and protect natural resources, to manage, protect and maintain historical or cultural objects, events and places and to manage and regulate population growth.

Provides the people with a right to a healthful environment, preservation of natural, scenic and aesthetic environmental values, and to preservation of cultural or historical objects, events and places. Allows legal enforcement of right against any party, public or private, as provided by law and requires legislature to provide for the reasonable exercise of this right.

659 - Lowers the maximum number of principal state departments from 20 to 12 and provides that all executive and administrative offices, departments and instrumentalities of the state government and the respective powers and duties be allocated among the 12 departments according to common purposes and related functions. Deletes provision requiring that such allocation be according to major purposes so far as practicable.

660 - Requires the legislature to enact appropriate measures providing that at least 30 days before any election, the State shall provide for a statewide newspaper supplement allowing each candidate for public office an equal opportunity to set forth the candidate's qualifications and beliefs.

661 - Redefines Hawaii's constitutional state boundaries to specify the territorial waters as inland and archipelago waters and to include all the waters between and dividing the islands.

662 - Changes enjoyment of his civil rights to enjoyment of a person's civil rights and prohibits discrimination based upon a person's sexual orientation.

663 - Requires legislature to provide for state ownership of public utilities in accordance with procedures and limitations as provided by law.

664 - Deletes the existing Preamble and replaces it with a Preamble and Acknowledgment recognizing and reaffirming the rights of the Hawaiian people and a belief in a government of the people, by the people and for the people, with an understanding heart toward all the people of the earth and with a special compassion for the Hawaiian people upon whose long suffering the people have prospered greatly.

Recognizes the rights, duties and powers exercised by a legitimate Hawaiian sovereign in behalf of its loyal subjects, esteemed by divine authority and recognized under the international laws of all civilized nations.

Declares and recognizes citizenship of the Hawaiian nation for all descendants of those people residing in the islands prior to 1776 and subjects under the rule and law of Ka Moi, Kamehameha I.

Pledges support towards justice and an equitable remedy for those acts committed against Hawaiian people.

665 - Requires the Hawaiian Homes Commission to prepare a general plan before January , 19 for the administration and use of all lands designated as Hawaiian home lands under the Hawaiian Homes Commission Act. Requires the plan to include proposed rules and regulations of the commission and to reflect the sociological, economic and financial concerns of the Hawaiian people.

Requires a public hearing to be held on each island prior to submission of such plan to the legislature for approval. Requires the plan, rules and regulations to be submitted to the legislature before , 19 . Provides that the plan becomes effective July 1 following the regular session to which it was submitted for approval if the legislature fails to act.

Requires the plan to be reviewed as provided by law from time to time and not less than once in every 10 years. Requires public hearings be held on proposed amendments on each island before submission to the legislature for approval. Provides amendments if any to be submitted for approval to the next following regular legislative session. Requires the plan to be resubmitted to the legislature at the next following session, if the legislature fails to approve the proposed amendments.

Requires the legislature to appropriate the necessary funds for the implementation and operation of the plan.

666 - Provides that bonds may be issued by the State provided that such bonds at time of authorization shall not cause the maximum annual debt service in any current or future fiscal year for all outstanding general obligation bonds included in determining total state indebtedness, to exceed percent of the average of the general fund state revenues in the 3 fiscal years preceding the legislative session authorizing such issuance. Deletes provision that such bonds shall not cause the total of state indebtedness to exceed a sum equal to 3-1/2 times the average of general fund state revenues of the preceding 3 fiscal years.

Provides that the legislature may authorize by 2/3 vote of the membership of each house the issuance of general obligation bonds which cause the maximum annual debt service to exceed the limit provided herein by passage of a bill embracing only that subject and specifying the dollar amount of such authorization and the use of such funds.

Requires the governor, within 3 years following enactment date of capital improvement project appropriation, to notify the presiding officers and chairmen of the finance committee

of both houses of any such capital improvement project which is not programmed for implementation in the then current fiscal year. Requires any appropriation or portion thereof which is unencumbered 4 years after enactment to lapse and requires, where bond issuance for an appropriation has been authorized, the amount of bond authorization to be reduced in an amount equal to the amount lapsed.

Requires the first installment of principal of all general obligation bonds exceeding 1 year to mature not later than 1, instead of 5, year after date of issuance of such series and last installment not later than 20, instead of 35, years after such date.

667 - Provides that no bonds for capital improvement projects with anticipated total capital improvement costs to the State exceeding \$15,000,000 shall be authorized without prior approval of a majority of votes cast thereon at a special or general election. Provides that such costs shall include the total projected costs of planning, land acquisition or capitalized value of leased land where applicable, design, demolition, construction and acquisition of equipment and furnishings. Requires the \$15,000,000 figure to be adjusted in proportion to the cumulative rate of inflation as determined by law. Requires the legislature to enact laws to implement this amendment.

668 - Provides that beginning January 1, 1980, no justice of the supreme court nor judge of the circuit courts shall draw or receive any monthly salary unless that person makes and subscribes an affidavit before an officer entitled to administer oaths, that no cause in his court remains pending and undetermined that has been submitted for decision for a period of 90 days. Requires that in the determination of causes, all decisions of the supreme court shall be given in writing with the grounds thereof stated. Requires oral arguments to be scheduled and heard within 15 months of the notice of appeal for any action before the supreme court.

669 - Requires the supreme court to create division of appeals within the various circuits of the circuit courts having appellate jurisdiction over actions which have come before the district courts. Provides that circuit court judges shall preside over the various division of appeals and requires the supreme court to establish rules of procedures for the appeals division of the circuit court, including time limitations within which oral agreements and opinions of the appeals division shall be rendered.

670 - Requires the supreme court to promulgate rules requiring that oral arguments be heard within 16 months of the date of the filing of the notice of appeal in all cases and requires all decisions to be rendered within 4 months of the hearing of oral arguments.

671 - Substitutes as a disqualification for voting "of unsound mind" for "non compos mentis".

672 - Amends the title of Article XIII to include language as well as state boundaries, capital and flag. Provides the Hawaiian language is the native language of the State to be used as provided by law.

673 - Amends provision that the legislature vest in one or more executive boards or commissions powers to manage natural resources to provide they are held in trust.

Provides that natural resources and minerals as well as land set aside for public use, other than for a reserve for conservation purposes and also for the native Hawaiian trusts established under the Admissions Act, need not be placed under an executive board or commission.

674 - Changes title of Article XI from "Hawaiian Home Lands" to "Hawaiian Affairs".

Requires lands granted to the State by the United States, other than available lands as defined by the Hawaiian Homes Commission Act, 1920, as amended, under the Admission Act relating to grant of public land and property and under section 8 of Article XIV relating to trust provisions imposed by Congress on land, to be held by the State as a public trust for all descendants (native Hawaiians) of not less than 1/2 part of the blood of races inhabiting the islands prior to 1778 and the general public.

Requires a board of trustees made up of Hawaiians who shall be elected by qualified voters who are Hawaiian descendants.

Requires the board to manage and administer proceeds from the sale or other disposition of the lands, natural resources, minerals and income of the public trust established for

native-Hawaiians; to formulate policy for affairs of native-Hawaiians and Hawaiians; and to control all property from state, federal or private sources for native-Hawaiians and Hawaiians.

675 - Extends legislative power over lands owned by the State to those held in trust.

676 - Provides that legislation necessary to comply with any trust provisions imposed by Congress upon admission of the State upon land patented from the United States to the State shall give priority in the management and disposition of lands, proceeds and income to native Hawaiians as defined in the Hawaiian Homes Commission Act, 1920, as amended.

Allows such lands to be used for public schools and public education and to develop farm and home ownership, public improvements and public use of land to the extent such use does not limit or diminish benefits to native Hawaiians.

677 - Deletes Article X, section 5, relating to farm and home ownership. Adds a new section, agricultural resources, which requires public lands to be made available for agricultural use on as widespread a basis as possible.

Defines agriculture as the science, art and business of utilizing the natural resources of land and water to cultivate the soil, produce crops and raise livestock useful to man, to maintain good land management in so doing, and to allow for alternative styles of agriculture such as subsistent farming, small family-oriented diversified farming, nursery farming, aquaculture, and large agribusiness.

Provides that all agricultural lands classified as prime, unique and other shall remain in agriculture. Requires the legislature to adopt policies, standards and criteria for identifying agricultural land and water resources and potential agricultural lands and water resources which should be reserved for agricultural use; to provide for methods of taxation on lands classified as agriculture in order to assure their continued conservation and agricultural use; and to strive for a greater degree of self-sufficiency by promoting local enterprises and products derived from the use of state agricultural resources.

678 - Provides all surface and ground water derived from natural sources is the property of the State to be held in trust for Hawaii's people. Requires the legislature to establish a Hawaii water authority. The authority, which in accordance with law and in cooperation with all agencies and departments of the State and all political subdivisions, shall set overall water conservation, protection and utilization policies; define beneficial and reasonable uses; establish general priority use criteria while guaranteeing appurtenant, vested riparian and vested correlative rights; and establish a permit procedure for all new uses of Hawaii's water resources administered by the political subdivisions subject to review by the authority.

Provides that each political subdivision shall administer and manage the freshwater resources within its jurisdiction in accordance with the rules established by the authority.

679 - Provides freshwater cannot be owned individually or collectively, and therefore the State as caretaker of this vital resource shall establish a Hawaii water authority.

Requires the authority, in accordance with law and in cooperation with all agencies and departments of the State and all political subdivisions, to set overall water conservation, protection and utilization policies; define beneficial and reasonable uses; establish general priority use criteria while guaranteeing appurtenant, vested riparian and vested correlative rights; and to establish a permit procedure for all new uses of Hawaii's water resources. Requires the permit procedures to be administered by the political subdivisions subject to review by the Hawaii water authority.

Requires each political subdivision to administer and manage the freshwater resources within its jurisdiction in accordance with authority rules.

680 - Requires that the board of education be composed of 17 members, residing in the school board districts they represent and elected by the qualified voters of their respective school board districts, the boundaries of which are enumerated by representative districts, in the following numbers: Hawaii school board district, 2 members; Maui school board district, 1 member; Honolulu school board district, 7 members; Central Oahu school board district, 2 members; Leeward Oahu school board district, 2 members; Windward Oahu school board district, 2 members; and Kauai school board district, 1 member.

Deletes requirement that at least part of the membership represent geographic subdivisions of the State.

681 - Provides right of adequate medical care for each person. Requires legislature to implement amendment.

682 - Deletes Article X, section 5, relating to home and farm ownership.

683 - Requires that candidates for the office of governor be born in this State.

684 - Includes a minimum standard of living as an inherent and inalienable right.

685 - Deletes Article X, section 1, relating to resources; conservation, development and use.

Provides instead it shall be the public policy of the State and the duty of each person to conserve, preserve, restore and enhance the natural, cultural and agricultural resources and scenic beauty of the State. Requires the legislature to implement and enforce this policy.

Provides each person has a right to a clean and healthful environment and adequate preservation of natural resources. Provides for enforcement of this right through appropriate legal proceedings subject to reasonable limitations and regulations as provided by law.

686 - Requires public parkland, whether acquired before or after the ratification of this amendment, be considered a natural resource and scenic beauty of the State. Provides that it shall be the public policy of the State and the duty of each person to protect, preserve and maintain public parklands. Prohibits the taking of public parkland for private use or being used for public infrastructures such as roads, visible utilities or public buildings other than those constructed for the enhancement of the park itself unless a legislative body or governmental agency of the State or its political subdivisions having control over such change in usage so determines at a public hearing as provided by law.

Requires that at the public hearing it be determined that (1) no feasible and prudent alternative to use of the parkland exists; (2) if no such alternative exists, that all possible planning and effort have been made to minimize harm and negative impact to the park, in particular the ecological and visual harm; and (3) lands have been designated to replace the taken parkland which are of substantially equal acreage, recreational and economic value and that the location of the newly acquired land is such that it will serve the same community as the original parkland.

687 - Allows the legislature to create counties, provided that each county shall include no more than 200,000 persons.

688 - Deletes the provisions that the University of Hawaii is constituted as a body corporate and deletes all provisions concerning the board of regents of the University of Hawaii. Provides for the board of education, in accordance with law, to formulate policy and to exercise control over the public school system and also over the University of Hawaii through its executive officer, the superintendent of education.

689 - Provides that all justices and judges shall be chosen by a merit system as provided by law.

Deletes provisions relating to appointment, qualifications, tenure, compensation and retirement of justices and judges.

690 - Provides for the state ownership and management of all marine resources within the State's territorial and internal waters and appurtenant reefs, waters dividing the islands and extending outward to a 200-mile limit.

691 - Amends section on freedom of religion, speech, press, assembly and petition to exclude the press, and adds a new section concerning the rights and responsibilities of the media which prohibits any abridgment of the freedom of press by the law except to ensure the right of the individual to fair and equal treatment and coverage by the media.

692 - Requires the legislature to provide for participation in the government of the county of Kalawao by the residents of that county.

693 - Provides that the State and its people grant to native Hawaiians the lands made available by the Act of 1920 to be held for their exclusive benefit and control as a perpetual trust.

Provides that it shall be the policy of the department of Hawaiian home lands to provide land to native Hawaiians by leasing house lots, farm lots, ranch lots and commercial lots on as widespread a basis as possible. Requires the department to provide financial and other technical assistance to native Hawaiians through low interest loans for commercial and agricultural development and home construction.

Requires the department to be operated and controlled by a commission elected by the native Hawaiian beneficiaries and to provide for and be directed by the beneficiaries' desire for self-determination by increasing their benefits and rights, providing for their general welfare and conditions in education, culture, economics, social and political processes.

694 - Provides that the legislature in each regular session in odd-numbered years may by general authorization by a 2/3 vote of the members to which each house is entitled allow the governor or a designee of the governor with the governor's approval to issue general obligation bonds not to exceed an amount stated therein during a forthcoming fiscal biennium to provide general obligation bond funds for capital improvement projects contained in separate legislative authorizations, which authorizations may be by a majority of the members to which each house of the legislature is entitled.

695 - Changes the minimum voting age from 18 to the age of majority.

696 - Provides the right of the people to be governed shall not be usurped. Deletes, by omission, the section in the bill of rights stating that all political power of this State is inherent in the people, that the responsibility for the exercise thereof rests with the people and that all government is founded on this authority. Deletes provisions providing equality of rights under the law shall not be denied on account of sex and authorizing the legislature the power to enforce such provision by appropriate legislation.

697 - Provides that in any year total appropriations in the final General Appropriations Act shall not exceed percent of average of total personal income within State over preceding 3 years. Excludes from computation appropriations to be federally funded.

Allows appropriation bill to exceed limit by majority vote of all members of each house and requires it to embrace 1 subject, specify the dollar amount of such excess and specify the percentage that total (including additional) appropriations are to the average of total personal income within State during preceding 3 years.

Prohibits expenditure of public monies except pursuant to appropriations made by law and provides that general appropriations in any year shall not exceed the sum of anticipated state revenues and accumulated revenue surpluses.

Requires surplus state funds to reduce state taxes, rebate money to taxpayers, retire state bond debt or be held in interest-bearing special fund, not exceeding 2 percent of total state revenues collected during previous fiscal year, to carry over to next fiscal year.

698 - Provides for the condemnation of all water resources within the State including rights-of-way over the lands of others for ditches, drains, flumes, canals and aqueducts or other means of transporting water, and reservoirs for collecting and storing water for public use upon payment of just compensation. Provides the right of eminent domain may be exercised to acquire any property or rights now or hereafter existing when found necessary for the reasonable and beneficial use and conservation of water. Provides for the commencement of eminent domain proceedings by the water resources agency upon a finding that such proceedings are necessary to insure the reasonable and beneficial use and conservation of water.

699 - Establishes a water resources agency composed of members fairly representing the community and selected in accordance with law. Empowers the agency to control, distribute, manage and preserve water to insure the conservation of water and the reasonable and beneficial use of water as provided by law. Requires the agency to provide for the orderly and efficient administration of water resources through the implementation of a permit system as provided by law. Requires the agency to establish guidelines for the reasonable and beneficial use of water, manage water rights and integrate the water quantity and quality functions of state and county governments.

700 - Recognizes water resources as being of paramount importance to the welfare of the people and of a limited amount. Requires all water, surface, subsurface or ground, to be controlled, distributed, managed and preserved by the State in the exercise of its police power to insure that water resources are protected and used reasonably and beneficially. Provides that it is the public policy of the State and the duty of each person to insure that water resources of the State are used reasonably and beneficially. Prohibits waste or unreasonable use of water. Defines reasonable and beneficial use as use of water resources serving the greatest public benefit and interest.

Provides private and public funds used for the promotion and expansion of water resources shall be expended to serve the best interests and welfare of the people. Provides this amendment is self-executing insofar as possible. Requires the legislature to enact laws for implementation.

701 - Requires the State to provide for the protection, maintenance and preservation of Hawaii's natural, cultural and aesthetic resources for the appreciation of present and future generations.

Requires the State to promote the development and utilization of Hawaii's flora and fauna, natural energy, agricultural, water, mineral and oceanic resources consistent with the intent of this amendment.

Requires the legislature to vest in 1 or more executive boards or commissions powers for the management of natural resources owned or controlled by the State, and such powers of disposition thereof as may be authorized by law unless otherwise stated. Exempts lands set aside for public use, other than for a reserve for conservation purposes, from the jurisdiction of the board or commission. Exempts natural resources owned by or under the control of a political subdivision or a department or agency thereof from the mandatory provisions of this amendment.

Requires the State to be the custodian of all freshwater resources within state boundaries, notwithstanding riparian and other vested rights. Requires the legislature to vest in a duly appointed central commission the authority to manage all freshwater resources in the State and to authorize the use, methods of use, methods of diversion and all development of all freshwater in the State. Requires each political subdivision or agency thereof to supply freshwater to their respective subdivisions.

Provides the general welfare of the State, the fullest beneficial use and the prevention of wasteful and unreasonable authorizations are of primary concern. Requires all rights to be limited to such water as shall be reasonably required, not to extend to either waste, unreasonable use, method of use or diversion of water.

Provides nothing in this amendment is to be construed as depriving an appurtenant owner of the sufficient use of freshwater nor shall the appurtenant owner's rights be deprived of sufficient use of the water of the stream to which the owner's land is appurtenant under methods of diversion and use authorized by this amendment.

Provides any acquisition of real property within state boundaries constitutes an acceptance to conform to state laws as to the use and methods of use and regulation of water resources.

Deletes Article X, sections 1 and 2, relating to resources; conservation, development and use and to natural resources; management and disposition.

702 - Enumerates in the Preamble the responsibilities of all government in the State as follows: (1) to encourage concern and concentrate upon the well-being of all Hawaii citizens to improve the quality of life as a priority over group and individual self-interests; (2) to foster the equitable distribution of land among the citizenry; (3) to locate jobs for all citizens willing and able to work and to increase the productivity of those living and working in Hawaii; (4) to preserve a society which shall enable Hawaii's people to enjoy freedom from fear and forces of repression; and (5) to recognize ignorance of the State's democratic process as an omnipresent danger to the general welfare of future generations.

703 - Provides that no executive or administrative office or department shall make substantive changes to the laws or perform any functions except as provided by law.

704 - Provides that the State has the duty as well as the power to provide for public sightliness and good order. Deletes reference to the State's power to "conserve and develop its natural beauty, objects and places of historic and cultural interest" in Article VIII,

section 5. Adds a new section relating to historic and cultural conservation which provides that the State has the duty and power to protect and maintain objects and places of historic or cultural importance.

705 - Requires all candidates for an office to appear on 1 ballot whether a candidate is a nonpartisan or represents a political party. Allows voters to vote for any candidate for office in a primary election, regardless of the party or nonpartisanship of the candidate. Requires preservation of secrecy of the political party of the person voting if the person is a not a candidate.

706 - Deletes Article VIII, section 5, relating to public sightliness and good order and adds this section to Article X. Also provides that any person, including corporations, who appropriates, excavates, injures or destroys any object of historic value on either state land or privately owned historic property nominated or listed on the Hawaii or national register of historic places may be imprisoned for 90 days, fined, or both, as provided by law, if permission is not received from the chairperson of the board of land and natural resources and, if privately owned historic property is involved, the private owner.

707 - Deletes Article VIII, section 5, relating to public sightliness and good order and adds this section to Article X.

708 - Provides that investigative powers shall be vested in an ombudsman elected at the same time, for the same term and in the same manner as the governor. Requires the legislature to establish qualifications for the ombudsman. Provides that no person may serve as ombudsman while a candidate for or holding any other state office or while engaged in any other occupation for reward or profit.

Provides the ombudsman has jurisdiction to investigate the acts of state agencies, departments, and officials in accordance with law and shall have subpoena powers and access to all state documents and records. Requires the identities of complainants to be kept secret except when disclosures are necessary to carry out duties and to support recommendations.

Requires the ombudsman to make public findings in all investigations and to submit to the legislature and the public an annual report discussing his activities. Provides that if the ombudsman thinks there is a breach of duty or misconduct by any officer or employee of the State, he shall refer the matter to the appropriate authorities.

Provides that the legislature shall appropriate such moneys necessary for the ombudsman to perform his duties and shall implement through legislation necessary provisions of this amendment.

709 - Provides that the power of taxation shall never be surrendered, suspended or contracted away, adding unless to the federal government in accordance with law. Deletes reference to political subdivisions in allowing delegation of taxing powers by the legislature.

710 - Deletes the following: requirement that whenever the head of a department of the state government is a board, commission or other body, the members thereof shall be nominated and appointed by the governor with the advice and consent of the senate, provision that term and removal of such members shall be as provided by law and provision that such board, commission or other body may appoint and remove a principal executive officer.

Provides that except as otherwise provided in this constitution, the legislature shall establish a selection commission to select members for all state boards and commissions and shall establish the criteria for selecting such members. Requires all vacancies on state boards and commissions to be published statewide in daily newspapers for at least 2 weeks, such publications to include the position's qualifications and duties. Provides that the deadline for submitting applications shall be no less than 2 weeks after the last day of publication.

711 - Authorizes legislature, upon a showing of a compelling state interest, to pass laws requiring a reasonable durational residency requirement for state office, state employment, professional licenses and social services.

712 - Requires primary elections to be held on the 1st Saturday of October in every even-numbered year. Provides that the person receiving the majority of the votes cast in the primary as a candidate of a party for an office shall be the candidate of the party at the next general election, but if no candidate receives a majority, the 2 candidates receiving

the greatest number of votes for an office shall be placed on the ballot at the general election.

713 - Provides for an attorney general commission consisting of 11 members: 9 members to be the same members as the judicial commission established under Article V, 2 members to be selected by the 9 members of the judicial commission.

Provides that there shall be not less than 3 attorneys and 3 lay persons on the commission. Requires the members of the commission to serve without regard to political affiliation.

Provides that each member of the attorney general commission shall be a resident of the State and a citizen of the United States; shall not hold any other public office or office in any political party or organization; shall not be eligible for appointment to the office of attorney general so long as that person is a member of the commission and for a period of 3 years thereafter; and shall exercise their duties without regard to partisan politics.

Provides that in case of death, resignation, disqualification or incapacity to serve of a member of the commission, vacancies shall be filled as provided by Article V or the first paragraph of this amendment.

Provides that the commission shall recommend 3 highly qualified persons to the governor whenever there is a vacancy to be filled for the office of attorney general, and that the governor shall be bound by the recommendations of the commission and shall appoint 1 of the 3 persons recommended to fill that vacancy, subject to the advice and consent of the senate. Requires the commission to make its recommendations within 30 days after the election of the governor or when a vacancy shall occur and failing the making of such appointment, selection shall be made by the governor 30 days after such failure.

Provides that the commission shall review the performance and conduct of the attorney general and shall rate that person well qualified, qualified or unqualified. Provides that the attorney general commission shall select 1 of its members to serve as chairperson. Provides that the qualification and terms of the attorney general shall be as provided by law.

714 - Provides that every equity and interest of a lessee in a residential lot shall be given maximum value upon the renegotiation or extension of the rental terms for the lot or conversion of leasehold interest to a fee simple interest of the lot.

715 - Requires each house journal to include a record of all committee decision-making sessions, floor action and all matters arising during public hearings. Deletes the requirement of 1/5 of the members present in the provision on entering in the journal the ayes and noes of the members on any question. Requires all public hearings conducted by the legislature to be open to the public absent a compelling reason and each house shall determine uniform rules for public hearings and shall provide a 72-hour notice to the public. Requires the substance of every law passed to have had public hearing.

716 - Provides that the members of the legislature shall be entitled to the same benefits including, but not limited to, health, dental, parking and retirement as are received by employees of the State and its political subdivisions on the same salary level.

Provides that any change in such benefits shall be approved or disapproved by the voters at the next general election. Deletes provision that any change in salary shall not apply to the legislature that enacted that change.

Provides that there shall be a commission on legislative salary and benefits which shall be appointed by the governor on or before June 1, 19 , and every 4 years after the first commission is appointed instead of a commission on legislative salary appointed on June 1, 1971. Requires commission to submit to the chief election officer instead of legislature, within 60 days after its appointment, recommendations for a salary and benefit plan for members of the legislature, and then dissolve. Requires chief election officer to submit such plan at the next general election for approval or disapproval.

717 - Deletes provision against segregation in public educational institutions and substitutes provision prohibiting discrimination in such institutions based on race, religion, and

ancestry and extends prohibition to areas of national origin, sex, age or handicap.

718 - Requires at least part of the membership of the board of education to reside in, rather than to represent, specific geographic subdivisions of the State.

719 - Deletes requirement that superintendent of education serve as secretary of the board of education.

Requires the board to submit the budget for support of public schools and libraries to legislature with biennial and supplementary budget recommendations of governor. Restricts legislative power over budget to approving or modifying total expenditure only and prohibits exercising budgetary initiative and amending specific budget items.

720 - Provides that committee of members of each house appointed to confer on differing items in bill for final passage shall not consider items not in conflict nor recommend new items for final consideration.

721 - Allows the State to designate any natural resource as a state treasure as provided by law for purposes of conservation. Requires all state treasures to be managed and utilized as provided by law. Provides that state treasure on private property is subject to reasonable regulation.

722 - Requires the legislature to provide for a civil service commission within a department to investigate, hear and decide personnel appeals and perform those other functions as provided by law. Provides that the commission shall be composed of 7 members having administrative experience, selected in a manner provided by law. Requires the membership to represent a cross section of the community including private and public industry, labor and management. Provides that at least part of the membership of the commission shall represent geographic subdivisions of the State.

723 - Provides all freshwater resources in the State, notwithstanding riparian and other vested rights, are designated as natural resources under the control and guardianship of the State. Reserves to the State all geothermal resources, including the natural heat of the earth, the energy, in whatever form, below the surface of the earth present in, resulting from, or created by, or which may be extracted from, such natural heat, and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gases and steam, in whatever form, found below the surface of the earth, but excluding oil, hydrocarbon gas or other hydrocarbon substances, in, on or under any land, fast or submerged.

724 - Requires the State to promote the preservation and conservation of existing agricultural lands and resources which recycle water resources into the water supply.

725 - Provides that a judicial advisory committee of 5 members shall interview and review the qualifications of all individuals being considered for judicial appointments. Provides proceedings may be held in confidence. Composes committee of 1 member appointed by the governor, 1 member appointed by the legislature, 1 member appointed by the chief justice and 1 member appointed by the executive committee of the Hawaii bar association. Makes the dean of the University of Hawaii school of law a member.

Provides that upon favorable recommendation from the committee, the governor shall nominate and by and with the advice and consent of the senate, appoint the justices to the supreme court and judges to the circuit courts. Provides that the nomination shall be sent to the senate before the 20th day of the legislative session.

726 - Deletes provision of domiciliary care by the State of mentally or physically handicapped persons. Amends section to provide for treatment and rehabilitation by State of handicapped persons.

727 - Creates a government organization and operations commission consisting of: 8 elected members, 5 from the city and county of Honolulu and 1 each from the counties of Hawaii, Kauai and Maui; and 3 appointed members, 1 each appointed by the governor and the majority and minority leaders of the senate. Provides that the commission becomes operative immediately after the November 1980 general election for a 4-year term or until successors are elected or appointed.

Requires the commission to submit to the legislature in each session in an odd-numbered year its recommendations regarding changes in the executive branch organization,

designation of the lieutenant governor's specific responsibilities and other recommendations designed to improve the efficiency and reduce operating expenses of the state and county governments, including the elimination of duplication of state and county government responsibilities. Authorizes the commission, in fulfilling its responsibilities, to direct the legislative auditor to conduct necessary studies and investigations.

728 - Establishes a government salaries and benefits commission of 8 elected members, with 5 from city and county of Honolulu and 1 each from Hawaii, Maui and Kauai counties, and 3 appointed members, with 1 each appointed by governor, and senate majority and minority leaders. Makes the commission operative immediately after the November 1980 general election to serve 4-year terms or until their successors are elected or appointed.

Makes the commission responsible for establishing reasonable salaries and benefits for all elected and appointed state government officials of all branches of government. Requires the commission to submit to legislature during each regular session in an odd-numbered year, salaries and recommended changes in benefits for the ensuing fiscal biennium. Allows legislature to decrease but not increase such recommended changes in salaries and benefits if deemed excessive.

Deletes provisions in constitution relating to salaries of legislators, commission on legislative salary, compensation of governor and lieutenant governor and compensation of chief justice, associate justices and circuit court judges.

729 - Establishes right of developmentally disabled, mentally ill and handicapped to receive care as basic and inalienable. Requires State to provide treatment, rehabilitation and domiciliary care for these people through cooperation with nongovernmental agencies or through governmental programs. Deletes provision for treatment, rehabilitation and care of mentally or physically handicapped persons.

730 - Provides for a legislative study commission which shall be appointed by the governor on or before June 1, 19 , and every 4 years thereafter.

Provides that the commission shall study all legislative salary, benefits, direct or indirect, made to legislators whether by way of compensation, allowance, reimbursement, health benefits or retirement system benefits, the legislative structure, procedures, session length and all other aspects of the legislative branch.

Provides that within 180 days after its appointment, the commission shall submit to the chief election officer recommendations for a salary and benefit plan for members of the legislature, or amendments to the state constitution, or both, and then dissolve. Requires the chief election officer to place the recommendations on the ballot at the next regularly scheduled general election for approval or disapproval by the voters.

Deletes provisions on the commission on legislative salary appointed by the governor.

731 - Provides that upon renegotiation or extension of the rental terms for a residential lot, the lease rent payable shall not exceed the amount derived by multiplying the "owner's basis" by 3 percent. Defines "owner's basis" as the current fair market value of the lot, excluding onsite improvements, valued as if the title were unencumbered; less the lessee's share, if any, of the current replacement cost of providing existing offsite improvements attributable to the land, which replacement cost includes an overhead and profit not exceeding 20 percent of the current replacement cost of the existing offsite improvements or less the original lot development credit to the lessee, whichever is greater. Defines "offsite improvements" as all physical improvements such as, but not limited to, roads, sewer lines, sewage treatment plants, and underground utility cables, constructed or placed in a subdivision or development off the land intended for occupancy, which are to be used in common by occupants of all lands (adjoining such improvements or by occupants of all lands) for whose benefit the improvements have been constructed or placed; and "onsite improvements" as all physical improvements placed on a residential lot intended for occupancy which are for the benefit of occupants of that lot, including, but not limited to, dwelling units, garages, service buildings, stairs, walkways, driveways, walls, trees, shrubs, landscaping and pools.

732 - Provides that the expenditure of appropriated monies of the State or its political subdivisions for the salaries or benefits of public employees who provide or furnish services which are reasonably attainable from private enterprises in this State shall be prohibited.

Provides that this prohibition shall not apply to personnel of fire, police, security forces of a military character, personnel directing the formulation of administrative policies,

specifications, contracts, the review of compliance with public contracts, the administration of public education and public welfare programs, nor to the performance of functions of a strictly governmental character.

Provides that the burden of proof shall be on the governmental agencies to prove that the services supplied by these agencies are not reasonably attainable from private enterprise.

Provides that jurisdiction shall be vested in the circuit courts to hear and determine controversies arising under this section.

733 - Provides that it shall be the policy of the State and its political subdivisions to contract with private enterprise for public services except where unavailable or not competitively priced. Allows use of public employees to provide service as provided by law where private contractor breaches contract for services.

734 - Adds provision that the people of Hawaii believe that those who work with and for the government must exhibit the highest standards of ethical conduct and to promote this belief, the legislature and each political subdivision shall adopt a code of ethics. Adds justices, judges and persons working with the State or any political subdivision and lobbyists to those now covered by a code of ethics.

Requires each code to be administered by an ethics commission, the members of which, whether of the State or its political subdivisions, shall be selected from a list of recommendations prepared by the judicial council and submitted to the respective appointing body; that no member shall, during a term of office, run for or hold any office in any political party or organization, or directly or indirectly make any political contribution, or take part in any political campaign.

Requires each code of ethics to include provisions on the acceptance of gifts, the use of confidential information, the use of position, contracts with government agencies, post-employment and financial disclosure. Requires elected and appointed public officials, candidates for elected office and justices and judges to make public financial disclosure, and other public officials with significant discretionary or fiscal powers to make confidential financial disclosure in at least the following areas: sources and amounts of income, ownership and officership interests in businesses, ownership of real property, debts, creditor interests in insolvent businesses and the names of persons represented before government agencies.

735 - Provides right of people against loss of body or parts thereof by State or its political subdivisions.

736 - Provides that the State or its political subdivisions shall acquire by purchase or condemnation all roads, alleys or streets laid out or built by private parties, located in urban areas and used by motor vehicles, and shall maintain and repair them.

737 - Empowers the legislature to create special public authorities which shall have administrative powers limited to a specific subject matter and shall be placed under the governor's office for administrative purposes.

738 - Requires any state or political subdivision employee elected to public office to take a leave of absence without pay from such employment for the duration of that officer's term of elected office. Provides that such elected official shall not lose any accrued benefits with the State or political subdivision.

739 - Provides that pre-payment of taxes shall not be penalized.

740 - Provides the State rather than the legislature shall govern as well as promote the conservation, development and utilization of its natural resources of land, sea and air, including land and sea mining, being mindful to preserve a healthful environment while maximizing its resources. Deletes references to "agricultural resources" and to "fish, mineral, forest, water, land, game and other natural resources" in Article X, section 1.

741 - Prohibits issuance of warrant to search for materials in possession of any person not suspected of a crime, unless there is probable cause to believe that the possessor of the materials would disregard a court order not to remove or destroy them.

742 - Limits the rate of growth of appropriations from state tax revenues to the average rate of growth of total state personal income for the 2 most recent years for which statistics are available. Allows the legislature by a 2/3 vote of the members to which each house is entitled to exceed that limit by a law containing no other subject and which sets forth the dollar amount and the rate by which the limit will be exceeded.

743 - Requires the State to ensure that no fewer than 2 examples of each native ecotype found on each island of the State be forever preserved by mandating the state department empowered with protecting and managing conservation lands to define the native ecotypes and to create and manage special use areas within state-owned conservation districts on each island for each ecotype. Requires the State to acquire by purchase or condemnation any area outside the state-owned land, if a particular ecotype is found only in that area, and to make that area a special use area within a conservation district. Creates for each ecotype 2 types of special use areas on each island: the kapu area, which is protected from disturbance by humanity; and the kokua area, to which limited accessibility by humanity is permitted providing the ecological balance is not significantly disturbed.

744 - Provides that the State of Hawaii and its political subdivisions shall promote the establishment and revision of laws and regulations that are compatible with the operation of small businesses.

Provides that the legislature shall create a committee on small businesses to review proposed and existing legislation and regulations and their possible effect on small businesses and, if necessary, to make recommendations for revisions to such legislation and regulations.

745 - Requires the State to manage its growth in order to preserve the life-style of the Hawaiian islands. Requires the State and its political subdivisions to encourage agricultural self-sufficiency and discourage urbanization of agricultural, conservation and rural lands and the use of nonrenewable natural resources. Requires governmental actions to be consistent with this section.

746 - Requires at least 90 percent of all urban lands, within each political subdivision of State, to be developed before lands are added to urban districts as provided by law.

747 - Subjects every public officer in Hawaii to recall by the legal voters of the State or of the electoral district from which the public officer is elected.

Requires a recall measure, for submittal to the people for a vote, to contain signatures of (20, 25) percent of the number of electors voting in the officer's district at the preceding election. Allows only voters entitled to vote for the affected officer to sign the petition and vote at the special election. Provides that in districts where votes are cast for multiple representation to an office, the total votes cast for that office shall be divided by the number of seats from that district to arrive at the total to which the (20, 25) percent shall be applied.

Requires petitioners to set forth in the petition the reasons for recall of the official. Provides that if an official resigns, the resignation shall take effect the day it is offered and the vacancy shall be filled as may be provided by law, but if the official fails to resign, a special election shall be called within 90 and 100 days from the filing of the petition. Provides that the official must have served at least 6 months of the term of office.

Provides that if an official's term of office bypasses 1 or more general elections and a petition is filed between 6 and 3 months of a general election, that vote will be held at that general election.

Requires the sample ballot at the special or general election to contain in print in not more than 200 words the reasons for the recall demand and in not more than 200 words, the official's justification for the official's conduct in office. Allows the official to continue in office until the result of the special or general election is officially declared.

Requires the recall petition to be filed with the lieutenant governor for certification and requires the governor to appoint another officer to fulfill the duties of the chief election officer when a recall petition against the lieutenant governor has been requested and taken out with the attorney general.

Requires a recall to be approved by a majority of the votes cast thereon. Prohibits another recall vote for the same officer for the remainder of the officer's term of office if the recall vote fails. Requires petitioners to bear all costs of the preparation and circulation of the petition.

748 - Defines the term "reimbursable general obligation bonds" as general obligation bonds issued for an undertaking, improvement or system from which revenues, user taxes or a combination thereof may be derived to pay principal and interest to reimburse the general fund for which reimbursement is required by law or in the case of bonds issued by the State for a political subdivision, means general obligation bonds for which the payment of principal and interest as reimbursement to the general fund is required by law to be from the subdivision's revenues. Amends definition of "revenue bonds" to mean all bonds payable from various sources and including a loan program and secured as provided by law, instead of secured solely by such sources.

Provides that general obligation bonds may be issued by the State when authorized by the legislature, provided that at the time of issuance, instead of at time of authorization, such bonds will not cause total annual payments of principal and interest on general obligation bonds, issued and outstanding, to exceed in any fiscal year 15 percent of the estimated general fund revenues of the State for that fiscal year. Deletes existing provision for limitation on bond issuance providing for not more than 3-1/2 times the average general fund revenues for 3 preceding fiscal years.

Provides that the method of estimating the general fund revenues to compute the debt limit shall be the compounded annual growth rate of general fund revenues of the 3 immediately preceding fiscal years applied to the immediately preceding fiscal year. Provides that general fund revenues shall not include receipts in reimbursement of reimbursable general obligation bonds.

Provides that by majority vote of each house of legislature, there may be authorized, instead of issued, bonds to meet appropriations for any fiscal period in anticipation of revenue collections, for casual deficits or failures of revenue, if to be paid in 1 year, or to suppress insurrection, repel invasion, defend State in war, or meet emergencies; and revenue bonds, if the issuer thereof is obligated by law to impose rates, rentals and charges for the use and services of the undertaking, improvement or system or loan program benefits, or to impose a user tax or combination thereof, to pay operation and maintenance and repair costs of the undertaking, improvement or system or cost of maintaining loan, if any, and the required payments of principal of and interest on revenue bonds issued therefor and if the issuer is obligated to deposit such revenues or tax or combination thereof into a special fund to make such payments. Defines user tax as tax on goods or services or consumption thereof with receipts derived from sale, use or consumption of goods and services from the undertaking, improvement or system. Defines rates, rentals and charges as revenues or other moneys derived from operation or lease of an undertaking, improvement or system or derived from any payment or return on security under a program.

Requires all general obligation bonds for a term exceeding 5, instead of 1, years to be in certain serial forms.

Excludes from computing debt limit of the State instead of total indebtedness the (1) bonds presently excluded and those for which securities in addition to moneys have been irrevocably set aside; (2) revenue bonds issued and outstanding, deleting requirement that the issuer is obligated to impose rates and charges, user tax, or combination thereof, to pay operating, maintenance and repair costs and principal and interest on such bonds and deleting revenue bonds authorized; (3) bonds issued under special improvement statutes, deleting such bonds authorized under such statutes; (4) certain reimbursable general obligation bonds issued and outstanding for assessable improvements and substituting "reimbursable general obligation bonds" for "general obligation bonds"; (5) reimbursable general obligation bonds, instead of general obligation bonds, issued and outstanding, and deleting bonds for a public undertaking, improvement or system from which revenues, user taxes or both may be used to reimburse the general fund; (6) reimbursable general obligation, instead of general obligation, bonds issued by the State for any political subdivision; and (7) bonds constituting instruments of indebtedness whereby the State or a political subdivision incurs a contingent liability as guarantor with a reserve as required by law. Deletes from this list general obligation bonds, authorized but unissued, for an existing public undertaking, improvement or system that has not been self-sustaining or that produces revenues, user tax or both sufficient to pay the full amount of principal and interest. Provides that debt limit and permitted exclusions shall be certified instead of certifying determinations of exclusions. Deletes statement that amounts received from on-street parking may be considered and treated as revenues of a parking undertaking.

749 - Provides that public credit shall not be used, except for defraying the necessary expenses of government, instead of except for a public purpose.

750 - Provides that appropriations in regular legislative sessions shall not, in the aggregate, exceed the anticipated revenues as recommended by governor in odd-numbered years or as recommended and revised by the governor in even-numbered years.

751 - Gives governor, where anticipated revenues fall below estimates on which appropriations were based or when the governor is authorized by law to effect other economies, to the extent proper to effect such economies, the authority to reduce state expenditures below appropriations and through allotments or otherwise to control rate of expenditure of appropriations during the fiscal period.

752 - Deletes provision for unspecified number of board of education members elected by qualified voters in accordance with law, representing at least in part the geographic subdivisions of the State. Requires a board of 13 members: 10 to be elected at-large by registered voters of the city and county of Honolulu, 4 of whom must each reside in 1 of the 4 school districts within the city and county; 3 to be elected at-large by registered voters of the counties of Hawaii, Maui and Kauai, each of whom must reside in 1 of the 3 school districts within the 3 counties. Provides no person is eligible for election or appointment to the board if not a voter of the at-large district from which elected or appointed and, where residence in school district is a requirement, if not also a resident of the school district from which elected. Requires member to forfeit office, making seat vacant, if member ceases to be resident of at-large district, or if member holds seat requiring residency in school district and ceases to be resident of the school district. Prohibits members from holding any other state or county government office except notaries public, reserve police officers and officers of emergency organizations for civilian defense or disaster relief.

753 - Prohibits the president of the University of Hawaii from serving on any other board, private or public, besides the board of regents.

754 - Prohibits the superintendent of the board of education from serving on any other board, private or public.

755 - Provides that whenever the state general fund balance at the close of each of 2 successive fiscal years exceeds 5 percent of the general fund revenues for each of the 2 fiscal years, the legislature in the next regular session shall provide for special tax refunds to individual taxpayers in accordance with law.

Requires a statement of the State's financial condition to be published annually in accordance with law not later than 4 months following the end of each fiscal year.

Requires the establishment of a council on revenues which shall prepare revenue estimates of the state government and report them to the governor and the legislature at times prescribed by law. Requires the estimates to be considered by the governor in preparing the budget, recommending appropriations and revenues and controlling expenditures and by the legislature in appropriating funds and enacting revenue measures. Requires estimates to be made public.

Allows the legislature in enacting laws imposing a tax measured by income to define income by reference to provisions of the laws of the United States as they may or become effective at any time or from time to time, whether retrospective or prospective in operation. Allows legislature to provide that amendments to such United States laws become the law of the State upon becoming the law of the United States. Requires the legislature in any such law to set the rate or rates of such tax. Allows the legislature in defining income to make exceptions, additions or modifications to the United States laws referred to and to provide for retrospective exceptions or modifications to the provisions which are retrospective.

Provides that nothing in constitution requiring taxes and appropriations to be for a public purpose shall prohibit the authorization or issuance of revenue bonds by the State or a political subdivision for the purpose of or for, financing facilities or loaning the proceeds of such revenue bonds to, assist manufacturing, processing and industrial enterprises, utilities serving the general public, not for profit corporations providing health care facilities to the general public or low or moderate income government housing programs, if the legislature or the governing body of a political subdivision, in its sole discretion, finds such authorization or issuance to be in the public interest. Provides that no grant of public money or property shall be made except under standards prescribed by law.

Amends definition of revenue bonds to include loan programs referred to under (b) (1) below and rentals or other payments to the issuer under contracts referred to

under (b) (2) below .

Provides that the authorization of issuance of revenue bonds by or on behalf of the State subject to exclusion under (b) (2) below may be by general law . Provides that bonds of a political subdivision shall be authorized by the legislature under general law in addition to the governing body of the political subdivision and provides the authorization of the issuance of revenue bonds by or on behalf of such subdivision subject to exclusion under (b) (2) below may be by ordinance .

Provides that bonds may be authorized by a majority instead of 2/3 of the members to which each house is entitled, provided that such bonds at the time of issuance would not cause the total amount of principal and interest payable in the current or any future fiscal year on such bonds and all outstanding bonds to exceed a sum equal to _____ percent of the average of the general fund revenues in the 3 fiscal years immediately preceding the issuance . Deletes the present bond limitation of 3-1/2 times the average of the general fund revenues in the 3 fiscal years immediately preceding authorization . Deletes issuance of bonds by State or a political subdivision to meet appropriations in any fiscal period in anticipation of revenues, to meet casual deficits, and failures of revenues or bonds to suppress insurrection, repel invasions, defend the State in time of war or to meet emergencies .

Deletes the sum equal to 15 percent of the total assessed values for tax rate purposes of real property as the limit of funded debt of a political subdivision and substitutes a sum equal to _____ percent .

Provides that general obligation bonds shall be in serial form if the term exceeds 2, instead of 1, years and that the last installment shall be not later than 25 instead of 35 years . Provides that instead of excluding the enumerated bonds from the total state indebtedness, they shall be excluded from the power of the State to issue bonds and from the funded debt of any political subdivision .

Amends exclusions from the State power to issue bonds and from the funded debt of a political subdivision as follows:

(a) By excluding bonds for which the full payment in securities as well as moneys has been irrevocably set aside .

(b) By amending revenue bonds to exclude them (1) if the issuer in addition to existing provisions is obligated by law to impose rentals for the use and services of existing provisions and adding for the benefits of a loan program and for the cost of maintaining a loan program, or (2) to finance facilities of or for or make loans to any person for purposes permitted by the constitution if the issuer is required by law to contract with such person obligating such person to make rental or other payments to the issuer in an amount at least sufficient to make the required payment of the principal of and interest on such revenue bonds . Provides that excluded revenue bonds under (2) above shall not be secured directly or indirectly by the credit of the issuer or by any revenues or taxes of the issuer other than receipts derived from payments under a contract entered into as provided in (2) or moneys derived from any security for such contract or revenue bonds . Defines rates, rentals and charges to mean all revenues, rentals or other moneys derived from the operation or lease of a public undertaking, improvement or system, or derived from any payments or return or security under a loan or loan program; and a person to be an individual, firm, partnership, corporation, association, cooperative or other legal entity, governmental body or agency, board, bureau or other instrumentality thereof or combination of the foregoing .

(c) By deleting reference to authorized but leaving reference to issued bonds for special improvement statutes .

(d) By deleting reference to authorized but leaving reference to issued general obligation bonds for assessable improvements .

(e) By amending provision that general obligation bonds issued for public undertakings the payment of all or part of the principal and interest of which may be a reimbursement to the general fund to add the requirement that such reimbursement be required by law .

(f) By deleting reference to general obligation bonds of the State authorized but unissued for an existing public undertaking, improvement or system that produces revenues, or user tax receipts, or a combination of both .

(g) By deleting reference to general obligation bonds of the State, authorized but unissued, for an existing public undertaking, improvement or system that has not been self-sustaining.

(h) By deleting references to bonds authorized after the effective date or total indebtedness in provision relating to general obligation bonds issued by the State for any political subdivision.

By inserting as an additional exclusion bonds issued by the State or any political subdivision to meet appropriations for any fiscal period in anticipation of the collection of revenues for the period, to meet casual deficits or failures of revenues, if they are required to be repaid within 1 year; or to suppress insurrection, repel invasion, defend the State in war or to meet emergencies.

Amends certification of total indebtedness of the State or funded debt of any subdivision to provide instead that the total outstanding indebtedness and the exclusions therefrom shall be certificated. Amends budget provisions to provide that the budget shall be submitted to the legislature in a form prescribed by law setting forth a plan of proposed expenditures and that the budget shall be in bill form. Deletes required submission of the governor of bills to provide for expenditures and additional revenues. Adds provision requiring that the proposed general fund expenditures submitted by the governor shall not exceed a general fund expenditure ceiling established by the legislature; provided the proposed expenditures may exceed the ceiling if additional revenues are proposed to meet the expenditures in excess of the ceiling. Requires such proposed additional revenues to be submitted before the opening of each regular session in bill form as provided by law.

Provides that all appropriations for which the source is general obligation bond funds or general funds shall be for specific periods not exceeding 2 years. Lapses any such appropriation or any portion which is unencumbered at the close of such period and provides that where general obligation bonds have been authorized for an appropriation, the amount of the bond authorization shall be reduced in an amount equal to the amount lapsed. Provides that all such appropriations in effect on the date of ratification of this amendment, which are unencumbered on June 30, 1980, shall lapse on that date unless earlier lapsed and that any bond authorizations shall be reduced in an amount equal to the amount lapsed.

Requires the legislature to establish a general fund expenditure ceiling in each even-numbered year for the forthcoming biennium. Provides that no appropriations in excess of the ceiling shall be made unless the legislature by a 2/3 vote of the members to which each house is entitled sets forth the dollar amount, the rate by which the ceiling will be exceeded and the reasons therefor or if the legislature enacts revenue measures estimated adequate to meet the expenditures proposed in excess of the ceiling.

Provides that no public money shall be expended except under appropriations made by law. Provides that general fund expenditures for any fiscal year shall not exceed the State's current general fund revenues and cash balances, except when the governor publicly declares the public health, safety or welfare is threatened as provided by law. Provides that the auditor shall in addition to conducting post-audits of the transactions, accounts, also conduct post-audits of the programs and performances of all departments, offices and agencies of the State and its political subdivisions and provides the duty of the auditor to certify to the accuracy of the financial statements issued by the accounting officers of the departments, offices and agencies of the State is exclusive.

756 - Gives tenants right to organize and bargain collectively on all lease conditions and right to conduct rent strikes. Prohibits discrimination by landlord against tenants on basis of sex, race, employment status or household size. Prohibits court from issuing writs of eviction or harassing tenants in the conduct of their rights under Article I.

757 - Deletes Article X, section 1, relating to "Resources; Conservation, Development and Use." Provides the State has an interest independent of and behind the titles of all of its citizens in all the natural resources within its domain. Provides the State has the duty and the power to conserve and protect the natural resources of the State from damage, destruction, unreasonable development and depletion as well as a responsibility to develop and utilize the natural resources of the State in the public interest.

758 - Amends the title of Article I, section 2, relating to the rights of man by replacing "man" with "people." Provides each person has an inalienable right to a healthful environment in addition to enjoyment of life, liberty, pursuit of happiness and the acquiring

and possessing of property. Provides for the enforcement of these rights against any party, governmental or private, through appropriate legal proceedings subject to reasonable limitations and regulation by law.

759 - Provides that the delegates of the constitutional convention shall receive allowances reasonably related to expenses and a salary. Requires public employees, who are delegates, to receive compensation or subsidies to supplement their salary to the amount being earned before being elected. Allows delegates, employed by private employers, to receive compensation or subsidies to supplement their salary to the amount being earned before being elected.

760 - Provides for the same number of senatorial (8) districts, for the same number of senators from each district and for the same basic makeup of representative districts included in each senatorial district as provided in the 1973 reapportionment plan. Does not specify in detail particular boundary and geographical lines as does such plan for portions of representative districts included therein. Provides that such districts and number of senators shall be as provided therein until the next reapportionment. Provides for the same number of representative (27) districts and the number of representatives to be elected from each district as the 1973 reapportionment plan but makes some changes in particular boundary and geographical lines in some representative districts. Provides that such districts and number of representatives elected from each district shall be as provided therein until the next reapportionment.

761 - Provides it shall be the policy of the State and the affirmative duty of each individual to promote a healthful environment for the benefit of present and future generations. Requires the legislature to provide by law for implementation and enforcement.

762 - Changes the age requirement from 21 to 18 years of age for persons applying to the department for an original lease under the Hawaiian Homes Commission Act.

763 - Provides every equity and interest of a lessor shall be given maximum value upon the conversion of the leasehold interest to a fee simple interest.

764 - Limits the exercise of control of the board of regents of the University of Hawaii to the university and all other public institutions of higher learning except the state system of community colleges. Requires at least part of the membership of the board to be students and faculty members of the university system.

Requires establishment of a state system of community colleges and its constitution as a body corporate with title to all real and personal property, now or hereafter set aside or conveyed to it, to be held in public trust, administered and disposed of, according to law. Requires the establishment of a board of trustees of the state system of community colleges and the governor to nominate and to appoint, with senate approval, the members of the board, who shall represent, in part, geographic subdivisions of the State and consist of, in part, students and faculty members of the community colleges system. Provides board with power, in accordance with law, to formulate policy and to exercise control over the state system of community colleges through its executive officer, the chancellor of the community colleges, whom the board shall appoint.

765 - Increases the terms of office of the governor and lieutenant governor from 4 to 6 years and provides that no person shall be elected to those offices for consecutive terms.

Provides that the offices of the governor and lieutenant governor shall be subject to recall from office. Requires recall petitions to contain signatures equaling not less than 1/3 of the votes for all gubernatorial candidates in the preceding general election. Provides that if 2/3 of those voting on the question at a special recall or general election, if a general election is scheduled within days after the recall petition is filed, vote to remove a person from the office of the governor or lieutenant governor, that office shall become vacant and the vacancy shall be filled as provided by law, provided that the person recalled shall in no event be appointed to fill that vacancy. Provides that no recall petition shall be filed against the office of governor or lieutenant governor until more than months of that office have been served. Provides that except as provided recall measures shall be as prescribed by law.

766 - Provides for an executive-level cabinet composed of the state department heads and the lieutenant governor which shall serve as an advisory body to the governor.

767 - Requires governor to submit a budget annually instead of every 2 years. Deletes provision for supplemental appropriations bill.

Defines "local" or "local units of government" to mean all cities, counties, towns, school and special districts, authorities and other political subdivisions within the State; "year" to mean any consecutive 12-month period; "direct general expenditures" to mean all monies expended for any purpose and from any source over which the local unit or State has expenditure or appropriation authority, now or in future; and "personal income" as the total personal income for the State and for each county as defined by the U.S. Department of Commerce.

Provides that in no year shall the rate of change of total state and local direct general expenditures exceed the average rate of change in personal income over the preceding 3 years or in most recent year, whichever is lower.

Provides that beginning July 1, 1979 the total state and local direct general expenditures shall be reduced annually 2-1/2 percent over preceding year's expenditures, until the ratio between expenditures and personal income in Hawaii is equal to or less than the current national average ratio, and once attained, the legislature may by 2/3 vote eliminate future reductions.

Allows legislature to provide for emergency situations during which the spending limit may be exceeded subject to agreement, for the State by the governor and legislature by 2/3 vote and for local units by the mayor or similar executive and legislative body by 2/3 vote, on the nature of the emergency, estimated cost, and how funds are to be obtained. Limits action to meet the emergency to 1 year, and requires majority of registered voters to continue funding beyond such period.

Requires state and local units to avoid receipt of monies substantially in excess of spending limit and provides monies collected in excess may be used to establish a budget stabilization fund to meet revenue shortfall. Limits balance of fund to not more than 5 percent of total direct expenditures during the current year and requires excess above balance to be returned to taxpayers or used to reduce debt obligations or other purposes.

Provides that no public money shall be expended except for legally authorized appropriations and that expenditures for a fiscal year shall not exceed state revenues and reserves, including proceeds to meet debt obligations and federal funding.

Provides that any law requiring state or local expenditures shall be void unless during that same session an appropriation is made for the estimated first year's funding.

Provides that if a local unit or the State enacts a law providing for future payments or benefits, or if such laws exist, any appropriation made thereunder shall be adequate to assure such future payments or benefits when judged by sound or commonly accepted accounting and actuarial practices. Provides that any citizen of the State or of the local unit shall have standing to sue to challenge such adequacy.

Provides that for any fiscal year the proportion of state expenditures paid to local units shall not be reduced below the fiscal 1977 figure and that no new program or increase in services shall be mandated by the legislature without an appropriation to pay the costs. Provides that if responsibility for funding a program is transferred from 1 level of government to another after adoption of this amendment, the intent of this amendment is that the expenditure rate limit of the transferring jurisdiction be reduced and that of the receiving jurisdiction be increased and that no net increase occur in expenditures because of such transfer.

Gives priority in expenditures to principal and interest payments on existing bonded indebtedness or on bonds hereafter approved and provides that the expenditure limit may be exceeded to meet such payments. Provides that no debt obligation, except as shall be repaid within the same fiscal year of issuance, shall be authorized for the current operation of state or local services or programs and that no proceeds from debt obligations shall be expended for any purpose other than as authorized.

Provides that if any expenditure category or revenue source shall be exempt or excluded from the limitations provided herein pursuant to final court judgment, the spending limit shall be adjusted accordingly and will remain in full force as to other expenditures. Provides that if any portion of this article is declared invalid the remaining portion shall not be affected.

768 - Prohibits public or private entities, on or after ratification of this section, from increasing the withdrawal or use of nonrenewable resources originating within the State. Allows the legislature, by statute, to provide exceptions upon a showing of nonfinancial

undue hardship. Requires the State and political subdivisions to reduce consumption of nonrenewable resources and to promote the use and wise management of renewable resources in an orderly manner as provided by law.

769 - Exempts from the total indebtedness of the State revenue bonds, authorized or issued, by the State for the purpose of financing housing programs.

770 - Requires the State to divide all deposits of state money equitably among all the federally insured financial institutions licensed to do business in this State.

771 - Provides that in limitation of public funds to public purpose "public purpose" shall be as determined by the legislature.

772 - Grants the right to decent housing at low cost, free from eviction, to all persons. Prohibits eviction or relocation of person, unless affordable and desirable housing can be provided. Mandates the State to provide low-cost public housing. Provides for enforcement of rights through appropriate proceedings subject to reasonable limitation and regulation, as the legislature provides.

773 - Requires juvenile, over 16 years old, who commits any dangerous or serious felony as follows: murder, assault in the first degree, kidnapping, rape in the first degree, sodomy in the first degree, burglary in the first degree, robbery in the first degree, promoting of a dangerous drug in the first degree, promoting of a dangerous drug in the second degree, promoting of a harmful drug in the first degree or 3 or more felonies, to be tried as an adult.

774 - Requires the legislature to provide for mandatory minimum terms of imprisonment without parole for any person convicted of a certain felony as determined by law who has a prior conviction of any one of those certain felonies. Requires this person to be sentenced to a minimum of 10 years for first conviction after prior conviction and of 30 years for any conviction after 2 prior convictions.

775 - Provides the purpose of public education is to provide citizens with the necessary motivation and intellectual skills to become decent human beings able to articulate and participate in society socially, economically and politically. Requires the following provisions, listed in order of priority, to be implemented in all public schools, at all levels at all times: to provide for motivation and habit patterns to achieve human decency in which every school, through all of its activities, shall become a training ground for human decency, kindness, thoughtfulness and concern for others, interwoven and interwrought through act-it-out methods, so that it is a pervasive pattern of every subject of the total school environment; and the total education program which shall include: the development of reading, writing and arithmetic skills, interwoven with a concern for others in each individual, to enable participation in society; the development of political awareness beginning with the entry level of schooling, with the participation of every student in practical training in government organization and the elective processes, to develop leadership experience and parliamentary skills; the development, based on each individual's aptitude, of at least one manual arts skill to a level of proficiency suitable for self-support; and the development of a feeling of being part-of, through student participation in school maintenance.

776 - Provides that revisions of or amendments to the constitution may be proposed by the constitutional revision commission in addition to constitutional convention or the legislature.

Requires a constitutional revision commission to be established to undertake a continuous review of the state constitution. Authorizes commission to propose revisions and amendments and to submit them directly to the voters at a general election, upon the affirmative vote of 5/6 of its membership. Provides that the conditions of and requirements for ratification of such proposed amendments are the same as provided for other amendments. Requires the commission to recommend changes to the legislature and constitutional conventions in a published annual report. Allows the commission to exercise the powers of the legislative committees in accordance with law. Composes commission of 18 members: 6 of whom are appointed by the governor, 3 by the house of representatives, 3 by the senate and 6 by the justices of the supreme court. Provides that the original appointments shall be made to establish staggered terms for the commission membership. Requires all members to be appointed from nonpartisan panels prepared by the chief election officer from nominees submitted by the general public.

Provides that members, after the original appointment terms, shall serve 3-year

terms without compensation, but shall be reimbursed for expenses incurred in the performance of duties. Requires each member to be a citizen of the United States, a resident and a registered voter of the State; that no member of the commission shall hold any other elective or appointed public office or any office in any political party or organization; and that the members of the commission shall exercise their duties without regard to partisanship. Provides that in case of the death, resignation, disqualification or incapacity to serve as a member, vacancies shall be filled in the same manner as the original appointments.

Provides that the provisions of the amendment are self-executing, but allows the legislature to enact legislation to facilitate the original establishment and continuing operation of the commission and to make the necessary annual appropriations.

Provides that no proposal for revision in addition to amendment of the constitution adopted in any manner is subject to veto by the governor.

Provides that if a revision or amendment proposed by the constitutional revision commission is in conflict with a revision or amendment proposed by the legislature and both are submitted at the same election to the electorate and both are approved, then the revision or amendment proposed by the legislature prevails. Provides that if a revision or amendment proposed by a constitutional convention is in conflict with a revision or amendment proposed by the constitutional revision commission or the legislature and both are submitted at the same election to the electorate and both are approved, then the revision or amendment proposed by the convention prevails.

777 - Provides that the judicial power of the State shall be vested in an intermediate appellate court in addition to present courts. Provides that the intermediate appellate court shall hear and decide all cases brought before it within 1 year of the filing of the notice of appeal or the decision of the trial court shall be final and binding. Requires the supreme court to accept and review cases in its discretion, provided any case accepted for review from decision of the intermediate appellate court shall be decided within 2 years of the filing of the original notice of appeal to the intermediate appellate court or the decision of that court shall be final and binding.

778 - Prohibits revisions or amendments to Articles I and II which would reduce rights in these articles, but allows for expansion.

779 - Provides that all persons have a right to cultural heritage.

780 - Provides that political subdivisions shall have the power to levy conveyance taxes on real property transactions to prevent speculative transfers and conveyances, such taxes to be levied only against persons who have held the real property interest less than 10 years. Exempts any person who qualifies for a homeowner's exemption as provided by law from such conveyance tax. Provides that the price of the transfer or conveyance shall not be increased to compensate for such tax.

781 - Provides that, unless the legislature or this constitution otherwise provides, there shall be the same number of delegates to the convention, elected from the same areas and the convention shall be convened as provided for the convention of 1968.

Requires the island of Niihau to be included in the same election district as the town of Waimea on the island of Kauai.

782 - Provides that any taxing power delegated to the political subdivisions by the legislature shall be exclusive. Provides that each county shall receive from the State grants-in-aid at least equal to the cash amount distributed to the county in the fiscal year which began on July 1, 1971 and, in addition, shall receive a proportional share, based upon the ratio of the county's population to the State's population, of an amount equal to percent of the cumulative growth in the State's real personal income since the fiscal year which began on July 1, 1971. Provides that nothing in this amendment shall be construed to limit the power of the legislature to give additional grants-in-aid to the political subdivisions and to apportion the same.

Provides that anything in the constitution to the contrary notwithstanding, the amendment provided herein shall take effect for the fiscal year beginning July 1, 1980.

783 - Mandates the legislature to promote development ecologically of agricultural and other resources in addition to their conservation and utilization thereof. Adds geothermal and other energy resources as resources to be promoted.

784 - Amends section 212 of the Hawaiian Homes Commission Act, 1920, to provide for the preferential leasing of lands controlled by the board of land and natural resources to persons who can trace their ancestry to the people living in the islands prior to 1778; eliminates the required approval of the Secretary of the Interior for the termination of such board leases and deletes the leasing limitations by permitting the department to recall lands from the board of land and natural resources for reasons other than for use as community pasture or those authorized by section 207 of the Act relating to leases to Hawaiians.

785 - Requires board of land and natural resources to grant preferential leasing of available Hawaiian home lands, through individual negotiation, to persons descended from Hawaiians living in Hawaii prior to 1778. Deletes necessity of obtaining approval of Secretary of Interior for department to consolidate holdings or to better effectuate the purposes of the Hawaiian Homes Commission Act, exchange title to available lands, publicly owned, or of equal value.

786 - Requires each justice or judge to file a financial disclosure report, as provided by law.

787 - Enables a voter to select or change his party preference for a period after the last date candidates for office must declare their candidacy.

788 - Requires the legislature to provide for the annual collection of statutes to occur after each legislative session and to be completed prior to a succeeding legislative session.

789 - Requires an appropriation bill to be based on the governor's plan of anticipated receipts.

790 - Requires budget bill or supplemental appropriations bill to pass no later than 15 days prior to adjournment.

791 - Provides that the governor shall not restrict operating funds but shall only regulate the release of appropriated funds.

792 - Provides for legislature to convene on second Wednesday, instead of third Wednesday, in January and to meet for 15 days to introduce bills; recess for 10 days by concurrent resolution; reconvene for 20 days; recess for 10 days by concurrent resolution; and then reconvene for 25 days.

793 - Requires the governor to submit to the legislature its biennial budget in an odd-numbered year for all departments except the department of education, which shall submit its own budget directly.

794 - Provides for legislative power to approve or decrease total expenditure of public schools support, but prohibits it from controlling or initiating educational programs.

795 - Amends provision empowering board of education to formulate policy and to exercise control over public school system by deleting provision that the power is in accordance with law.

796 - Requires the legislature to appoint a fiscal management staff, as prescribed by law, to be responsible for facilitating the legislative fiscal management responsibility.

797 - Provides that legislators shall have full-time staff.

798 - Provides that bonds may be issued by the State only if such bonds would not cause the total of state indebtedness to exceed a sum equal to 3, instead of 3-1/2, times the average of general fund state revenues in the 3 fiscal years preceding the legislative session authorizing such issuance, or cause the debt service payment to exceed 15 percent of the average of the state operating budget in the 3 fiscal years preceding the legislative session authorizing such budget, whichever is less.

799 - Requires a ceiling on the project readjustment fund to be set in accordance with law. Provides that any excess funds shall be used to pay debt service.

800 - Requires grants-in-aid to the counties to be disbursed from general fund revenues.

801 - Requires the legislature to appoint, by a majority vote in each house in joint session, an ombudsman to serve for a period of 6 years and thereafter until a successor is appointed. Allows the legislature, by a 2/3 vote of the members in joint session, to remove the ombudsman from office for cause. Provides it is the duty of the ombudsman to investigate citizen complaints of administrative acts of agencies. Allows the legislature to enact legislation to implement this section.

802 - Provides that the legislature may, during a 10-year period, present to the voters at any general election or special election, the question, "Shall there be a convention to propose a revision of or amendments to the Constitution?" and requires the question to include a preliminary plan of the number and districting of delegates and a preliminary estimate of costs. Requires such plan and estimate to be adopted by concurrent resolution of the legislature.

Provides that if any 10-year period elapses during which the question has not been submitted, the chief elections officer, instead of the lieutenant governor, shall certify the question, to be voted on at the first general election following the expiration of such period, provided that the chief elections officer is not required to include such preliminary plan and estimate with the question.

803 - Requires job openings, in the State and its counties, that are for a duration of 1 year or longer to be available to the general public. Provides that appropriate examinations shall be given to all applicants, the top 10 of whom pass the examination shall be interviewed for the position.

Provides that for the State, 3 persons shall form a committee called the "appointing authority" to perform oral interviewing and hiring. Requires the appointing authority to be made up of the director of the department of his authorized representative and 2 members elected by the registered voters of the State for a term of 4 years.

Provides that they shall receive an annual salary 70 percent of that of the governor. Allows governor to authorize 2 or more appointing authority committees if the volume of work so demands. Requires county to create a similar committee and that each of the 2 elected members shall receive a salary of 70 percent of the mayor of the county.

804 - Provides that the Hawaiian Homes Commission has the right to initiate and effect exchanges of land with the State and the counties for home sites in order to effectively carry out its objectives.

Requires the commission to first show it lacks sufficient usable residential lands in the respective county. Requires that the land belonging to either the State or the county be vacant and that lands of equal monetary value be offered by the Commission.

Provides the land exchange shall be mandatory, if the above criteria are met and the owner of the land cannot show that the land is to be used for residential purposes in the near future.

805 - Provides the Hawaiian Homes Commission has the right to purchase private lands through eminent domain proceedings if (1) the commission shows it has insufficient residential lands to meet the needs of applicants; (2) the lands with existing homes or buildings are exempt unless the owner consents to its sale; and (3) the price to be paid is either the fair market value or agreed to by both parties.

806 - Provides the Hawaiian Homes Commission has the right to sell up to \$70,000,000 of revenue bonds. Provides the proceeds of the sale be used to build new homes on residential and farm lands and to construct off-site improvements and facilities to serve the new homes. Requires repayment of the bond sales be derived from the lessees of the lands involved. Requires the Hawaiian Homes Commission be the exclusive administrator of the fund.

807 - Provides the people, in order to maintain their public health and welfare, have the power to determine the population carrying capacity of the State and its political subdivisions that in their judgment will determine the future quality of life in the State.

Requires the State to provide, on the ballot of the 1980 primary election, 4 target annual population growth rates corresponding to 4 population ceilings to be reached

no sooner than the year 2001. Provides the following choices are (1) zero net population growth rate at a state annual growth rate of 0.5 percent with a corresponding population of by the year 2000; (2) a steady state population rate at a 1.5 percent annual growth rate with a corresponding population of by the year 2000; (3) encouraged population growth at a 2.5 percent growth rate with a corresponding population of by the year 2000; and (4) rapid population growth at a 3.5 percent growth rate with a corresponding population of by the year 2000.

Requires each political subdivision to provide, on the ballot of the 1980 general election, 4 target annual population ceilings and growth rates within the respective political subdivision not to exceed the statewide growth rate chosen in the primary election.

Provides the State and its political subdivisions, chosen growth rates become public policy on January 1, 1981. Prohibits the conflict of any judicial, legislative or administrative action or policy with this policy unless otherwise provided by the U.S. Constitution.

Provides the State and its political subdivisions shall exercise but not be limited to the control of capital improvements, methods of transportation, land use district classifications, zoning, taxation, use of nonrenewable natural resources, development permit, licensing, social welfare payments and the acquisition of land and development rights as provided by law in order to carry out the chosen growth policies of the people.

Provides each citizen may enforce the right to legislative, administrative and judicial actions that promote the chosen growth policies of the State and its political subdivisions against any governmental party.

808 - Deletes Article X, section 1, relating to resources; conservation, development and use.

Amends Article X by adding a new section relating to resources; conservation, development, use, management and disposition. Requires the State to provide for the protection, maintenance and conservation of Hawaii's natural resources and cultural, historical and aesthetic qualities. Requires the State to promote the development and utilization of Hawaii's flora and fauna, natural energy, agricultural, water, mineral and oceanic resources in a manner consistent with this amendment.

Requires the legislature to vest in 1 or more executive boards or commissions, unless otherwise stated, powers for the management of natural resources owned or controlled by the State and such powers of disposition thereof as may be authorized by law. Exempts lands set aside for public use, other than for a reserve for conservation purposes, from the jurisdiction of such a board or commission.

Provides the State shall be custodian of all freshwater resources notwithstanding riparian and other vested rights. Requires the legislature to vest in a duly appointed central commission the authority to manage all freshwater resources in the State and to authorize, as prescribed by law, the use, methods of use, methods of diversion and all development of all freshwater in the State. Requires each political subdivision or agency thereof to supply freshwater to their respective subdivisions. Provides the general welfare of the State, the fullest beneficial use and the prevention of wasteful and unreasonable authorizations of water are of primary concern. Limits all rights to water reasonably required. Prohibits waste, unreasonable use, method of use or diversion of water.

Prevents the deprivation of an appurtenant owner's sufficient use of freshwater. Further provides that an appurtenant owner has a right to the sufficient use of water of the stream to which the owner's land is appurtenant under methods of diversion and use authorized under this amendment.

809 - Provides for a land commission consisting of 6 members to be elected at the same time, for the same term and in the same manner as the governor.

Empowers the land commission to make all decisions affecting the development and utilization of land in Hawaii. Requires the land commission to rule on special permits, land use districts, boundary changes, conservation districts and use applications. Further requires the commission to develop nonarbitrary criteria to be followed in such rulings. Requires the commission to retain as nearly as practicable the classification of land use districts as urban, rural, agricultural and conservation as provided by law. Requires the commission to foster restricting any expansion of existing urban district boundaries.

810 - Defines recall as the power of the electors to remove any elected official.

Provides that recall of a state officer may be initiated by delivering to the lieutenant governor a petition alleging reasons for recall. Provides recall only for physical or mental lack of fitness, incompetence, neglect of duty, violation of oath of office or conviction of a felony. Requires the lieutenant governor, within 24 hours after receipt of a petition, to notify the elected official that a petition has been filed. Allows the elected official to resign within 60 days of receipt of such notice, whereupon the recall proceedings shall terminate.

Allows proponents 180 days to file signed petitions. Requires a recall petition for a statewide officer to contain signatures of electors equal in number to 10 percent of the last vote for the office, with signatures from each of 4 counties equal in number to 1 percent of the last vote for the office in the county. Requires the lieutenant governor to maintain a continuous count of signatures certified to that office.

Provides that an election to recall an officer, and, if appropriate, to elect a successor, shall be called by the governor and held not less than 60 days nor more than 180 days from the date of certification of sufficient signatures. Requires a majority vote on the recall question to remove an officer and provides that if there is a candidate, the candidate receiving a plurality shall be the successor. Prohibits the officer from being a candidate. Requires the legislature to provide for circulation, filing, and certification of petitions, nomination of candidates and the recall election.

Provides that if recall of the governor or lieutenant governor is initiated, the recall duties of that office shall be performed by the lieutenant governor or president of the senate, respectively.

Provides that a state officer who is not recalled shall be reimbursed by the State for recall election expenses legally and personally incurred. Prohibits another recall against the officer until 6 months after the election. Requires the legislature to provide for recall of local officers for counties and cities whose charters do not provide for recall.

811 - Empowers the State to establish a quota system limiting in any year the number of dwelling and resort units that may be built; to limit further the number of dwelling units to 1/2 single-family and 1/2 multiple-family; to allocate the units per county on a pro rata share based upon each county's proportion of the total state population and to base selection of developers for units upon an annual competition among builders administered by each county, as provided by law.

812 - Provides for mandatory comprehensive health plan to cover health care coverage at minimum cost for all persons residing in State as provided by law, including protection against excessive health care costs. Requires all persons residing in the State to participate in the plan. Allows supplemental coverage by other plans. Provides for financing by government and contributions from employers, employees and other beneficiaries of the plan. Requires legislature to establish the plan to be maintained by board of trustees, as provided by law, which shall recommend action to reduce medical care costs throughout the State. Provides that no person shall pay more than percent of that person's or that person's family's income for coverage.

813 - Requires the State to establish a quota system limiting, with the exception of those used for agricultural purposes, the number of new water hookups issued in any year. Provides that the number of hookups per county be determined on a pro rata share of each county's proportion of the total state population.

814 - Provides that no person of sound mind or body shall receive welfare or unemployment benefits exceeding the taxed value of 40 hours a week of employment at minimum wage.

815 - Voids all laws setting minimum consumer prices for sale of goods and services in effect on the date amendment is ratified. Prohibits enactment of new laws in these areas.

816 - Reserves the power of advisory initiative to the people to advise the legislature on legislative action.

Requires that an advisory initiative petition be submitted, prior to circulation for signatures, to the attorney general for preparation of a title and summary not to exceed 200 words.

Prohibits enactment of any law limiting number of copies of petitions which may be circulated. Allows any registered voter of this State to circulate and sign the petition. Requires that each sheet with signatures be attached to the petition, that signers include their address and the date of signing and that the circulator verify each signature sheet. Provides for certification of petition signatures by chief election officer.

Requires signatures equal to percent of the votes cast for governor in the general election preceding the petition filing. Requires petitions to be submitted to the chief election officer not later than 120 days prior to the election at which the petition is to be submitted. Requires any petition released by the attorney general to be filed hereunder or to be void but it may be resubmitted to the attorney general and recirculated after the general election.

Prohibits the release of any initiative petition for inspection by the public or governmental agency except when the supreme court orders an inspection regarding the sufficiency of a petition. Requires an insufficient petition be returned to the circulators within days of its filing with notations of the specific insufficiencies.

Requires the advisory initiative measure to be submitted at the first general election following the approval of the petition by the chief election officer. Requires the measure to be presented in the form of a yes or no ballot, where yes shall indicate an affirmative vote. Specifies form of the measure, and requires that a measure embrace one subject, to be expressed in its title.

Requires that voting results tabulated for the State as a whole and by representative and senatorial district be sent to each state legislator by the chief election officer.

Requires the legislature to consider and act favorably or unfavorably on the advisory initiative proposal at the next regular session. Provides that if the legislature enacts a law similar to an advisory initiative measure after a request is made with the attorney general, the advisory initiative measure shall be void and stricken from the ballot.

817 - Amends the opening phrase of the Preamble to read: "We, the children of this land risen out of the sea, grateful for the Divine gift of these islands..." rather than "We, the people of the State of Hawaii, grateful for Divine Guidance..." Deletes the phrase stating a reaffirmation of belief in government of the people, by the people and for the people and adds a new phrase honoring the magnificence of the human spirit.

Amends the political power section of the bill of rights to provide that this constitution "joins freedom with responsibility in the law, as these radiant islands join the sky with the sea in nature." Provides that political power is grounded in the recognition that each child of the land makes a difference and that the purpose of government is to enable each to take and experience a personal responsibility for charting the future, to realize the human dignity of choosing and creating a destiny most befitting this precious land. Provides that government aims to empower people not to weaken them; to liberate not limit; to unite not divide. Further provides that in establishing this government, a commitment is made to a continuing celebration of the human spirit here at sea and the constitution is ordained as a torch to light the way. Deletes the provision stating that government is founded on the authority that the responsibility for the exercise of political power rests with the people.

818 - Provides that no person shall be denied the right to adequate medical care. Requires the legislature to implement this provision by appropriate legislation.

819 - Provides that no person shall be denied financial assistance solely because of inability to work or lack of suitable and satisfactory employment; nor due to refusal of employment: if the position offered is vacant due directly to a strike, lockout or other labor dispute, or if the wages, hours or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

820 - Amends provision on public assistance by empowering the State to provide financial and medical assistance and social services. Changes qualifications for recipients by deleting those persons unable to maintain a standard of living compatible with decency and health and adding those persons in need of such assistance and services. Mandates the legislature to implement section through legislation.

821 - Prohibits denial of the rights to employment at wages sufficient to live in decency and comfort and to union membership with enjoyment of all benefits and protections, in-

cluding job security and a decent pension after retirement, to all persons. Requires the State to be the employer of last resort. Provides for enforcement of these rights by all persons through appropriate proceedings subject to reasonable limitation and regulation, as the legislature may provide.

822 - Prohibits the legislature from passing any laws allowing legalized gambling in the State.

823 - Provides that a public office is a public trust and the people have the right to secure and sustain that trust against abuse. Provides that to assure this right the legislature and each political subdivision shall adopt a code of ethics applicable to appointed and elected officers and employees, including members of boards, commissions and other bodies.

Provides that each code of ethics shall contain, but not be limited to, the following minimum standards:

1. All elected constitutional officers and candidates therefor and, as may be determined by law, other public officers, candidates and employees shall file full and public disclosure of their financial interests.

2. All elected public officers and candidates therefor shall file full and public disclosure of their campaign finances.

3. Any public officer or employee who breaches the public trust for private gain and any person or entity inducing such breach is liable to the State for all financial benefits obtained by such actions with recovery and additional damages as provided by law.

4. Any public officer or employee convicted of a felony involving a breach of public trust is subject to forfeiture of rights and privileges under a public retirement system or pension plan as may be provided by law.

5. No member of the legislature or statewide elected officer shall personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of 2 years following vacation of office; nor shall a member of the legislature personally represent another person or entity for compensation during term of office before any state agency other than judicial tribunals. Allows similar restrictions on other public officers and employees to be established by law.

6. An independent commission shall be established to conduct investigations and make public reports on all complaints concerning breach of public trust by public officers or employees not within the jurisdiction of the judicial branch of government.

7. This section shall not be construed to limit disclosures and prohibitions which may be established by law to preserve the public trust and avoid conflicts between public duties and private interests.

Provides on the effective date of this amendment and until changed by law: (1) full and public disclosure of financial interests means filing with the independent commission by July 1 of each year a sworn statement showing net worth and identifying each asset and liability in excess of \$1,000 and its value together with either a copy of the person's most recent federal income tax return, or a sworn statement identifying each separate source and amount of income exceeding \$1,000. Requires the forms for such source disclosure and the rules under which they are to be filed to be prescribed by the independent commission and requires such rules to include disclosure of secondary sources of income. (2) Requires persons holding statewide elective offices to also file disclosure of their financial interests.

Provides that decisions of a commission are appealable, and the legislature shall provide the method of appeal. Provides that it shall be grounds for impeachment or cause for disqualification or removal from office if an officer or employee of the State is found guilty of violating a code of ethics.

824 - Empowers the legislature to provide for affordable housing for state residents through establishing demographically proportional quotas for all low and moderate cost housing in all new developments. Mandates the legislature to encourage low cost housing on govern-

ment property and to furnish low interest housing loans and subsidies to residents. Permits establishment of residency requirements for this housing.

825 - Requires the State to protect the character of its communities and local life-styles. Extends possibility of reasonable regulation of private property to achieve this purpose.

826 - Mandates the legislature to establish quota system on the number of building permits, water hookups and extensions of utilities issued in any year.

827 - Provides that the legislative power of the State shall be vested in a legislature, but the people reserve the power of initiative and referendum. Provides that the power of the initiative and referendum, in addition to the legislative power shall extend to all rightful subjects of legislation not inconsistent with this Constitution or the U.S. Constitution. Clarifies that only laws passed by the legislature need be by bill.

Provides that constitutional revisions or amendments may be proposed by the power of initiative as well as by constitutional convention or the legislature. Prohibits veto of any constitutional amendment adopted in any manner provided in the constitution. Provides that when conflicting revisions are proposed by the same body or by the people and are submitted to the electorate at the same election and both are approved, the one with the highest number of votes shall prevail.

Defines the initiative as the power of the electorate to propose and pass or ratify laws and constitutional revisions and amendments. Limits initiative petitions to 1 subject. Requires initiative petitions to be submitted to the attorney general for certification of the proposal before becoming available for signature. Requires, for certification, that: (1) the proposal be constitutional; (2) no person or private organization is named to hold any office, perform any function or have any duty; and (3) each initiative petition contain either a full statement of the proposal or an adequate summary, and each page contain a short title. Requires the attorney general, within 30 days after receipt of the proposal, to certify or deny the proposal. Provides that a rejected proposal may be revised and resubmitted. Provides that once certified, a proposal is ready for circulation.

Requires a statutory petition, to be valid, to contain signatures of registered voters equal or greater in number to 7 percent, or if a constitutional amendment petition, 10 percent of the total number of votes cast in the last general election from each county in the State. Requires the chief election officer to determine the validity of the initiative. Provides that a valid initiative shall be submitted to the legislature which is required to act on the initiative within 30 days of a regular or special session. Provides that with approval of the legislature, the governor must sign the measure into law. Prohibits the governor's veto on initiated proposals passed by the legislature. Provides that in cases of rejection, revision or substitutions, both the initiated proposal and the legislative proposal, if any, shall be submitted to the electorate at the general election if action occurs in an election year, or at a special election held on or before the first Tuesday after the first Monday in November.

Defines referendum as the power of the electorate to adopt or veto bills passed by the legislature. Provides that referendums shall be optional in nature. Requires a referendum petition to be filed with the chief elections officer within 90 days of the adjournment of the legislative session which passed the bill. Requires a petition to contain the signatures of registered voters equal or greater in number than 5 percent of the total votes cast in the last general election from each county in the State. Requires after the chief elections officer certifies the petition as valid, the referendum be placed on the ballot of a general election or a special election on or before the first Tuesday after the first Monday in November if a general election is not scheduled that year.

Provides that the certification of a referendum petition prior to the approval of the bill by the governor shall suspend the power of the governor to approve the bill, but if the governor approves the bill prior to the petition certification, the validity of the act shall be suspended. Provides that when a petition is filed only against one section or part of an act, the other sections and parts of the act shall not be affected.

Requires that initiatives and referendums be approved by a majority of the total votes cast, provided that the majority is equal or greater in number to 30 percent of the total votes cast for governor at the preceding general election. Provides that approved proposals be effective 30 days after the voting date, unless otherwise provided in the proposal.

Requires the electorate to be able to vote on each initiative or referendum proposal separately. Provides that conflicting proposals on the ballot be clearly marked stating that only one shall pass and the one receiving the highest number of votes shall prevail, except that in a tie vote, both shall fail to pass. Provides that the veto, revision or amendment powers of the governor or legislature shall not extend to proposals initiated and passed by the electorate.

Requires each organization or association desiring to campaign for or against a proposal, and each person, organization or interest group receiving donations for a referendum or initiative campaign, to file with the campaign spending commission. Requires each person, organization or interest group making a donation to a campaign exceeding \$100 to report the donation to the campaign spending commission and requires that such donations be made public. Empowers the campaign spending commission to monitor the signature gathering and initiative and referendum campaigns. Provides that all laws applicable to campaigns of elected officials shall apply to initiative and referendum campaigns, except where inconsistent with the provisions of this proposal.

828 - Provides that the people and the legislature may enact legislation through the indirect initiative procedure. Requires an initiative proposal to be submitted to the legislature for consideration upon certification by the chief election officer that registered voters, equal to or greater in number than _____ percent of the total votes cast for governor in the preceding gubernatorial election, have signed a petition for the initiative proposal.

Requires the legislature to pass or reject the proposal by a majority vote of the members to which each house is entitled, or pass a substantially similar proposal. Allows the legislature to propose a legislative proposal on the same subject matter in lieu of the initiative proposal and requires both the legislative and the initiative proposals to be submitted to the electorate at the next general election. Requires the legislature to take one of the aforementioned actions during the same session as the introduction of the proposal. Prohibits the initiative proposal from being submitted to the electorate until the legislature has taken such action but regardless of the action taken, it shall be submitted to the electorate for its approval or disapproval at the general election following its introduction in the legislature.

Requires the ballot to contain the full text of the initiative proposal and any legislative proposal. Prohibits a special election on an initiative or legislative proposal. Requires an initiative or legislative proposal to be approved by an affirmative vote of a majority of all the votes tallied on the question, provided that this majority is equal to or greater than 30 percent of the total number of registered voters.

Provides that when 2 or more proposals are approved and conflict as to the phraseology or substance, the one with the greater number of votes becomes law, provided that it receives votes equal to or greater than 30 percent of the total number of registered voters. Further provides that when there is a tie between 2 proposals, the initiative proposal shall take precedence over the legislative proposal but when 2 or more initiative proposals are tied, the proposal whose petition was first certified by the chief election officer becomes law. Provides approved proposals are effective upon certification of the election results by the chief election officer, unless otherwise provided in the proposal.

Requires an initiative proposal to be registered with the chief election officer and requires the attorney general to prepare a title and summary of the proposal after which the sponsors shall circulate a petition for the required signatures of registered voters. Requires the chief election officer to certify the validity of the petition within 15 days of receipt of the petition. Excludes Saturdays, Sundays and holidays from computing the 15-day period. Requires the chief election officer to return an invalid petition to the sponsor with the reasons for the invalidation. Prohibits submittal of a petition to the chief election officer for certification of validity after 4:30 p.m. of the 1st day of the regular session of the legislature. Requires the chief election officer to transmit, upon certification, the initiative proposal to the legislature for introduction in both houses of the legislature by the speaker and president respectively.

Requires all signatures for an initiative proposal to be obtained within the period between the general election preceding its registration and 4:30 p.m. of the 1st day of the regular session of the legislature in the next even-numbered year. Requires any initiative proposal pending at the end of a general election to be stricken from the roll of registered initiative proposals and any signature obtained thereon is void.

Prohibits initiatives on taxing power, budget or other appropriation measures, bond authorization acts, establishment of courts, expanding or decreasing the scope of original and appellate jurisdiction of courts, naming or designating any person to hold a public office, enacting or repealing laws or ordinances of political subdivisions or subjects inconsistent with this state or U.S. constitutions. Allows the legislature to enact legislation to implement and facilitate the provisions of this section.

829 - Requires dividends to be considered deductible in calculating state taxable income.

830 - Provides for governor to be elected by a majority of the legislature from the members thereof instead of by voters and for governor's term to begin at noon on the first Monday next following his election by legislature and for 6 years thereafter unless ended sooner by adoption of a motion passed by simple majority of the legislature, in which case it will end at noon on first Monday following election of new governor. Deletes old provisions for 4-year term for governor.

Changes wording in provisions on qualifications for governor to read he "or she" shall be qualified voter and requires governor to be resident for 7, instead of 5, years preceding election. Requires single executive of each principal department to be a member of the legislature.

Provides for 2-year terms for state senators as well as for representatives unless ended earlier by special election required after adoption by majority of legislature of a resolution of no-confidence in the governor.

831 - Requires the State to foster attitudes and activities conducive to the maintenance of agriculture as a major sector of Hawaii's economy, assure the availability of agriculturally suitable lands with adequate water and effectively accommodate the housing needs of the people. Requires the legislature to review all land related tax schedules, including capital gains tax and adopt any measures deemed necessary to discourage speculation and uncontrolled land costs in accordance with the policies of this amendment.

832 - Prohibits nuclear power projects in the State unless the people with all possible information before them so decide.

Requires the legislature to establish a commission to study and evaluate any proposed nuclear project. Requires the commission to respond affirmatively to at least the following questions: (1) is said project safe for the people and compatible with Hawaii's unique environment?; (2) is said project able to obtain full liability insurance?; (3) can the project be safely and economically dismantled at the termination of its function?; (4) can radioactive wastes from the project be safely stored through the centuries?; (5) are all safety systems of the project fully effective?; in order that the question "Shall the nuclear project be approved for the State of Hawaii in the County of _____?" be presented to the voters in the next general election for their approval or rejection. Requires a 2/3 majority vote statewide and in the affected county for passage.

833 - Provides that no voter must declare party preference in order to vote.

834 - Provides that no initiative or referendum measure shall pass if it eliminates any existing state or county jobs or reduces any existing employee's pay in effect at the time an initiative or referendum petition is being circulated.

835 - Amends provision for establishment, support and control of statewide system of educational institutions by deleting public libraries. Requires establishment, supported and administered by the State, of a department of public libraries and information services whose purpose is to acquire, organize, store, retrieve and provide to the public reliable and unbiased material in various media formats in order to: promote and support formal education; continue the educational process; keep pace with current developments; form opinions on controversial subjects; develop individual skills and talents; provide resources for political, social and occupational development in the community; and advance personal intellectual growth.

Minority Reports

MINORITY REPORT NO. 1

A minority of your Committee on Executive does not concur with that part of Stand. Com. Rep. No. 32 which recommends retention of the status quo on duties the lieutenant governor shall perform as may be prescribed by law.

The substance of the present system is in that part of Article IV, Section 2, which states in part: "He [the lieutenant governor] shall perform such duties as may be prescribed by law."

The majority report says in effect that the present system of having the duties of the lieutenant governor prescribed by law cannot be improved. The minority of this committee believes improvement is possible by prescribing certain duties constitutionally, while still having others prescribed by law.

The majority argues that, although it did consider expanding the duties of the office of lieutenant governor by constitutionally prescribing additional duties, such as supervision of the enforcement of laws regarding the licensing, operation and conduct of trades, businesses and professions, and coordination of volunteer programs, it believes that the duties should continue to be prescribed by statute, since this would give the legislature flexibility and the opportunity to take advantage of the individual lieutenant governor's area of expertise.

The minority argues that, to the contrary, certain duties of the office of lieutenant governor should be prescribed by the Constitution for the following reasons:

1. Legislative flexibility would not be greatly affected by constitutional prescription of duties, as the amendment does not delete that additional duties may be prescribed by law.
2. It would eliminate certain existing ambiguities regarding official and de facto duties.
3. It would serve to strengthen the office of lieutenant governor.
4. An individual lieutenant governor's area of expertise not included in the constitutional prescription could be prescribed by the legislature as additional duties as it sees fit. Additionally the governor, who heads the State, is responsible therefor, whether or not the governor has an area of expertise. Therefore, why is it necessary that the lieutenant governor have an area of expertise? A person qualified for the office should be able to carry out the duties of that office.
5. If the lieutenant governor is to be the immediate successor to the governor, then expanded responsibilities as prescribed constitutionally and legislatively would prepare the lieutenant governor for the more important office.
6. Since, as the majority indicates, the lieutenant governor is the only other statewide elective office, and therefore does provide a means by which a relative newcomer can be elected to statewide office before seeking election to the chief executive's office, an expanded role becomes even more necessary as preparation for the higher office.
7. It clarifies the position of the office of secretary of state, which in effect it already is under the present duties of that office.
8. It clarifies the position of the office of chief election officer, which it already is as designated by statute.

9. It would place the function of the department of regulatory agencies under the lieutenant governor, which would be consonant with the intent of the offices of the secretary of state and the chief election officer, thus making the lieutenant governor the director of regulatory agencies.

10. Although the duty of coordinator of volunteer programs for the State may have political implications, as pointed out in committee, if properly structured by law these duties would greatly benefit the State without being used for political purposes.

11. It would ease the administration of the executive branch while not lessening the governor's ultimate responsibilities and would enhance the concept of the governor and lieutenant governor as a working team.

The minority feels that Article IV, Section 2, should be amended to read:

"LIEUTENANT GOVERNOR

"Section 2. There shall be a lieutenant governor, who shall have the same qualifications as the governor. He shall be elected at the same time, for the same term, and in the same manner, as the governor; provided that the votes cast in the general election for the nominee for governor shall be deemed cast for the nominee for lieutenant governor of the same political party. No person shall be elected to the office of lieutenant governor for more than two consecutive full terms. [He] The lieutenant governor shall perform, in addition to such duties as may be prescribed by law[.], the following:

1. Serve as secretary of state including responsibilities for the supervision of elections, recordation of legislative and gubernatorial acts, certification of state documents and custodian of rules and regulations promulgated by governmental agencies.

2. Supervise the enforcement of all laws and rules governing the licensing, operation and conduct of trades, businesses and professions.

3. Serve as a coordinator of volunteer programs in the State."

The minority feels that paragraph 10 of Section 4 of Article III should be amended as indicated below:

"CHIEF ELECTION OFFICER

"The [legislature shall provide for a chief election officer of the State, whose] responsibilities of the chief election officer shall be as prescribed by law and shall include the supervision of state elections, the maximization of registration of eligible voters throughout the State and the maintenance of data concerning registered voters, elections, apportionment and districting."

In summary, this minority of your Committee proposes that the people of Hawaii are best served by having certain duties of the lieutenant governor prescribed in the Constitution with provision for other duties to be prescribed by law. The ultimate decision on whether the present system, providing only legislative prescription of duties, can be improved would thus be left up to the people to adopt or reject such an amendment in the election to ratify the proposed amendments to the Constitution. We are confident such an amendment would be accepted.

Signed by Delegates Chu, DiBianco, Marumoto, Barnes, Chun, Eastvold, Dennis Ihara and O'Toole.

MINORITY REPORT NO. 2

A minority of your Committee on Executive does not agree with that part of Stand. Com. Rep. No. 32 which recommends retention of an appointed attorney general.

After hearing all of the evidence presented at public hearings on the subject of an appointed or elected attorney general, after carefully considering the arguments presented by members of the committee and after careful deliberation, this minority believes that

the public interest and welfare would be best served by election of the chief legal officer of the State.

As currently constituted, the department of the attorney general is part of the governor's cabinet and administration. He is appointed by the governor and though he is subject to the confirmation process, history has taught this minority that in practice confirmation by the senate has not served its function as a check on the executive branch of government.

Because he is an appointee of the governor, his independence is necessarily limited. It would be difficult to conceive of a situation where the governor would appoint someone truly independent, and not a supporter of the governor's campaign efforts. In addition, to insure the continuation of his job, the attorney general must become part of the "team" and avoid actions which may jeopardize the governor's chances for reelection. The attorney general may thus be less inclined or less than enthusiastic about fulfilling his role of investigating and prosecuting abuse and corruption within the executive branch if he deems it incompatible with the political fortunes of his superior. Thus he is placed in a position of conflict of interest and the public may forfeit their right to vigorous and zealous enforcement of laws. Conversely, an appointed attorney general may be more apt to pursue the governor's political enemies.

This statement regarding the potential conflict of interest and the resulting appearance of impropriety is not meant to point to specific examples but is intended to point out the potential conflict that current practice engenders. This minority believes that an elected attorney general would not be beholden to and dependent upon the governor for his job and thus would be free to actively and aggressively pursue his function as chief legal officer.

The office of attorney general is of extreme importance in that the attorney general exercises quasi-judicial and quasi-legislative power and therefore should not head an executive department but stand slightly apart. By the exercise of these powers, he exerts vast authority and influence on the entire legal system. By his actions as chief legal officer, he can set the tone of the appearance and reputation of the entire legal community. Lawyers are often called upon to be the "social engineers" of society, and in this post-Watergate era it is important that the public have confidence in those that play such an important role in society.

This minority recognizes the far-reaching effects of legal advice rendered by the opinions of the attorney general to state agencies and the legislature. Insofar as these groups are concerned, the word of the attorney general is law, and the net result of this unique position is to enable him to, in effect, legislate in areas where the law is ambiguous, obscure or nonexistent. The danger of a conflict of interest exists in this duty to service both the legislative and executive branches. A slanted opinion could be drafted to prevent the legislature from enacting law inimicable to the governor's interest. In effect, this situation encourages a breakdown in the separation of powers and reduces the ability of the legislature to serve as a check on the executive and judicial branches of government.

This minority sees a major role of the chief legal officer as the public "watchdog" of government. No other governmental agency is cloaked with the power to investigate abuse and corruption in state government. Though the ombudsman and the legislative auditor can be helpful in this area, they do not have the prosecutorial power to be effective. As an elected officer, the attorney general would be accountable to the public and not to the executive branch, and therefore would not be fearful of uncovering corruption within the executive branch that would be damaging to the political career of the governor. His investigation would be complete and impartial, zealous, unguided by concern about the political career of another and would keep the government on its "toes," thereby insuring that public tax dollars are spent for public service.

It is the belief of this minority that an elected attorney general would be more vigorous in his role as the legal representative of the consumer in rate cases and other activities before federal regulatory agencies. A 1975 legislative auditor's report identified several areas that it saw as weaknesses in the representation of Hawaii's consumers before federal agencies:

- a) A lack of policies guidelines, and objectives for handling federal regulatory matters.
- b) "The attorney general's office has no systematic means of identifying cases that may have an impact on Hawaii and of making sure that timely action can be taken on them..."

Hawaii's remoteness from Washington and the frequent slowness encountered in mail service accentuate Hawaii's problem." c) No follow-up system--"there are also no procedures for assuring coordination and follow-up on cases brought to the attention of the office."

The 1975 legislative auditor's report also stated: "...there is a very widespread need to resolve and redirect the State's organizational arrangements and administrative behavior to assure that proper attention is being given to Hawaii's interests before the various federal regulatory agencies and that appropriate steps are being taken to protect and promote those interests."

This minority believes that the 10-year period prior to the legislative auditor's 1975 report has demonstrated the lack of emphasis on federal-level consumer representation by appointed attorney generals; and this minority believes that an elected attorney general would best serve the public interest in this area, and in addition would protect the public interest in the matter of antitrust.

Concerns have been expressed that should an elected attorney general be politically ambitious and seek to use the office as a "stepping-stone," there would be much conflict and no cooperation between the governor and the elected attorney general. However, 42 states do have an elected attorney general and the lack of movement to change the system of selecting the attorney general is evidence that whatever conflict may be engendered by this system, it has not been severe. Further, our entire system of government--be it the three separate but co-equal branches or the adversary system of trials--is based on the theory that conflict can be healthy and serve as a useful check on another party. This minority believes that checks and balances has been successful in curbing the excesses of government, and accordingly this minority believes that an elected attorney general would be in the best tradition of checks and balances and best serve the public interest.

This minority is concerned as is the public that not enough attention is being devoted to crime. In the days of yesteryear, crime was unsophisticated, simple and generally contained within a county. In this modern age of plane travel and instant communication, crime is becoming more sophisticated and complex. No longer are the activities of criminals isolated within the boundaries of each county. Increasingly the need for coordination among the various county prosecutors as well as between state law enforcement agencies is becoming apparent. This minority believes that an elected attorney general, cognizant of public approval, would be more inclined to respond to public concern over organized crime.

The addition of another statewide elective office would be desirable for Hawaii in that it is considered a "short ballot" state, with relatively few statewide offices to vote for. Hawaii voters elect on a statewide basis only the governor and lieutenant governor. Board of education posts are presently semi-localized for this statewide board. It can be generally construed that the greater the opportunity for voting in elections, the greater the opportunity for citizen input and implementation of the democratic process.

Additionally, a First Hawaiian Bank poll indicates that 62.9 percent of the State favors an elected attorney general. This minority believes that, in light of the overwhelming public support for the concept, it is the duty of the Convention to present this concept to the electorate for approval or rejection in November. Anything less would constitute an abdication of the responsibility we pledged to fulfill as elected delegates to this Convention.

In this post-Watergate era when so many are disillusioned by the actions of government, it is important to restore public confidence in the integrity of government. One indication of the lack of public trust and apathy is reflected in the low voter turnout for the election of delegates to this Convention. Knowing that there is an elected and independent attorney general vigorously pursuing corruption in this State, the public would be justified in having confidence in their government officials and employees. Government was created to serve the needs of the people and if the people do not have confidence in the instrument of their will, society is truly in a state of crisis. This minority strongly believes that the creation of an elected and therefore independent attorney general would be a first and long step in the march to restore public confidence. Therefore, this minority will submit an amendment to Article IV and urge its adoption.

Signed by Delegates Barnes, Chu, Chun, DiBianco, Hamilton, Eastvold, Dennis Ihara, Marumoto and O'Toole.

MINORITY REPORT NO. 3

A minority of your Committee on Public Health and Welfare; Labor and Industry does not concur with that part of Stand. Com. Rep. No. 36 which recommends retention of the status quo on collective bargaining negotiators for public employers.

Two different amendments are incorporated within this report, delegate proposals 216 and 131.

The substance of the present system is embodied in Article XII, Section 2: "Persons in public employment shall have the right to organize for the purpose of collective bargaining as prescribed by law."

After hearing all of the evidence presented at public hearings on the subject of collective bargaining negotiators for public employers, and after carefully considering the arguments and amending the original proposal, this minority feels that Section 2 of Article XII is more properly amended as indicated below:

"Section 2. Persons in public employment shall have the right to organize for the purpose of collective bargaining as prescribed by law. The chief negotiator representing the public employer in negotiations with an employee organization shall be a representative of the state legislature and the legislative bodies of the various political subdivisions. All negotiations between a public employer and an employee organization relating to wages, hours and other terms and conditions of employment shall be open to the public."

The changes are indicated by underscoring for additions.

This minority of your Committee urges the delegates to further deliberate and come forth with a constitutional amendment providing for state legislators and county councilmen to be privy to all collective bargaining sessions that are conducted with public moneys, with bargaining sessions open to the public. This should be done in the Committee of the Whole so all delegates may participate in the deliberations on this important issue. Failure to consider this subject further deprives the state legislature and the various county councils from making rational and informed decisions when acting on collective bargaining contracts which mandate the expenditure of public money.

The primary reasons this minority of your Committee feels that members of the state legislature or county councils should be privy to collective bargaining negotiations, as stated in delegate proposal 216, are as follows:

1. In its present form, the administrative negotiators liberally bargain for themselves. The negotiations set the base for all salaries and benefits of public employees.
2. It is ultimately the legislature and the political process which has to balance the interests of public employees with the rest of the community. Therefore, it is the legislature's and county councils' responsibility to be fully informed of developments, particularly with respect to revenues, expenditures and collective bargaining costs.
3. Presently negotiations between the executive branch and labor organizations are closed to the public. This situation leaves open the door for possible corruption, in that union support may be offered to the executive in exchange for favorable contracts. With more elected officials privy to the actual conduct of these negotiations, chances for undesirable deals being made are reduced substantially.
4. Any negotiation between a public employer and employee results in an adversary position between labor and the public. Any strike that may result is not against management, but against the people. Therefore the people should be represented directly through their elected officials.

Proponents of the status quo argue that:

1. Such an arrangement would place an unreasonable amount of political pressure to bear upon selected legislators or councilmen.

The minority responds that persons elected to public office can never enter this arena

and expect to avoid areas of pressure. Hard decisions must be made when necessary, and any person abrogating this responsibility is not worthy of representing the people who elected them.

2. As one person stated at the public hearing, "it will be like leading a lamb to the lions," implying that legislators or councilmen do not have the expertise to be involved in negotiations.

This argument has missed one vital area--the legislature holds the sole authority over restrictions and matters of procedure concerning collective bargaining. The proposal asks for the chief negotiator to be a representative of the legislators or councilmen. The legislature, however, can still see fit to hire a professional negotiator for the State or county councils. This was done by the executive when the territory became a State and the governor hired the employers council to represent the State's interests. Since that time the office of collective bargaining has been established, which at first hired professional negotiators and later appointed negotiators. If the legislature feels that the necessary expertise is not possessed by elected officials, then the procedure can be changed to rectify this situation by hiring professional assistance. This would result in the people being directly represented by a chief negotiator, even though the chief negotiator may take advice from a hired professional.

3. Elected officials do not have the time to spend in lengthy negotiations.

The minority responds that the average appropriation by the legislature over the past 3 years has been over \$20,000,000 a year for collective bargaining items. With the amount of public money expended each year, the time spent by legislators is more than justified. This also relates directly to the answer to number 2, since it will be totally up to the legislature to determine the procedure in this area.

4. The executive branch is the area of government responsible for management of the State and as such should be represented solely.

The minority responds that the executive represents only one branch of government. Unlike the private sector, the legislature or county council must balance the authority to negotiate with the ultimate authority to appropriate the given expenditure. In the area of public funds expended, the public is management and it should only follow that their representative be elected.

Delegate proposal 131 would provide for open collective bargaining negotiations by making such negotiations public.

This minority of your Committee adheres to the intent of the "sunshine law" as set forth in section 92-1, Hawaii Revised Statutes, stating that "the people are vested with the ultimate decision-making power.... Opening up the governmental processes to public scrutiny and participation is the only viable and reasonable method of protecting the public's interest." Open collective bargaining negotiations between public employers and employees will ensure that wheeling and dealing of public funds will be prevented from entering into negotiation sessions.

Stand. Com. Rep. No. 36 states that "closed negotiations are necessary to ensure the productivity of the negotiations and that legislative approval or disapproval of the final outcome of the bargaining process would prevent corruption from entering into the negotiation sessions." Also, attention was focused on the area of "grandstanding." Some of the majority of your Committee felt that being in the public eye would result in negotiators taking a position for the purpose of promoting their careers.

This minority of your Committee, after due consideration of these arguments, agrees that the legislature does have the ultimate authority over collective bargaining contracts but that a vital issue was missed when public hearings were conducted concerning this proposal: this is, that all bargaining sessions must have a starting point. Without knowledge of this starting point, it is impossible to know if the administration showed laxity in their position or not. With knowledge of this starting point, the administration would then be subject to giving their reasoning if it seemed that a favorable contract was bargained to a given union resulting in extra cost to the public.

This minority reviewed the concerns relating to "grandstanding" and concluded that it is a possibility, but one that is always present in areas that relate to public matters. Therefore, this minority feels that this concern has no valid backing and is minimal when compared with the public's right to know.

In summary, this minority of your Committee feels that the legislature or county councils should not abrogate, nor delegate, their responsibility by giving it to the administration. Therefore, this minority feels that the people of Hawaii are best served by being represented in collective bargaining sessions by an elected official serving their interest. Also, this minority feels that honesty in government is an important issue that this Convention must address. Mandating that collective bargaining sessions be open to the public will result in one more safeguard for the public's interest and will be paramount in making sure that no areas of corruption enter any bargaining sessions. To this end, the undersigned minority will submit an amendment to Article XII, Section 2, and urge its adoption. The ultimate decision on whether the present system can be improved would thus be left to the people to adopt or reject in the general election.

Signed by Delegates Cabral and Peterson.

MINORITY REPORT NO. 4

A minority of your Committee on Public Health and Welfare; Labor and Industry does not concur with that part of Stand. Com. Rep. No. 36 which recommends the rejection of delegate Proposal No. 333 providing that the right of the people to uninterrupted public service shall not be violated.

The present State Constitution does not provide for any right to uninterrupted public services. Section 2 of Article XII provides for the right of public employees "to organize for the purpose of collective bargaining as prescribed by law" but is silent on this subject matter.

The majority report argues in rejecting such a provision that the right to strike by public employees will be restricted by this provision, that the present system is successful and such a limitation is unnecessary and that if restriction of the right of public employees to strike becomes necessary in the future, the manner and extent of such a restriction could and should be determined by the legislature.

The minority of the committee urges the delegates to further deliberate and come forth with a constitutional amendment providing for the right of the people to continuity of public services. This should be done in the Committee of the Whole so that all delegates may participate in the deliberations on this important issue. Failure to consider this subject deprives the people of Hawaii acting through this Convention of the opportunity to have continuity of important governmental services.

The majority report views delegate Proposal No. 333 as a restriction on the public employees' statutory right to strike. This is neither the purpose nor effect of this proposal. Public employees may legally strike under delegate Proposal No. 333 but the services performed by striking employees must be continued by other public employees or contracted out to the private sector.

For the following reasons the minority of the committee feels the people have a right to continuity of public services:

1. Many government services are monopolistic, mandated by law and supported by tax revenue. The people cannot refuse to buy or pay for such services and certainly cannot lawfully refuse to pay taxes, even where such services are interrupted for one reason or another which may include a public strike but may also include other sources of interruption.
2. In the American system, sovereignty is inherent in the people. The people delegate it to a government which they create and operate by law and give to that government the power and authority to perform certain duties and furnish certain services for the public good. The government thus created and empowered must employ people as its agents to carry on its task, and such public employees exercise some part of the sovereignty, duties and power entrusted to the government and occupy a status entirely different from

those who carry on a private enterprise. The public employee serves the public welfare and not a private purpose.

3. The sovereign, whether absolute or representative, acts for the entire political entity involved and performs functions which are governmental tasks that need to be discharged on behalf of the whole society. These tasks, whether they are national defense, local security, running an educational system or other public services, are carried on and essential to further the public welfare. The public good demands that the people have a right to the continuity of public services, especially where such services are often essential to daily needs of the community.

The minority feels that a new section should be added to the State Constitution to read as follows:

"RIGHT TO CONTINUITY OF PUBLIC SERVICES

"Section . The right of the people to receive uninterrupted public service as performed by public employees or through contract for provision of public services, including, but not limited to, those services relating to public health, safety and the general welfare, shall not be violated."

In conclusion the minority of the Committee on Public Health and Welfare; Labor and Industry feels the people of Hawaii are best served by guaranteeing continuity of public services. The ultimate decision on whether the present system of providing public services can be improved by inclusion of such a right would thus be left up to the people to adopt or reject. We are confident such an amendment would be accepted.

Signed by Delegates Cabral and Peterson.

MINORITY REPORT NO. 5

A minority of your Committee on Education does not concur with that part of Stand. Com. Rep. No. 39 which relates to the governance of education.

The standing committee report reflects an acceptance of the concept of an elected board of education. The portions of the report which recommend changes to the constitutional provisions for an elected board ostensibly intend to strengthen the existing board and resolve the problems of reapportionment. We do not agree that these recommendations get at the basic issues of the governance of the public schools.

The issues of governance of lower education in Hawaii have recently centered on the reapportionment of the elected board. Historically, we have experienced both an appointed and an elected board of education. The change to an elected board occurred prior to the U.S. supreme court's ruling relating to the one-person, one-vote requirements for elections to substantive office. The legislature struggled to develop a reapportionment plan that would not only conform to the one-person, one-vote requirements but would also ensure that Kauai and Maui could elect their own respective members to the state board. The only viable alternatives which the legislature developed according to criteria that had been proven in federal court were large boards. These alternatives proved unacceptable to the legislature, and the federal court stepped in with the present temporary apportionment scheme. The reapportionment plan contained in Com. P. No. 6, while retaining the idea of two school board districts, injects a residential requirement which has not been put to court test. But even if it were to pass constitutional muster, we submit that it does not address the basic issue of educational governance.

That basic issue is this: within our fundamental three-branch structure of government, the governor and the board of education fall within the executive branch. By having both the governor and the board of education as elective entities, and therefore accountable "to the people," which entity has responsibility for administering the educational system? The governor has clear responsibilities for certain executive functions. Is it up to the governor to delegate some of his responsibilities to the board of education? How does the public hold either or both accountable for which decisions?

In examining the reasons advanced for making the board elected rather than appointed,

from the mid-1960s through the present, it seems to this minority of your Committee that the concept of public input and public control weighed very heavily in favor of the franchise in lower education. But what does that franchise really mean when a state board is elected? Can the people really provide input in a meaningful way when they elect 9 or 11 or 13 or 17 members of a state board?

We believe that the public's input in education would be much more meaningful if the right to vote were brought to a lower level--the present administrative districts of the department of education. But it should be clearly understood here that we do not advocate a decentralization of the administration of the department of education to those districts. Rather, local boards of education should be elected to give the people of the smaller jurisdiction, the district, an opportunity to provide input at both the district and the state levels. The people's input at the state level would be ensured by providing that the chairpersons of the local boards would also sit on the state board of education. The members of the state board of education can bring their district perspectives to their state-level meetings at the same time that they can take back to their local boards the statewide perspective. Thus, by the exercise of the franchise according to our minority proposal, the public gains not one but two avenues for input into the public education system.

The problems of accountability inherent in our present governance structure would be eliminated by the adoption of our minority recommendations. The superintendent would become the head of the department of education as a cabinet member. The usual controls exercised by the legislature over the governor's appointees would be augmented by the power granted to the state board to select three names for superintendent, from which the governor must select one for nomination to the senate. Thus the public, through their elected representatives on the state board, would have a say in the selection of the superintendent. The state board would also be empowered to advise the superintendent on the policies and administration of the department, but the "buck" will clearly stop with the superintendent and the governor.

In recognition also that the individual schools of the public school system are dearest to the hearts of the public, we propose that a constitutional guarantee be added to Article IX, Section 2, to mandate the legislature to provide for some structure at the school level for public input. Little argument has been heard on the concept that the public should be able to suggest improvements and to channel its efforts on behalf of the school in its community. The very fact that the incumbent superintendent and board of education have adopted rules and regulations to establish school advisory councils attests to the validity of the concept. But we should be mindful that those same rules and regulations are the creations of the incumbents. As superintendents and board members change, regardless of any modifications that this Constitutional Convention might make on the structure of governance, there is presently no guarantee that school advisory councils will continue to be sanctioned. Without constitutional provision for such grass-roots input, this Constitutional Convention cannot be sure that parents, students and other members of a school's community will have a mechanism by which they might bring their views to the attention of the principal and teachers. School personnel also will not be assured of a group to which they can turn to marshal the support of parents and the immediate community.

Accordingly, we submit the following recommendations:

1. That the state board of education composed of the chairpersons of local boards of education be established to advise the superintendent on the policies and administration of the department of education and to submit three names to the governor whenever a vacancy occurs in the office of superintendent.
2. That the superintendent be appointed by the governor with the advice and consent of the senate, from a list of three names submitted by the state board, to administer the department of education.
3. That local boards of education be elected in accordance with law to advise the district administration on district concerns, to provide input to the state board and to assist in disseminating a statewide perspective to their respective districts.
4. That a constitutional guarantee be provided for input at the local school level.

To this end, the undersigned minority will submit an amendment to Article IX and urge its adoption. This amendment will have the following objectives:

1. Eliminate the confusion and conflict in the executive branch over the operations of the school system.
2. Fix clear lines of accountability for public education.
3. Provide for exercise of the vote in public education at a level closer to the people.
4. Guarantee the public's right to participate meaningfully at the school level.

In summary, this minority of your Committee feels that the people of Hawaii would best be served if the Constitutional Convention of 1978 would address itself to the basic issues of governance of public education. Furthermore, we believe that these issues are best resolved in the manner which the minority will propose through amendment, so that the ultimate decision as to whether the present system can be improved would thus be left up to the people to adopt or reject in the general election.

Signed by Delegates Chong, Rachel Lee, Nozaki, Hironaka, Wurdeman and Goodenow.

MINORITY REPORT NO. 6

A minority of your Committee on Legislature does not concur with that part of Stand. Com. Rep. No. 46 which recommends retention of the bicameral, and rejection of the unicameral, legislature. The report made this recommendation, stating that it was not convinced that unicameralism is more effective than bicameralism and that the proponents of unicameralism failed in their burden of proof.

The minority of the committee urges the delegates to further deliberate and come forth with a constitutional amendment providing for a unicameral legislature. This should be done in the Committee of the Whole so that all delegates may participate in the deliberations of this vital issue.

The majority comes to the conclusion that the bicameral system presently in existence is as or more effective than a unicameral system.

The minority does not concur with this conclusion and recommends the adoption of a unicameral legislature for the following reasons:

1. Adoption of a unicameral legislature will enhance the public's ability to follow the progress of a bill. Presently if a bill is introduced in both houses, as many are, one must follow its progress through both houses.

2. This poses a difficult and challenging problem for the press in reporting on the progress of a bill concisely and accurately.

3. A unicameral system will promote greater public accountability. No longer can one legislative body point the finger at the other as the one responsible for killing a popular bill. Also, no longer will one body of the legislature be able to pass a bill in the expectation that the other house will kill it.

4. A unicameral legislature will also improve the deliberation process. Because of the need to provide time for a bill to pass both houses and to provide for conference committees, the legislative session becomes rather truncated.

5. Presently, the legislature has three deadlines: (A) crossover, (B) passage of bills from the other house and (C) conference committee. This results in a rush of last-minute decision-making, revisions and amendments, and committee report writing.

6. There is no longer any reason for two houses, as the 1964 supreme court decision in Reynolds v. Sims declared that both houses must be apportioned on the basis of population.

7. With a unicameral legislature, the checks and balances between the executive and legislative branches of government are more significant since the chief executive needs to deal with only one house.

8. Because each legislator remains individually responsible for actions and votes, it is more difficult for lobbyists to secure special interest legislation.

9. The majority states that in an evaluation of the 50 state legislatures by the Conference on State Legislatures, Hawaii's legislature ranked higher overall than Nebraska's one-house legislature. An article in the June 13, 1978 issue of the Honolulu Star-Bulletin stated: "A former executive of the conference ventured that Hawaii might have been rated No. 1 if it had had a single house. Nebraska was rated lower than Hawaii for reasons not basic to one house."

The majority goes into arguments that purportedly show the accessibility and accountability of the present two-house legislature. "Accountability" as defined by Webster means "responsibility." Who is responsible for passing or killing a bill? In a bicameral system there is buck-passing and finger-pointing at the other house to place responsibility for a certain action.

Following are 4 excerpts from some 14 testimonies studied by the minority.

1. Nelson K. Doi, Lieutenant Governor, State of Hawaii:

"I firmly believe that a unicameral system would facilitate achievement of the intended purposes of the legislature far better than a bicameral system, because it would create a climate and attitude that would foster more meaningful public participation in the legislative process and would attract candidates who would welcome service under those conditions."

* * *

"I am well aware that structure itself may not be sufficient to resolve the problems of any legislature--that people ultimately determine its quality. But I am convinced that a unicameral legislature would be a change for the better and we ought to be seeking better ways of doing things."

* * *

"I would like to cover one last point. A unicameral system is not an experiment--it is found in many European nations, most Canadian provinces, Latin America, the emerging nations of Africa, in the Far East and in most local American governments, including all of our counties. Moreover, most if not all constitutional conventions in the United States are unicameral bodies. As Delegate Robert Dodge so aptly stated in the 1968 Con Con:

"It is incongruous to me that an apparent majority of this Constitutional Convention accept this unicameral body as appropriate to draft our basic document--setting policies that will endure for years and at the same time demand a two-house body to establish policies for day-to-day happenings."

2. Frank F. Fasi, Mayor, City and County of Honolulu:

"[A] unicameral legislature would eliminate the need for the 'third house,' the conference committee. These ad hoc organizations have all too frequently thwarted the intent of legislation and have been the source of proposals that have been self-serving. As examples, I need only mention the pay raise and pension bill fiasco of a few years ago.

"I urge a full consideration of the proposals by your committee and strongly recommend that the subject be placed before the electorate for their consideration. The voters of our State should have the opportunity to be heard on this most important matter."

3. Mrs. Pearl R. Nishimura, veteran legislative staff worker:

"In 1947, the legislature met every other year. There were 15 senators and 30 representatives. Salary was \$1,000 for the session. The session cost was \$350,000 (salaries not included).

"In 1977, the legislature meets every year. There are 25 senators, 51 representatives, an office of legislative auditor, a legislative reference bureau, and an ombudsman office. Salaries of legislators are \$12,000 per year. The session appropriation for this one year was \$5,977,967 (salaries not included).

"A unicameral legislature would probably eliminate the 25-member senate. In 1977 the amount appropriated for the senate was \$1,526,400.

"The citizen/taxpayer finds it difficult to participate in legislative proceedings because it usually costs him time and money. The paid lobbyist has an unfair advantage over the ordinary citizen.

"Desirable changes to the legislative branch must be made in the Constitution. The public's demand for a good, responsive, reasonably priced legislature must be secured by putting the changes and safeguards into the State Constitution.

"Change to a one-house legislature. Less members would cost us less money. I implore you to make the change...."

4. Adam A. Smyser, editor of the Honolulu Star-Bulletin:

"[T]here need be no danger of too hasty action. Rules like those of the Nebraska legislature could assure bill drafter review, fiscal analyst review and public hearings before a bill could become law."

To this end, the undersigned minority will submit an amendment to Article III to establish a unicameral legislature and urge its adoption. The ultimate decision on whether the legislative system and process can be improved by a unicameral system would thus be left up to the people to adopt or reject in the general election.

Signed by Delegates Cabral, Barr, Rachel Lee, Kimball, Goodenow and Miller.

MINORITY REPORT NO. 7

A minority of your Committee on Legislature does not concur with those parts of Stand. Com. Rep. No. 46 which recommend certain changes in the setting of legislative salaries and retention of the annual legislative session.

The substance of the present provision on legislative salaries is embodied in Article III, Section 10, which reads:

"The members of the legislature shall receive allowances reasonably related to expenses and a salary, as prescribed by law. Any change in salary shall not apply to the legislature that enacted the same.

"There shall be a commission on legislative salary, which shall be appointed by the governor on or before June 1, 1971, and every four years after the first commission is appointed. Within sixty days after its appointment, the commission shall submit to the legislature recommendations for a salary plan for members of the legislature, and then dissolve."

Under this section, the legislature shall receive a salary as prescribed by law and can therefore prescribe legislative salaries. There is also a commission on legislative salary which meets every 4 years and is required to submit salary recommendations to the legislature and to then dissolve.

The majority of the committee argues that legislators are reluctant to prescribe their own salaries due to criticism from the voters, even though pay increases due to inflation are justified. The majority therefore recommends removal of the burden on legislators to prescribe their own salaries by an overt act, and that the salary plan recommended by a commission on legislative salary, meeting every 8 years, shall become effective unless disapproved by the legislature or the governor.

The minority does not concur with the recommendations and arguments presented by the majority for the following reasons:

1. As stated in the committee report, these changes remove the burden from legislators to set salaries by an overt act (legislation) and make acquiescence by the legislature enough. Thus, unless the legislature or governor disapproves the plan, the salary plan will become effective. This is in effect approval by silence and removes the burden and

responsibility of an elected body to the electorate. Accountability to the public is necessary and protects the public's interest, also subjecting the process to public scrutiny. The majority's proposal contradicts the principle that the power of government is inherently in the people.

2. The commission on legislative salaries meets only once every 8 years under the committee proposal, is limited in scope to legislative salaries and does not cover other areas concerning the legislature. The commission should meet more often to increase accountability to the public and should be required to study other broader aspects of the legislature.

3. The time period given (fortieth day of session to report) to the commission to make recommendations is too short and does not allow sufficient time for proper consideration and public input.

4. Appropriations for legislative service agencies and for legislative salaries have risen, from 1967 to 1977, from \$2,077,000 to \$6,889,967. A commission authorized to study all aspects of the legislature might result in necessary savings in expenditures and in fairness in compensation to legislators.

The minority of your Committee therefore recommends that there be a legislative commission with expanded duties to study all aspects of the legislature, meeting every 4 years and submitting recommendations to the governor within 180 days. Under this recommendation, the plan submitted shall, upon approval by the governor, be submitted for voter approval.

The committee report also recommends that the present system of annual legislative sessions be retained, rejecting the biennial session. The report does not specify any reasons for this retention.

The minority agrees with the testimony of Mr. George Mason, representative of the Chamber of Commerce of Hawaii, and Mr. Donald Bremner, executive director of the Waikiki Improvement Association, that the annual session is too costly in terms of expenditures and time, not only by the legislative branch but by the executive branch as well (e.g., testimonies, etc.). Biennial sessions are less costly, more efficient, and would enable administrators of the laws time to review the laws' implementation. Any emergency arising between sessions could be handled by a special session called for such purpose.

The minority therefore recommends and urges the adoption of a biennial session.

To this end, the undersigned minority will submit amendments to Article III relating to legislative salaries and a biennial session and urge their adoption. The ultimate decision on whether the present system can be improved would thus be left up to the people to adopt or reject in the general election.

Signed by Delegates Cabral, Rachel Lee, Barr, Miller and Goodenow.

MINORITY REPORT NO. 8

A minority of your Committee on Legislature does not concur with that part of Stand. Com. Rep. No. 46 (page 10) which recommends the retention of multimember districts. The minority feels that the overwhelming evidence is in favor of single-member districts if the goal is accessible, accountable, responsible representative government.

With single-member districts, representative districts would be about half as large as at present in 20 of the 27 cases (five are single-member now, two have three members). Senatorial districts would be one quarter of the present size in half the districts, one third as large in two more and half as large in another. Each legislator would represent fewer people and be closer to his voters. Campaign expenses could be much less because mass-media promotions would be less worthwhile. Personal contact with the voters themselves would be the key to winning elections. That would make each elected official more responsive, more open, more sensitive to voters if he is to continue to win.

Voters would find it easier to keep track of what one representative is doing and could hold him more accountable, making him more responsible to his constituency. The

election ballot would be shorter, making it easier for voters to make intelligent choices.

Single-member districts promote the two-party system by encouraging competing sides to put together the majority coalition in the smaller district to win the election.

By contrast, multimember districts are a sophisticated form of gerrymandering, of allowing districts to be tailored to the benefit of particular groups. In Hawaii there are numerous examples of political parties, ethnic groups or socio-economic groups being combined in such a way as to give advantage to one combination. In such cases, essentially the same block of voters that elect one legislator also elect the second, third, fourth.

The majority of your Committee held the view that minorities would benefit from multimember districts. However, this could be true only if all or most voters plunked for one legislator, leaving to other groups the second, third and fourth choices. In practice, the same plurality of voters can elect all four members of a four-member district, leaving minorities out altogether if desired. On the mainland, multimember districts have been used for years in the South to discriminate against black minority voters, as evidenced by recent supreme court decisions in Alabama, Texas, Louisiana and elsewhere. These decisions mandated single-member districts in order to stop discrimination against minorities.

The majority's arguments about incumbents and women are also ill-conceived. The turnover of incumbents involves many factors other than the size of the district. However, statistics establish nationwide a tendency for slightly more rapid turnover where there are single-member districts. It is in any case self-evident that a newcomer can compete more easily in a smaller, less expensive, more personalized campaign--if the incumbent is otherwise vulnerable. (Some incumbents cannot be beaten in any size district because they are so effective both in campaigning and in office.)

Likewise in the case of women, there are biases other than district size that have worked against the election of women. The number of cases is too few to give statistics validity but it is instructive that in the 51 Constitutional Convention districts 16 were led by a woman, while in only 14 cases did the woman elected run second. In six cases both elected delegates were women; in three of these cases, women captured the top three spots. It appears that when the established political machinery is not plugged in, women have good opportunities to be elected in smaller districts in spite of lingering social biases.

The minority of your Committee feels that Article III, Section 4, item 7 under "Apportionment Within Basic Island Units" should be amended to read:

"Not more than [four members] one member shall be elected from any district."

In conclusion, the minority of the Committee on Legislature feels the people of Hawaii are best represented in single-member legislative districts because these will promote lower campaign costs; more accessibility, accountability and responsibility; shorter ballots and less gerrymandering.

Signed by Delegates Cabral, Barr, Yamashita and Kimball.

MINORITY REPORT NO. 9

A minority of your Committee on Judiciary does not concur with that part of Stand. Com. Rep. No. 52 which recommends that an intermediate appellate court be created.

The substance of the recommended provision reads in part:

"Section 1. The judicial power of the State shall be vested in one supreme court, one intermediate appellate court, circuit courts, district courts, and in such other courts as the legislature may from time to time establish."

The majority report says in effect that the evergrowing congestion of cases at the appellate level of our judicial system and the concurrent increase in the length of time it takes for both civil and criminal cases to reach a conclusion mandates the creation of an intermediate appellate court to alleviate some of the appellate congestion.

The minority of the committee urges the delegates to further deliberate and come forth with a constitutional amendment providing instead for an increase in the size of the present supreme court and allowing the court to sit in panels. This should be done in the Committee of the Whole so that all delegates may participate in the deliberations on this important issue. Failure to consider this subject further deprives the people of Hawaii acting through this Convention of the possibility of improving the present system.

The minority does not concur with the recommendations and arguments presented by the majority for the following reasons:

1. By creating an intermediate appellate court the judicial system will become more complicated. There will be increased litigation in terms of appeals. The creation of an intermediate appellate court only gives litigants another level to appeal their cases. An attorney may be required to take a case to the highest court for a final determination, and it will end up at the supreme court.

The majority recommends that the supreme court could use a bypass mechanism to immediately hear, in its discretion, special types of appeals. Can it be uniformly and fairly decided which case deserves hearing by the supreme court and which case should be heard by the intermediate court? There will no doubt be extensive litigation on the application of the bypass mechanism. If a case is heard by the intermediate appellate court and it renders an adverse decision, most diligent attorneys would petition the supreme court to hear the appeal also. There is no right to two trials; is it justifiable to possibly have two appeals?

2. The majority of the committee should be commended for inserting a provision that the courts "shall establish time limits for the disposition of cases." However, by creating an intermediate appellate court the judicial system may still produce delays. As previously mentioned, there will be increased litigation. The creation of an intermediate appellate court gives litigants another level to appeal their cases.

Also, because of an intermediate level of appeal, potential harassment by "deep pockets" is created. For example, if an insurance company loses a personal injury case at the trial court level, it will more than likely appeal the trial court's decision to the intermediate court. If it loses again at that level, the insurance company may well appeal to the supreme court. Because of these appeals, the poor plaintiff, who probably needs the money judgment as soon as possible to pay medical and other expenses, is denied the money which is "rightfully" the plaintiff's. In other words, justice delayed is justice denied.

A two-tiered appellate system, with its potential for "double appeals" and the delays inherent when a discretionary second appeal is granted, brings to mind two other examples of potential harassment. One is in the domestic relations area. Despite the merits of his/her appeal, a vindictive and recalcitrant ex-spouse may purposely appeal a family court order to pay alimony or a property settlement decree, first to the intermediate appellate court and, any adverse decision thereafter, to the supreme court. His/her purpose is to harass the ex-spouse and to deny the ex-spouse the finality of the judgment or decree. An embittered ex-spouse may well prefer to pay an attorney to appeal rather than his/her ex-spouse.

The other example exists in the criminal area, and the public may be adversely affected by the potential delays inherent in a two-tiered appellate system. Where a criminal defendant is free on bail pending the outcome of an appealed decision, that defendant may well be dangerous to society and could commit additional crimes during the pendency of an appeal to the intermediate appellate court and possibly thereafter to the supreme court.

A good criminal justice system is one that is fast, fair and final. If a criminal defendant is punished or finally imprisoned a number of years after the initial offense is committed, after two appeals, the deterrent effect of the punishment may be diminished.

3. By creating an intermediate appellate court there will be increased costs to the State and to the public. For example, salaries will have to be paid to the intermediate appellate court judges and their support personnel, such as law clerks and secretaries.

The majority has recommended a unitary filing system, which the minority finds

will save some expense. However, such a system may create more confusion and complication than any of the funds that the filing system will attempt to save.

The minority believes that once an institution is established, there is a tendency for it to grow and perpetuate itself. We may start with three to five intermediate appellate court justices but soon there will be seven or nine, and the court also will soon require new or expanded physical facilities together with additional support personnel.

More important than the expenses for salaries and physical facilities, the public will be paying more in attorneys' fees. The middle-class litigant will have to pay the attorney's appellate fees, which are usually quite high and in most cases higher than trial fees. In an appellate case, usually a lot more research and documentation are required, thereby necessitating the higher fees. The taxpayer will also be paying, for public defender and legal aid attorneys to handle these appeals.

4. Also to be noted is the fact that 28 states at the present time have an intermediate appellate court system. The remaining 22 states have apparently found that their supreme courts are performing adequately or satisfactorily and that there is no need for an intermediate appellate court. Relatedly, is it justifiable that such a small state as Hawaii needs an intermediate appellate court when the judicial systems in larger or more populous states are functioning satisfactorily without one? While Hawaii does not necessarily have to follow these other states, the question still remains as to whether it is in the best interests of the public, including litigants, to create this additional appellate level.

The minority of the committee, after due consideration of these arguments, agrees that there is an evergrowing congestion of cases at the appellate court level and that it takes an undue length of time for both civil and criminal cases to achieve finality. This minority strongly believes that, instead of creating an intermediate appellate court, the size of the supreme court should be increased from five to seven members, and that the court should be allowed to sit in panels, or en banc.

By creating an intermediate appellate court, there will be increased expense to taxpayers for the additional court, a potential for double appeals which may well cause additional delays and higher costs to litigants, and a potential increase in workload caused by the need to determine whether the intermediate appellate court or the supreme court should exercise original appellate jurisdiction in a particular case and whether a case decided by the intermediate appellate court should be reviewed by the supreme court.

In summary, this minority of your Committee proposes that the people of Hawaii are best served not by creating an intermediate appellate court but rather by enlarging the size of the present supreme court. This minority is introducing an amendment to this effect, and we urge your serious and favorable consideration of the amendment. The ultimate decision as to whether our judicial system can be improved simply by increasing the membership of our supreme court would thus be left to the people to decide. We are confident that the electorate would prefer and thus be more likely to ratify an amendment providing for an enlarged supreme court rather than one creating an entirely new appellate court.

Signed by Delegates Takitani, Burgess, Chu and Liu.

MINORITY REPORT NO. 10

A minority of your judiciary committee strongly supports the concept of a merit system for selection of judges but disagrees with important provisions of the plan as recommended in Stand. Com. Rep. No. 52.

Although the majority report is replete with references to the desire of everyone to establish a nonpartisan system for selection of judges, the ultimate system recommended to the Convention very definitely ties the system to the political arena and also makes little effort to keep it a nonpartisan body.

Senate confirmation should be eliminated. First, all appointments made by the governor from the lists of candidates submitted to him must be submitted to the senate for confirmation. Not a single one of the 29 states with merit selection systems subject such permanent appointments to senate confirmation, the obvious reason being that the confirmation

requirement dilutes the fundamental purpose of submitting a list of highly qualified candidates to the governor and requiring him to select one or have the choice taken away from him by the commission. In effect, it injects senatorial politics into the selection system, both at the commission level because of the need for ultimate confirmation and also at the selection level because the senate is given veto power over the governor's selections. If Hawaii desires to establish an outstanding merit selection system, it should be guided by the unanimous position of other state systems, which have chosen not to employ senate confirmation.

List should be less than six. Second, by requiring not less than six names on any list of candidates submitted to the governor, the system necessarily reduces the assurance that the most highly qualified candidates will be selected and confirmed. Obviously, a list of 3 or 4 candidates will result in the appointment of a more highly qualified judge than if the commission is required to add candidates until at least six have been included on the list.

Time limits should be included. Third, in connection with the pure mechanics of the proposal contained in the majority report, your minority believes it to be unwieldy and needing of clear-cut time requirements at every stage of the appointment process. One suggestion for amendment of the paragraph on page 3 in section 3 of Com. P. No. 10 would be as follows:

"If the governor should fail to make [the] any appointment within thirty days of presentment, or within ten days of the senate's rejection of any previous appointment, the appointment shall be made by the judicial selection commission from the list with the consent of the senate. If the senate should fail to [consent to any appointment, whether by the governor or commission,] reject any appointment within thirty days thereof it shall be deemed to have given its consent to such appointment. If the senate shall reject any appointment, the governor shall make another appointment from the list within ten days thereof. The same procedure shall be followed until a valid appointment has been made, or failing the making of a valid appointment, the commission shall make the appointment from the list, without senate consent."

Nonpartisan membership. Fourth, the system has rejected several very important elements which would have gone a long way toward eliminating political influence and partisanship on the commission. Some of these elements are:

Political activity by commission members should be barred. In order to maintain nonpartisanship on the commission, many states, and the particular proposal submitted by the Hawaii State Bar Association, prohibit any member from running for or holding any office in any political party or organization, or from taking part in any political campaign. This provision was eliminated, thus making it permissible for an officer of a political party, or a worker in some particular person's campaign, or a heavy contributor to a political campaign to continue membership on the commission. There could be no more obvious risks of political influence than would be afforded by the foregoing examples and they must not be permitted. The majority report contained 10 separate references to the desirability of nonpartisanship on the commission, thus setting the proper tone for the commission, but only the correction of the above flaws would go toward achieving such nonpartisanship.

Commission members should not hold other public office. The proposal submitted by the Hawaii State Bar Association would prohibit membership by anyone holding any office or position of profit under the United States, the State or its political subdivisions, thus prohibiting membership by a person holding elective or appointive government office or anyone in civil service. The clear purpose of this disqualification was to try and insulate the commission from politics. The majority report eliminates these protections except for disqualifying persons holding elective office. Thus, under the wording of the proposal recommended by the majority, the governor could appoint three persons on the government payroll who are beholden to him for their jobs and their future promotions, and the senate, the house of representatives and the supreme court could appoint four persons on the government payroll who are beholden to them for their jobs and future promotions. If so, or at least to the extent of such appointments, such members would serve as no more than pipelines to the commission rather than being the nonpartisan, independent members needed for the commission. Hawaii can and must do better in creating this commission and has the opportunity to do so by adopting the foregoing prohibitory language.

Disqualification clause will deter service by attorneys. One provision which will deter service by attorneys on the commission is the paragraph on page 8 in section 5 of Com. P. No. 10. This provision requires disqualification by any attorney member or his firm in any case before a justice or judge being considered for nomination. Your minority does not disagree that such a conflict should be avoided, but believes such conflicts should be resolved by rules and regulations of the commission and not by constitutional provision. Further, such a conflict could easily be resolved within the courts by such an attorney member (or his firm) asking the justice or judge to disqualify himself and assign the case to another justice or judge. The proposed constitutional language would appear to penalize the attorney member by taking away the normal method of avoiding such conflicts. Your minority recommends that the provision be deleted.

Commission members should not receive salaries. Although the majority report recommends that committee members serve without compensation, the language of the proposal does not so provide. A specific provision to this effect would accomplish two purposes. First, it would assure that membership on the commission would not be sought for private monetary gain. Ideally, membership would be made up of private citizens dedicated to selection of the most qualified judges for our judiciary. Second, it would assure the public that the commission is not just another layer of costly bureaucracy.

The balance between laymen and lawyers on the commission should be established. All other merit plan jurisdictions require given numbers of laymen and given numbers of lawyers on the commission. Most (about 24 jurisdictions) require a slight majority to be lawyers. Five or six jurisdictions require a slight majority to be laymen. The majority proposal does not provide this balance and only requires two attorney members on the commission, although attorneys could be appointed to one or more of the other seats. Under a proper lawyer-layman balance, the laymen represent the viewpoint of the general public and the lawyers represent the part of the public involved in litigation. The lawyers provide professional expertise and knowledge of the courts and of other lawyers. The lay people provide a more detached view of the system, bringing a consumer citizen perspective to bear. The interaction between these two groups is important to the success of the plan. Their numbers should be approximately equal to prevent domination by one or the other. The letter following from the American Judicature Society will amplify the above points.

In summary, your minority urges the Convention to adopt amendments to the proposal which will create the most nonpartisan, most qualified judicial selection commission available to the people of Hawaii. The paramount goal is to create a system which will recruit and submit to the governor the best legal talent in the State so that Hawaii will have the finest judiciary in the country. Only if the Convention adopts the foregoing recommendations will this goal be achieved.

Signed by Delegates Takitani, Burgess and Chu.

August 29, 1978

Mr. Daniel H. Case
P.O. Box 26
Honolulu, Hawaii 96810

Dear Mr. Case:

The judiciary committee's proposal for amending Article V of the Hawaii Constitution arrived in our office by teletype late Friday afternoon. Since time is short, I will offer you only my immediate impressions about the sections of the proposal dealing with merit selection.

First, although I was pleased to see that the members of the convention's judiciary committee are committed to merit selection in principle, I was rather disappointed to find that they have included features which may not result in a strong merit system in practice.

As you know, for merit selection to work effectively, the selection process should operate in as nonpartisan a manner as possible. Unfortunately, I notice that several clauses in the bar association's proposal, designed to achieve the goal of nonpartisanship, are conspicuously absent from the current draft. For example, the following language has been deleted from the section entitled "The Judicial Selection Commission":

Nor shall any [commission] member run for or hold any office in any political party or organization or take part in any political campaign.

Certainly members of the nominating commission should not be party office-holders or campaign managers. Nothing in the current draft, however, prevents commission members from having such political entanglements.

I also have difficulty with the addition of the word "elected" to the clause: "No member [of the commission] shall run for or hold any other elected office under the United States, the State or its political subdivisions." With this extra modifying word there is nothing to prevent the governor, the legislature or the chief justice from placing a loyal political appointee on the commission or someone who has already been rewarded with a civil service position. I do not believe there should be anything in the Constitution which implicitly or explicitly allows the nominating commission to be used to repay political debts.

My final comment about the composition of the judicial selection commission concerns the absence of any language requiring that a given number of commission members be non-lawyers. Nothing in the language of the current proposal prevents the governor, legislature and chief justice from appointing all lawyers to the commission. If the commission is to be composed exclusively of lawyers, the citizens of Hawaii would be justified in rejecting the proposal during the November balloting. Merit selection is not intended to be, and should not appear to be, a means by which lawyers can nullify the franchise. The Hawaii Bar Association apparently recognized this point, because the Bar's proposal provided for a majority of nonlawyers on the commission by requiring the governor, legislature and chief justice to appoint only nonlawyers.

If you consider redrafting this language, I might caution you, parenthetically, about providing for too few lawyers. The lawyer members of the commission are important, because they personally know about many judges who do or do not deserve to be elevated to higher judicial office, and they know other lawyers who are or are not qualified to serve on the bench. I sincerely hope that the committee does not overreact by providing too few lawyers on the commission for it to operate effectively. At the same time, if too many lawyers serve on the commission, as may happen under the current proposal, the entire merit selection process may look like a sham to the voters.

Second, besides the concerns I have discussed about qualifications for commission members, I am deeply troubled by the language in section 3 allowing the senate to consent to the nominees. I fear the growth of a practice similar to that which has dominated the federal system until recently, whereby the senators in effect control the selection of judges. Senatorial consent could elevate partisan political considerations over a nominee's judicial qualifications.

You may be interested in knowing that, according to our records, only two states which have constitutional provisions requiring the governor to pick judges from a list submitted by a nominating commission allow the senate to consent to judicial nominees. Even in these two states, Wyoming and Nevada, the senate is allowed to consent only to appointments filling interim vacancies, where the appointee is selected to serve the remainder of an unexpired term. In sum, I fear that senatorial consent would take the heart out of merit selection by allowing partisan political considerations to dominate over a candidate's ability to serve as a competent judge.

My third major problem concerns the provision for retention in the section entitled "Tenure; Compensation; Retirement." This section rejects retention elections in favor of a provision allowing the nominating commission to sit as a quasi-judicial discipline and removal body, ruling on a judge's fitness to remain in office. I would like to repeat my earlier comments about the dangers of this provision. Not only does it allow the nominating commission to undermine the responsibilities of the discipline and removal body, but it also threatens to compromise the independence and integrity of the judiciary. For example, the nominating commission may rule that a certain judge, who has just been cleared of charges of misconduct by the discipline commission, should not be retained because charges of misconduct had been leveled against him. This confrontation between two constitutional bodies can be avoided if the nominating commission does not have the right to rule on fitness for retention. Another example might occur when a judge nears the end of his term and must sit in judgment over cases argued before him by lawyer members of the nominating commission who will decide his right to remain in office. Whether or not the judge is

influenced in his ruling by the knowledge that these lawyers serve on the nominating commission, the Constitution should not create the appearance of impropriety by putting judges and lawyers in that type of position.

Another problem with this system is illustrated by an occurrence in Wyoming several years ago. That state used a process similar to the one proposed by the judiciary committee. However, every time a commission attorney appeared in court, opposing counsel objected to litigating a case where the judge might be biased in favor of an attorney who would shortly help determine whether the judge could remain in office. Consequently, it was difficult to get trial attorneys to sit on the commission. Because of this problem, Wyoming has abolished the procedure.

Finally, I question the requirement in the current proposal that the nominating commission must submit not less than six names to the governor. This requirement may dilute the quality of the nominees by forcing the commission to send three or four exceptionally well qualified candidates to the governor along with two or three considerably less qualified candidates. Requiring a smaller minimum number of nominees would help insure that every name on the list meets the highest standards required by the commission. Naturally, if there is an abundance of exceptionally well qualified people, the commission would not be prevented from sending a larger number of names to the governor.

I hope these comments help in your efforts to institute a strong merit selection provision in Hawaii. I shall be happy to continue to help you in any way I can. Feel free to call upon me at your convenience.

Sincerely,

Allan Ashman
Assistant Executive Director
American Judicature Society
200 West Monroe Street
Suite 1608
Chicago, Illinois 80606

MINORITY REPORT NO. 11

A minority of your Committee on Taxation and Finance does not concur with that portion of Stand. Com. Rep. No. 66 dealing with the expenditure ceiling. Specifically, we do not agree with the ceiling limitation expressed in Com. P. No. 14, at the end of section 5 thereof, reading in part "...limit the rate of growth of general fund appropriations, excluding federal funds received by the general fund, to the estimated rate of growth of the State's economy as provided by law."

To further pinpoint our objections, we do not concur with permitting the legislature to establish its own spending ceiling limitation. While we agree that the limitation should be geared to growth in the State's economy, the state legislature is in no better position to determine the index to be used than the delegates to this Convention.

"[E]stimated rate of growth of the State's economy" is a nebulous phrase. We believe the language should be explicit so that the legislators will not be faced with a cloudy issue. If the present provision should be approved by the electorate, there is no compulsion or even motivation placed upon the legislature to devise a limitation in consonance with the beliefs of the delegates or their constituencies.

Based on past history of legislative actions, the same persons involved in testifying before your Committee on Taxation and Finance on spending limitations would also be the persons testifying before the legislature. These witnesses agreed that total personal income is the best indicator available to measure the growth in the economy.

Dr. Thomas K. Hitch, Senior Vice-President, First Hawaiian Bank, expressed this point clearly when he stated that "...limiting the rate of growth of spending to no more than the rate of growth of total state personal income, thus putting increases in state spending on a one-to-one relationship with increased income of the residents, would be a sensible approach to determining automatic growth in government."

Moreover, the Tax Foundation of Hawaii has testified that "...personal income...is one of the best measurements of ability to support government."

Presently, three departments of state government (plus the university) are engaged in economic model-building in an attempt to forecast, by computerized econometric means, the changes in levels of the Hawaiian economy. These models are understood by few and the output depends upon the input. The input is judgmental and quite frankly can be rigged to produce wanted results.

Furthermore, if the legislature is permitted to develop its own measurement of growth in the economy, it will be possible for the legislature to circumvent the intent of the delegates to the Constitutional Convention by merely choosing its measurement or index for estimating the rate of growth of the State's economy to be the rate of growth of general fund revenues. The spending limit would also prove to be meaningless if the legislature changed the index from time to time if it found one or the other too restrictive. This is exactly what the electorate opposes--permitting the spending body to make its own rules.

This minority believes that total state personal income as reported by the U.S. Department of Commerce is the best measure to estimate growth in the State's economy. Averaged over a 3- to 5-year period it would eliminate "spurts and sputters." Total personal income is a measure of population growth, inflation and any increases in real wealth which occur. Thus, under the personal income formula, the State would be allowed to share in economic growth.

The minority proposes that the first sentence in the last paragraph in section 5 of Com. P. No. 14 be amended to read:

"Notwithstanding any other provision to the contrary, the legislature shall establish a general fund expenditure ceiling which shall limit the rate of growth of general fund appropriations, excluding federal funds received by the general fund, to the [estimated] rate of growth of the State's [economy as provided by law.] total personal income, utilizing the federal state personal income series."

In summary, this minority of your Committee believes that the people of Hawaii will be best served by limiting state government spending to the rate of growth of the State's personal income. The ultimate decision as to whether spending can be sensibly and effectively controlled will thus be left up to the people to adopt or reject such an amendment in the election to ratify all proposed amendments to the Constitution. We are confident such an amendment would be accepted by the people and therefore urge the Convention to adopt such an amendment.

Signed by Delegates Marumoto, Peterson, Marion Lee, Kono, Fernandes Salling, Blake, Barr and DiBianco.

MINORITY REPORT NO. 12

A minority of your Committee on Taxation and Finance does not concur with that part of Stand. Com. Rep. No. 66 which recommends the issuance of special purpose revenue bonds to assist "manufacturing, processing or industrial enterprises, utilities serving the general public, health care facilities provided to the general public by not-for-profit corporations or low and moderate income government housing programs...."

The minority does not concur with the above-stated section of the committee proposal for the following reasons:

1. It is not the function of government either to engage in private business or to directly aid private ventures. This section allows the State to become a lending institution to private business and to become extensively involved in promoting, sponsoring, regulating and controlling private enterprises. This should be neither the objective nor the function of our State.

2. Financing private or semi-private enterprises through the aid of special purpose revenue bonds does not fulfill the "public purpose" requirement as a prerequisite for the issuance of such bonds in general. Giant corporations and businesses would be the direct

beneficiary of such bonds as they would be able to obtain cheaper financing for their projects and also benefit from the federal income tax exemption as well. The accruing benefit to the public would be only secondary or incidental.

Those enterprises that are able to obtain such inexpensive financing would have an advantage over their competitors in the State who could not obtain similar financial arrangements. It is obvious that private enterprises unable to obtain similar financing would have more difficulty in competing with enterprises operating thereunder. If on the other hand, revenue bond financing were equally available to all private enterprises, the result would be a flood on the bond market with a detrimental effect upon the borrowing power of state and local governments for needed public improvements.

3. Potentially, the expenses incurred by the State in this financing plan might exceed or equal the prospective savings realized in having private enterprises undertake public improvements.

First, since public moneys are obtained from the issuance of such bonds, the State has a moral obligation to protect the bondholders against default, fraud or other potential abuses resulting therefrom. This would require extensive and costly management on the part of the State in regulating not only the borrowing procedure but the usage of such revenue by private enterprises.

Secondly, if there is any public doubt as to whether the special purpose revenue bond fulfills a "public purpose," the State may be forced into costly and extensive litigation. The recent case of State ex rel. Amemiya v. Anderson, 56 Haw. 566, 545 P.2d 1175 (1973) amply demonstrates this contention. In that case, the validity of Act 161, which authorized the issuance of anti-pollution revenue bonds, was challenged by the attorney general almost immediately after its enactment by our legislature.

Lastly, even if the State has no legal obligation to shoulder the debt, popular pressures and moral obligations might force the State to assume liability in case of default. It would not be unreasonable to assume that the State may, in an effort to protect its name and general credit rating, bear the loss.

4. The use of special purpose revenue bonds constitutes a threat to the ability of the state and local governments to borrow funds at reasonable interest rates to meet their ever expanding obligations. The issuance of special type revenue bonds would decrease the available market of purchasers for general obligation bonds, thereby resulting in an increase in the State's general obligation bond interest rate. The increase in the interest rates on obligation bonds would have to be sufficiently high to attract an adequate number of investors. This fact was pointed out in a nationwide study conducted by the Investment Banker's Association in 1967.

5. Recent studies conducted by the federal government have revealed that the loss in federal income tax revenue is greater than the savings to the financed business. More specifically, these studies have shown that the federal government stands to lose approximately three times as much in tax revenues as the industry gains through the revenue bond financing program. Potentially the federal government could react to this loss in two ways. First, it could lessen the federal subsidies to states for certain public improvements, on the reasoning that private enterprises have been contracted to undertake these tasks. Otherwise, the federal government could restrict or eventually eliminate the tax benefits derived from the tax-exempt status of these bonds by private industries. This would decrease the financial incentive to industry and defeat the purposes and objectives of the special purpose revenue bond program as such. Legislation is presently pending in Congress to eliminate the tax-exempt provision from special purpose revenue bonds.

In summary, this minority of your Committee proposes that the people of Hawaii are best served by not opening up the State to the influx of a new type of debt. Although this minority is not deleting this entire section of the committee's proposal, it is introducing an amendment which places tighter controls over the authorization of such special purpose revenue bonds by including a provision for a two-thirds vote of the legislature. We urge your serious and favorable consideration of this amendment.

Signed by Delegates Marion Lee, Kono, Marumoto, Izu, DiBianco, Blake and Peterson.

MINORITY REPORT NO. 13

A minority of your Committee on Bill of Rights, Suffrage and Elections does not concur with that part of Stand. Com. Rep. No. 72 which recommends against amending the Constitution to include a primary election system different from the one which we now have.

We believe that both a blanket and an open primary system should be considered by this Convention and we submit two amendments to implement these systems.

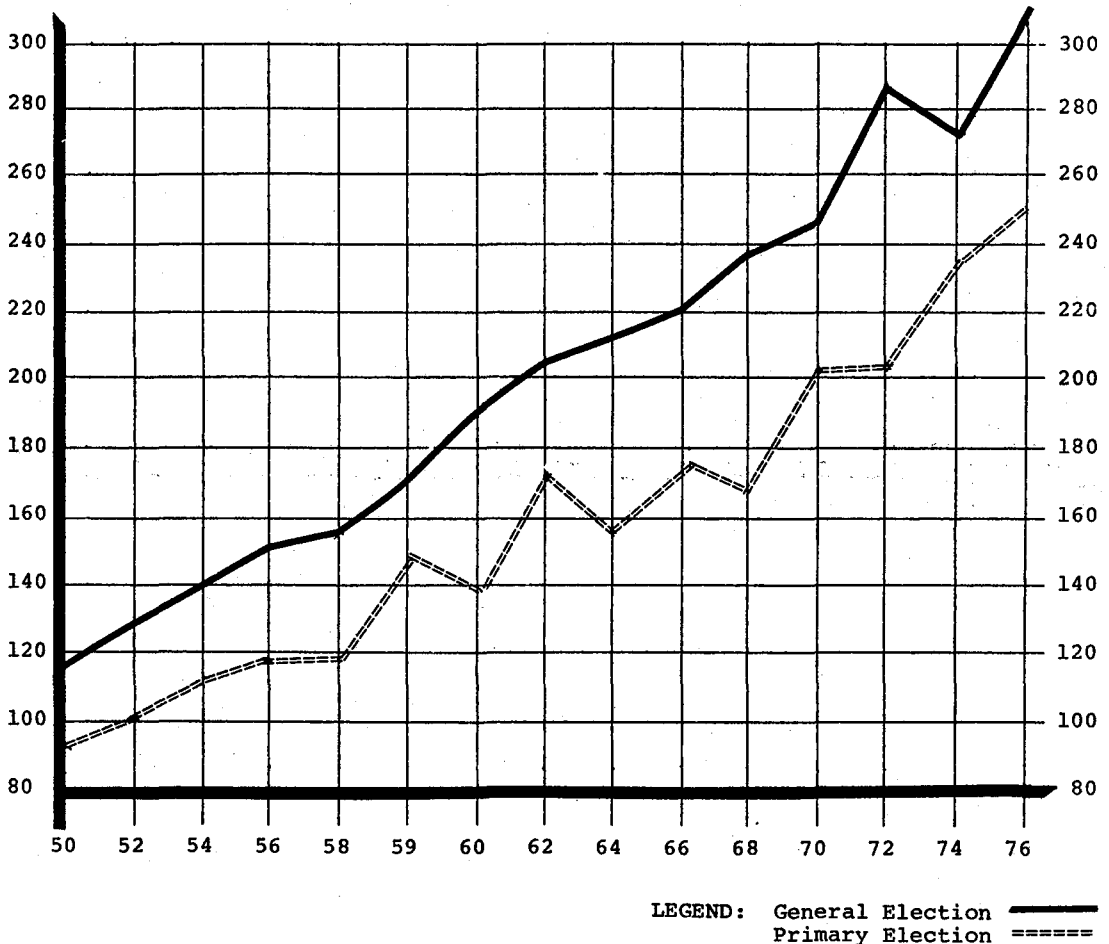
To show the difference between the present system and the alternatives, we submit three previously used official state ballot samples and one newly proposed ballot sample designed by the director of elections, and also a chart showing all the official votes cast in Hawaii elections since 1950.

The people of Hawaii have indicated by polls that they favor a system that will not violate their privacy and not force them to reveal a political preference before being allowed to vote.

We urge your consideration of these amendments.

Signed by Delegates Eastvold, Hale, Campbell and Goodenow.

TOTAL VOTES CAST 1950-76
PRIMARY & GENERAL ELECTIONS
 (In 000's)



OFFICIAL BALLOT

PRIMARY ELECTION, SATURDAY, OCTOBER 2nd, 1948

THIRD REPRESENTATIVE DISTRICT

To vote for a person make a 'cross' (X) with a black lead pencil in the square to the right of his name.

No ke koho ana i kekahi mea, e kaha i X (kaha pea) me ka penikala eleele maloko o ke kua ma ka aoao akau o kona inoa.

TERRITORIAL OFFICERS

NATIONAL REPUBLICAN

NATIONAL DEMOCRATIC

Delegate to 81st Congress

VOTE FOR ONE ONLY
KOHO NO HOOKAHI

DILLINGHAM, WALTER H. (Wala Kalinihama)	
FARRINGTON, JOSEPH R.	

BURNS, JACK	
HOLT, VICTORIA K.	

SECOND SENATORIAL DISTRICT—Islands of Maui, Molokai, Lanai and Kahoolawe

Senators

For the Term of Four Years, Beginning November 2, 1948

VOTE FOR TWO ONLY
KOHO NO ELUA

ANSAI, TOSHI	
FLEMING, DAVID T.	

CROZIER, CLARENCE A. (FAT) (Momona)	
DUARTE, JOHN GOMES (Keiki O Ke Pani Wai)	
ICHIMURA, KAMEO	

THIRD REPRESENTATIVE DISTRICT—Islands of Maui, Molokai, Lanai and Kahoolawe

Representatives

For the Term of Two Years, Beginning November 2, 1948

VOTE FOR SIX ONLY
KOHO NO EONO

APAKA, ALFRED AFAT	
BUCK, SARAH AULIKE KALINO	
FARRINGTON, JOSEPH R.	

BAQUI, JOSE	
EZELL, AL (Kama-O-Kahiki Ekela)	
HOLT, VICTORIA K.	

SECOND SENATORIAL DISTRICT—Islands of Maui, Molokai, Lanai and Kahoolawe

EIGHTEENTH REPRESENTATIVE DISTRICT – COUNTY OF KAUAI

OFFICIAL BALLOT

PRIMARY ELECTION, SATURDAY, OCTOBER 4, 1958

ATTENTION VOTER – READ BEFORE YOU VOTE

1. The Primary Election Law requires you to vote only for candidates of the same party, which means that you must vote for candidates in the same column only; otherwise your whole ballot will be rejected.
2. To vote for a person, mark X with a black lead pencil in the square to the right of the name.
3. If you spoil this ballot by erasure or by voting in more than one column or for any other reason, return it to an Inspector of Election for a new ballot.
4. For further instructions, refer to the card "INSTRUCTIONS TO VOTERS" posted in the voting compartment.

COUNTY OFFICERS

Vote for Candidates in the Same Column Only

DEMOCRATIC

Chairman & Executive Officer

VOTE FOR NOT MORE THAN ONE (1)
KOHO AOLE A OI AKU MA'O O HOOKAHI (1)

BAPTISTE, JR., ANTHONY C. (Akoni)	
FERNANDES, WILLIAM (BILLY)	
WATASE, GEORGE K. (CHRIS)	

Supervisors

VOTE FOR NOT MORE THAN SIX (6)
KOHO AOLE A OI AKU MA'O O EONO (6)

AKI RAYMOND X.	
CASE, GORDON P. (TEX) (Kokona P. Ke)	
CHORIKI, HIROMU	
GONSALVES, JR., LOUIE (SMOKY)	
KUNIMURA, TONY	
LAYOSA, J. B. (GENE)	
NISHIDA, JAMES E. (JIMMY)	
OKURA, TOM	
SOUZA, RAYMOND D.	
TEXEIRA, JOHN D. (TEX)	
TOYOFUKU, GEORGE	

Attorney

VOTE FOR NOT MORE THAN ONE (1)
KOHO AOLE A OI AKU MA'O O HOOKAHI (1)

KABUTAN, TOSHIO (KABBY)	

REPUBLICAN

Chairman & Executive Officer

VOTE FOR NOT MORE THAN ONE (1)
KOHO AOLE A OI AKU MA'O O HOOKAHI (1)

ELLIS, WILLIAM	

Supervisors

VOTE FOR NOT MORE THAN SIX (6)
KOHO AOLE A OI AKU MA'O O EONO (6)

CORREIA, CLEM	
KAILIKEA, MELVIN DAVID	
MORINAKA, JAMES J. (JIMMY)	
SETO, MASAO	
SHIRAMIZU, JOE	
WADA, GENKICHI	

BEFORE HANDING THIS BALLOT TO THE INSPECTOR,

BE SURE YOU HAVE VOTED

IN THE SAME PARTY COLUMN ONLY;

OTHERWISE IT WILL NOT BE COUNTED



DEMOCRATIC PRIMARY BALLOT

PRIMARY ELECTION

SATURDAY, OCTOBER 5, 1974

TENTH REPRESENTATIVE DISTRICT
SEVENTH SENATORIAL DISTRICT
COUNCIL DISTRICT VI
CITY AND COUNTY OF HONOLULU
STATE OF HAWAII

VOTE BOTH SIDES (OVER)

This stub shall be removed by the ballot box clerk only.

STATE SENATORS

Vote For Not More Than Three (3)

LEE, David H. C.	+
NISHIMURA, Donald S.	+
O'CONNOR, Dennis	+

STATE REPRESENTATIVES

Vote For Not More Than Two (2)

AMATO-KUMALAA, P.	+
KIYABU, Ken	+
MIYAKE, AI	+
NAITO, Lisa	+
NAKAMA, Keo	+

COUNCILMAN

Vote For Not More Than One (1)

KAAPU, Kekoa David	+
KAGEYAMA, Richard (Likeke)	+
SHIM, Marion Heen	+
YAMAMOTO, Cedric N.	+

VOTE BOTH SIDES (OVER)



REPUBLICAN PRIMARY BALLOT

PRIMARY ELECTION

SATURDAY, OCTOBER 5, 1974

TENTH REPRESENTATIVE DISTRICT
SEVENTH SENATORIAL DISTRICT
FIRST CONGRESSIONAL DISTRICT
STATE OF HAWAII

This stub shall be removed by the ballot box clerk only.

REPRESENTATIVE TO CONGRESS

Vote For Not More Than One (1)

PAUL, William B. (Bill)	+
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GOVERNOR

Vote For Not More Than One (1)

CROSSLEY, Randolph	+
HAO, Joseph Kamae	+

LIEUTENANT GOVERNOR

Vote For Not More Than One (1)

CLAUSEN, Harriet Letitia	+
DILLINGHAM, Ben	+
DUKE, Mal H.	+
STRICKLIN, Sue	+

STATE SENATORS

Vote For Not More Than Four (4)

LUM, Tennyson (Kenikona)	+
ROHLFING, Fred	+
SAIKI, Patricia (Pat)	+
THIESSEN, Wayne Charles	+

STATE REPRESENTATIVE

Vote For Not More Than One (1)

HADLEY, Beverly Sue	+
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OFFICIAL BALLOT

PRIMARY ELECTION

STATE OF HAWAII
SATURDAY, OCTOBER 7, 1978

-----NOTICE TO VOTER-----
In the three contests below, only the two candidates (regardless of partisan or nonpartisan status) receiving the highest votes in each contest will qualify for the General Election.

This stub shall be removed by the Election Official only

REPRESENTATIVE TO CONGRESS	
Vote for Not More Than One (1)	
(D) AKAKA, Daniel K.	
(L) FRITTS, Amelia O.	
(R) ISAAK, Charles	
GOVERNOR	
Vote for Not More Than One (1)	
(D) ARIYOSHI, George R.	
(D) FASI, Frank F.	
(D) HUIHUI, Valentine N.	
(R) JUAREZ, Gabriel, Jr.	
(D) KUAIWA, William K., Jr.	
(R) LEOPOLD, John	
(N) LEOTA, Alema L.	
(A) MOORE, John	
(N) PORE, Frank W., Jr.	
(L) REESER, Gregory	
(R) WESSEL, Valentine K.	
LIEUTENANT GOVERNOR	
Vote for Not More Than One (1)	
(D) BEAMER, Billie	
(D) DIAMOND, A. Van Horn	
(A) GOLDSTEIN, Lewis	
(R) HANAKAHI, Lionel Kaipo	
(R) ISBELL, Virginia	
(D) KING, Jean Sadako	
(D) McCLUNG, David C.	
(R) MELLO, Richard E.	
(D) NISHIKI, Wayne K.	
(D) SHIMABUKU, Mildred W.	
(D) SILVA, James A.	
(L) SILVA, Lloyd George	
(N) TAYLOR, Elinor Mary	
(D) TEIPEL, Virginia	
(D) TOYAMA, William	

THIS IS A
SAMPLE OF THE
FORMAT FOR A
BLANKET PRIMARY
ELECTION BALLOT

MINORITY REPORT NO. 14

A minority of your Committee on Bill of Rights, Suffrage and Elections does not concur with that portion of Stand. Com. Rep. No. 72 which recommends against the inclusion of a recall provision in our State Constitution.

After hearing all of the evidence presented at public hearings on the subject of recall, and after considering all arguments of the committee members, this minority believes that the public interest and welfare would be best served by including a provision in the Constitution to allow citizens to recall elected public officials through a petitioning process.

If our government is to function efficiently and effectively, the people must be provided with appropriate means to hold its elected officers responsible for proper performance of duties. Our State Constitution now provides for the removal of the governor and lieutenant governor upon conviction of impeachment and for the expulsion of a legislator "for misconduct, disorderly behavior or neglect of duty . . . [by] a two-thirds vote of all the members to which such house is entitled. . . ." These provisions, however, can only be invoked by the legislature and would ordinarily be for crime or gross misconduct, not for mere inefficiency, insensitivity to public need or incompetence. This minority, therefore, proposes that a recall provision similar to Oregon's requiring signatures of 25 percent of the qualified voters be included as a new section in Article II of the Constitution.

Oregon, one of 14 states providing for the recall of public officials in the Constitution, has had the recall provision since 1908 and its citizens have found it to be a successful means of keeping public officials responsive and honest in the execution of their official duties. During the period 1965-1976, petitions were filed against 158 officials, of which 38 were recalled from office. It should be noted, however, that most of the petitions were against local officials. History of recall usage in other states reveals that it has seldom been used.

The incorporation of a recall provision in our Constitution would not be a drastic or major change since over three-fourths of the State's population already have the power to recall elected county officials. The City and County of Honolulu has had a recall provision in its charter since 1959 for its mayor, and since 1973 for members of the council. The County of Maui has had a recall provision in its charter for the removal of all elective officers since 1969. Opponents of the recall have expressed fears of abusive use resulting in undue harassment and intimidation of elected officials. This, however, has not been the case in Honolulu and Maui. Neither county has used its recall power despite the presence of perhaps two of Hawaii's most outspoken and controversial mayors.

Furthermore, the fear of abusive use is a shallow-rooted argument because anything can be abused. Our representative form of government and the right to free speech, for example, are open to abuse by malicious people for personal gain, yet this mere possibility of abuse is not a valid reason to discard these ideals. A democratic society such as ours must rely upon the good sense, integrity and honesty of its citizens to make the system work. As evidenced by the unused recall provisions in Honolulu and Maui, our trust in our citizenry has not been misplaced.

This minority believes that a recall provision is necessary to protect the public in the same manner as a spare tire is kept in our cars, in case a tire fails to perform satisfactorily. While it is true that the public does have recourse at election time, this minority believes that the public should not be forced to tolerate and endure for any length of time an official who has violated its trust or has proven to be insensitive, inefficient or incompetent.

The issue of recall has received much publicity and has developed into one of the controversial issues of this Convention. As such, this minority believes that the ultimate decision as to whether recall should be included in our Constitution should rest with the people. We are confident in the people's ability to intelligently resolve the recall issue and therefore urge the delegates of this Convention to adopt such an amendment.

Signed by Delegates Hanaike, Goodenow, Dyer, Eastvold, Liu, Barnes, Peterson, Hale and Odanaka.

MINORITY REPORT NO. 15

A plurality of your Committee on Bill of Rights, Suffrage and Elections does not concur with that portion of Stand. Com. Rep. No. 72, which recommends against inclusion of the referendum in the State Constitution.

After hearing all the evidence presented at public hearings on the subject of direct legislation, such as the referendum, and after considering all arguments of the committee members, this plurality believes that the public interest and welfare would be best served by including a provision in the Constitution to allow for the referendum of laws passed by the legislature upon petition by the qualified voters of the State.

Presently, 34 states offer some form of referendum and 22 of those states provide for the petition referendum, which shall be the focus of this report. Various studies have revealed that the petition referendum is seldom used by the states that have it; however, it should be noted that no state has repealed the referendum provision from its constitution. Experts in the field attribute this to the public's desire to maintain the referendum as a safety valve or an avenue through which their concerns may be communicated to the legislature when and if the need arises. Moreover, the very availability of the referendum appears to serve as an inducement for the legislature to be responsive and to avoid the enactment of laws that might be vehemently opposed by the public.

Citizen participation is the essence of democracy and the value of the referendum as a participatory device was aptly described by Dr. John R. Haynes, one of the first dedicated advocates of direct legislation, when he said that "... more important than the building of an efficient and economical method of government is the upbuilding of civic wisdom, conscience and responsibility of the governed." Referendum petition drives and election campaigns generally publicize the pros and cons of issues and thus can provide invaluable voter education on contemporary issues and concomitant stimulation of public interest in the affairs of government. This plurality is confident that, given the opportunity to directly participate in the decision-making process, the people will prove to be trustworthy, judicious and cautious in the exercise of their power. In fact, according to a study conducted by the League of Women Voters of Hawaii in 1977, "... initiative measures are more likely to be turned down than referenda. It appears that decisions by the legislature are received more favorably than measures proposed by the citizenry."

The concept of direct citizen participation has long been established in our State Constitution. Constitutional amendments, such as those to be proposed by this Convention, are required to undergo a referendum election. This plurality believes that the people of Hawaii have accepted the referendum as an effective means of exercising their right to participate in decisions on how they are to be governed and have demonstrated responsible utilization of this power. If the citizenry can be entrusted with determining the fate of our State Constitution, they can also be entrusted with the approval of laws passed by the legislature.

The counties of Hawaii, Maui and Kauai provide for the referendum of ordinances. Opponents to the referendum have expressed fears that the referendum power will be used by well-financed groups for special interest gain and legal harassment of the legislature. It is interesting to note that the experience of our counties has shown that the people have not abused their power of referendum. Instead, the only referendum that made it to the ballot in the counties proved to be a valuable decision-making tool on a controversial issue which even lawmakers found difficult to resolve.

In 1974, the referendum was used to resolve the controversial fluoridation issue in Hawaii county. After more than a year of extensive public hearings and intensive debate on the fluoridation issue, the Hawaii county council voted 5 to 4 in favor of an ordinance to fluoridate the county's water. A referendum petition drive immediately followed and over 10,000 signatures, more than twice the required amount, were obtained. The leading proponents of the fluoridation ordinance, who were dentists, the state health department and the International Longshoremen's and Warehousemen's Union (ILWU), conducted a massive advertising campaign and spent more money than all the candidates in any Hawaii county general election race at that time. The opposition, which brought together unusual alliances such as long-haired liberals with short-haired conservatives and the young with the elderly, had virtually no official backing and did not conduct an expensive, sophisticated campaign. At the election in November, the people voted by a margin of 4 to 1 to reject the fluoridation ordinance.

The referendum experience in Hawaii county demonstrated that: (1) the referendum can be effectively utilized to resolve issues that are highly controversial and possibly stalemated in a legislative body; (2) voters do want an opportunity to actively participate and have their say in the decision-making process; and (3) grass-roots campaigns are effective and groups with the most money will not always win.

The issue of direct legislation has received much publicity and has developed into one of the most controversial issues of this Convention, as evidenced by the close vote in committee. As such, this plurality believes that the ultimate decision as to whether the referendum should be included in our Constitution should rest with the people, as was done with the fluoridation issue in Hawaii county.

In conclusion, this plurality would like to point out that, prior to and during this Convention, many public opinion polls were conducted on constitutional issues and the people consistently voted in favor of amending the Constitution to include direct legislation provisions. A petition containing 20,000 signatures, or approximately 6 percent of the registered voters, was also submitted to this Convention to indicate strong public support for direct legislation. This Convention would be remiss if it did not heed the wishes of these voters by at least placing the question of the referendum on the ballot in November. We are confident in the people's ability to intelligently resolve the referendum issue and therefore urge the delegates of this Convention to adopt such an amendment.

Signed by Delegates Hanaike, Hale, Chong, Peterson, Barnes, Goodenow, Liu, Odanaka, Dyer, Campbell, Funakoshi and Eastvold.

Committee of the Whole Reports

COMMITTEE OF THE WHOLE REPORT NO. 1

Your Committee of the Whole, to which was referred Stand. Com. Rep. No. 26 of the Committee on Ethics and Com. P. No. 1 accompanying the report, entitled "A Proposal Relating to Code of Ethics," having held a meeting on August 14, 1978, and having fully debated and considered the report and proposal, begs leave to report as follows:

The proposal covered amendments to Section 5 of Article XIV of the Hawaii Constitution. The action taken is set forth as follows.

Recommendation: Your Committee recommends the following amendment to paragraph 2 of Section 5:

"Each code of ethics shall be administered by a separate ethics commission, except that the code of ethics adopted by the constitutional convention shall be administered by the State Ethics Commission. [No member of an ethics commission shall, during his term of office, run for or hold any office in any political organization, or directly or indirectly make any political contribution, or take part in any political campaign. The members of commissions] The members of ethics commissions shall be prohibited from taking an active part in political management or in political campaigns. Ethics commissioners shall be selected in a manner which assures their independence and impartiality."

Considerable debate was held on this amendment. This amendment prohibits members of ethics commissions from taking an active part in political management or in political campaigns including becoming a partisan candidate and campaigning for an elective political office. The amendment does not, however, preclude the making of political contributions. Part of the language of the amendment is taken from Section 9(a) of the Hatch Act, 5 U.S.C. Section 7324. It is the intent of your Committee that judicial interpretations of the act be used to interpret this amendment. This amendment also eliminates any concern as to the constitutionality of the original proposal based on First Amendment considerations. The language of the Hatch Act has been declared constitutional.

Various other amendments were offered during the meeting, to amend, delete and add new paragraphs to Section 5 of Article XIV. Some of the amendments related to: the good faith and loyalty of officials; application to all public employees; definitions for some of the terms used in paragraph 3; nepotism and financial disclosure for justices and judges. Considerable debate was held on these amendments; none was adopted. It is your Committee's intent that this proposal sets forth only minimum standards and areas of concern for each legislative body. It is intended that each legislative body be able to interpret these provisions and expand them if necessary. Your Committee considers the Committee on Judiciary as appropriate to address the amendment relating to financial disclosure for justices and judges.

Your Committee of the Whole recommends the adoption of Com. Whole Rep. No. 1 and consideration of the passage of Com. P. No. 1, RD. 1, on second reading.

COMMITTEE OF THE WHOLE REPORT NO. 2

Your Committee of the Whole, to which was referred Com. P. No. 2, entitled "A Proposal Relating to the State Boundaries and Motto," having held a meeting August 16, 1978, and having fully debated and considered the report and proposal, begs leave to report as follows:

Stand. Com. Rep. No. 30 covered amendments to Section 1 of Article XIII and to the title of the article, and added a new Section 4 to the article. Your Committee agrees with

the recommendations of the Committee on Revision, Amendment and Other Provisions and, having passed Com. P. No. 2 on second reading, recommends the adoption of Com. Whole Rep. No. 2.

COMMITTEE OF THE WHOLE REPORT NO. 3

Your Committee of the Whole, to which was referred Com. P. No. 3, entitled "A Proposal Relating to the Executive," having held a meeting August 17, 1978, and having fully debated and considered the proposal, begs leave to report as follows:

Stand. Com. Rep. No. 32 covered amendments to Sections 1 and 2 of Article IV and a new section to be appropriately designated in Article XVI. Your Committee agrees with the recommendations of the Committee on Executive and recommends the adoption of Com. Whole Rep. No. 3 and consideration of the passage of Com. P. No. 3 on second reading.

COMMITTEE OF THE WHOLE REPORT NO. 4

Your Committee of the Whole, to which was referred Com. P. No. 4 from the Committee on Revision, Amendment and Other Provisions, having held its meeting on August 18, 1978, and having fully debated and considered the proposal, begs leave to report as follows:

The proposal covered amendments to Section 3 of Article XIV and Section 2 of Article XV of the State Constitution, which sections were considered together with the unamended Preamble and unamended sections of Article XIV and Article XV. Section 5 of Article XIV relating to the code of ethics was considered by your Committee on Ethics. The action taken is set forth as follows:

An amendment to the Preamble, reading as follows, was offered:

"We, the people of [the State of] Hawaii, grateful for Divine Guidance, and mindful of our Hawaiian heritage [,] and uniqueness as an island State, dedicate our efforts to fulfill the philosophy decreed by the Hawaiian motto, 'Ua mau ke ea o ka aina i ka pono'.

"We reserve the right to control our destiny; to nurture the integrity of our people and culture; and to preserve the quality of life that we desire.

"We reaffirm our belief in a government of the people, by the people and for the people, and with an understanding and compassionate heart toward all the peoples of the earth, do hereby ordain and establish this constitution for the State of Hawaii."

Recommendation: Your Committee recommends adoption of this amendment. While the present Preamble is beautiful, it was adopted in 1950 at a time when the people of Hawaii were concerned about attaining statehood. It was the belief of your Committee that the Preamble should be amplified to address the concerns of Hawaii's people today and particularly their desire to determine their own destiny and quality of life in harmony with the United States and the world's other nations. In addition, the proposed Preamble proclaims Hawaii's island heritage and its dedication to its guiding principle, "Ua mau ke ea o ka aina i ka pono," the life of the land is perpetuated in righteousness.

An amendment to revise Section 2 of Article XIV, relating to the employees' retirement system, was introduced. The amendment would have prohibited any differentials in benefits provided by the retirement system based on class of employee or office. However, the amendment allowed the payment of differential benefits if such differences were reasonably related to individual contributions made by employees to the retirement system or were a form of additional compensation to those employees whose duties involved danger to life. Proponents of the proposal asserted that the present retirement system, which gives judges and elected officials retirement benefits in excess of those paid to other employees with similar years of service and contributions to the retirement system, is inequitable. Those who opposed the amendment claimed that judges and elected officials generally do not work in government service as long as other governmental employees and do not normally accumulate the same benefit rights as other employees. It was argued that in the case of judges differential benefit payments constituted another form of payment to compensate them for salaries which may not be competitive with those of attorneys in private practice. After much debate the proposed amendment was defeated.

Your Committee recommends that Section 3 of Article XIV, relating to disqualifications from public office or employment, be adopted as proposed by the Committee on Revision, Amendment and Other Provisions. The proposed Section 3 provides that a person may not be disqualified from holding public office or employment unless he has been convicted of the disqualifying acts specified in the section.

A new section to Article XIV requiring that all governmental writing be plainly worded was submitted for your Committee's consideration. It reads:

"PLAIN LANGUAGE

"Section 16. All governmental writing meant for the public, in whatever language, should be plainly worded, avoiding the use of technical terms."

Recommendation: Your Committee recommends that Section 16 be adopted as proposed. It was agreed that governmental writing should be concise, simple and understandable to assure the people have access to the government's resources and information. Nontechnical language should be used wherever possible. It is, however, the intent of your Committee that Hawaiian words used as technical terms, such as konohiki, be written in Hawaiian. Opponents of this measure argued that it might be expensive and difficult to implement and should not be given constitutional stature.

Recommendation: Your Committee recommends that the first paragraph of Section 2 of Article XV be amended to read as follows:

"Section 2. The legislature may submit to the electorate at any general or special election the question, 'Shall there be a convention to propose a revision of or amendments to the Constitution?' If any [ten] nine-year period shall elapse[, or if it would elapse if ten days were added to any period less than 10 years,] during which the question shall not have been submitted, the lieutenant governor shall certify the question, to be voted on at the first general election following the expiration of [or within 10 days of the expiration of] such period."

The revision as proposed by your Committee is a matter of style rather than substance. Your Committee agreed that the insertion of the word "nine-year" would be simpler and easier for the electorate to understand than the standing committee's proposal. It is the intent of your Committee that the question of whether there should be a constitutional convention to propose a revision of amendments to the Hawaii Constitution should be submitted to the electorate every tenth year.

Your Committee recommends that the second paragraph of Section 2 of Article XV, relating to the election of delegates, be adopted as proposed by the standing committee. The amendment mandates the legislature to determine the number of delegates to any future constitutional convention, the election districts for such delegates and the manner of convening such convention, as well as to provide for facilities and equipment for the convention.

Your Committee recommends that the new third paragraph of Section 2 of Article XV, relating to the convention meeting, be adopted as proposed by the standing committee. An amendment to require that the convention convene not less than 7 months before the next regularly scheduled general election was offered. The proponents of the amendment argued that a 7-month requirement would give delegates to a constitutional convention more time to thoughtfully and carefully consider constitutional amendments. However, a majority of your Committee agreed that a 5-month time period was sufficient and that a 7-month period would coincide with legislative sessions, thus diminishing the importance of the deliberations of both bodies.

Amendments were also offered (1) to require that future constitutional conventions convene in the State Capitol and (2) to create a constitutional revision commission. After much debate, these amendments were rejected.

Your Committee of the Whole recommends the adoption of Com. Whole Rep. No. 4 and consideration of the passage of Com. P. No. 4, RD. 1, on second reading.

COMMITTEE OF THE WHOLE REPORT NO. 5

Your Committee of the Whole, to which was referred Stand. Com. Rep. No. 36 of the Committee on Public Health and Welfare; Labor and Industry, and Com. P. No. 5, entitled "A Proposal Relating to the Public Health and Welfare," having held meetings on August 21 and 22, 1978, and having fully debated and considered the report and proposal, begs leave to report as follows:

The proposal covered amendments to Sections 1, 2, 3 and 5 of Article VIII and five new sections to Article VIII of the State Constitution, which sections were considered together with unamended Section 4 of Article VIII and Sections 1 and 2 of Article XII. The action taken is set forth as follows:

Recommendation: Your Committee recommends that Section 1 relating to the public health be amended as follows:

"Section 1. The State shall [have power to] provide for the protection and promotion of the public health."

The revision proposed maintains the status quo. It was felt that the removal of the mandate by inserting the words "have power to" would be a regressive step, especially when it took a struggle to have this mandate placed upon the State by the previous constitutional convention. It was further felt by your Committee that the State should not have discretion in this area and instead should be obligated to perform this vital function. It was pointed out that the inclusion of this mandate does not make the section inconsistent with other sections of the Constitution because a mandate is provided wherever vital services are involved. (For an example see Article IX.) Some members raised questions as to whether this change would mandate a health service plan. After discussion it was decided that this was not the case, that as long as some kind of services are provided the State would fulfill its obligations.

It was moved that the term "health" be defined as follows: "More than an absence of disease, health is a state of mental, social, environmental and physical well-being." Your Committee does not recommend the inclusion of this definition for it imposes an all-inclusive function so that practically no activity would escape coverage under this definition. Thus, if this comprehensive provision is fully implemented, it may result in an inequitable allocation of public funds so that other worthy public programs may have to be reduced. This proposed definition also fails to recognize that the individual is equally responsible for the promotion of his or her total well-being. It was further felt by your Committee that the definition of public health should be included in a statute and not a constitutional amendment.

Recommendation: Your Committee recommends that the new section to Article VIII relating to the preservation of a healthful environment be amended as follows:

"The State shall have the power to promote and maintain a healthful environment, [and to prevent] including the prevention of any excessive demands upon the environment and the State's resources."

The revision as proposed by your Committee is intended to clarify the intent and to eliminate any overlap with Article X. The words "and to prevent any excessive demands upon the environment and the State's resources" seem to grant a separate power under this section which should properly be governed by Article X. This change will now clarify the committee's intent to include such matters as being within the ambit of a healthful environment. The chairman of the Committee on Public Health and Welfare; Labor and Industry further clarified this section by pointing out that his committee did not intend to rule out standing to sue and considered that the Committee on Environment, Agriculture, Conservation and Land would review this matter as it related to their article, receive testimony and then decide.

Recommendation: Your Committee recommends that the new section to Article VIII relating to the management of state population growth be amended as follows:

"The State and its political subdivisions, as provided by general law, shall plan and manage the growth of the population to protect and preserve the public health and

welfare, except that each political subdivision, as provided by general law, may plan and manage the growth of its population in a more restrictive manner than the State."

The revision as proposed by your Committee is intended to deal with the concerns of the counties. Uncontrolled growth creates problems at all levels of government. Thus your Committee felt that it would be best to set forth the extent of county power in this area.

The Committee of the Whole relied on the language "as provided by general law" to protect the superior authority of the State in this area. Members argued that the legislature will have to give the counties the power to act in this area. Moreover, the counties will not have to act in this area since the language of the amendment is discretionary. If the counties do not act in this area or do not receive the power to so act, they will be in the same position they are in today.

An amendment was offered to delete the entire section. Your Committee overwhelmingly rejected this amendment because there is such wide popular support for growth control. Some members argued that there may be constitutional problems. However, other members pointed out various potential solutions that could be enacted without constitutional infirmity. Your Committee reasoned that the State was challenged to come up with unique solutions to this problem and that a constitutional amendment will require the State to pursue such answers. Your Committee decided that this problem had reached such proportions that the costs of growth now clearly outweigh the benefits to the detriment of the citizens of the State. Due to the compelling situation, another amendment to give the State discretion in this area rather than mandating action was rejected.

Recommendation: Your Committee recommends that the new section relating to cultural resources be amended as follows:

"The State shall have the power to procure and develop the cultural, creative, and traditional arts, and historical places and objects of its various ethnic groups."

The revision proposed by your Committee is a minor editorial change that seeks to insert the word "creative" which was inadvertently left out of the committee proposal by the standing committee.

Recommendation: Your Committee recommends that the new section relating to the economic security of the elderly be amended as follows:

"The State shall have the power to provide for the [economic] security of the elderly [to assure retirement in health, honor and dignity.] by establishing and promoting programs to assure their economic and social well-being."

Your Committee did not want to discriminate between those elderly who have retired and those who have not. Moreover, there might be ambiguity in the original language as to the precise meaning of "retirement in health, honor and dignity." Your Committee felt that this was a very important amendment because they wished to show the concern of the State for the elderly and the desire and need to do more for them.

Article XII, as presently contained in the State Constitution and retained in Com. P. No. 5, was not amended by your Committee of the Whole. It was argued by some members that: (1) there is an absolute right to the continuity of public services, (2) public employees should be subject to binding arbitration, (3) public employee bargaining negotiations should be open to the public, (4) the legislature or county council should have the responsibility of conducting public employee collective bargaining negotiations.

It was argued that the absolute right to the continuity of public services was justified because Article XII is silent on the matter, many public services are monopolies and the people cannot refuse to pay taxes when they no longer have these vital services. Those opposing this absolute right argued that monopolies of vital services exist even in the private sector and employees in this sector are given collective bargaining rights and the right to strike. To be consistent, it was argued, there should also be an absolute right to the continuity of vital private services, especially when the private sector has a monopoly on the production of a vital public commodity.

It was further argued that it was not necessary to limit the right to strike by public

employees at this time, that the legislature can place this limitation if a limitation becomes necessary.

After listening to these arguments, your Committee decided not to place a right to the continuity of public services within the Constitution.

Those expounding binding arbitration for public employees argued that binding arbitration is fair because the arbiter looks at both the employer's ability to pay and the employees' need. It was further argued that public employees can acquire better rights through binding arbitration and many states already provide for binding arbitration.

Those opposed to compulsory binding arbitration argued that it should be left up to the individuals involved to choose this form of dispute settlement. By making arbitration compulsory, final and binding by means of constitutional amendment, one's freedom of choice is severely infringed upon. Since we already have voluntary binding arbitration agreed to by one labor organization, it was argued that other public employee actions, as a result of this voluntary agreement, should be observed before a blanket strike prohibition for public employees is adopted.

After taking these arguments into consideration, your Committee decided not to include, within Article XII, Section 2, a provision providing for compulsory binding arbitration.

Those advocating open public employee collective bargaining negotiations argued this was necessary to prevent corruption, especially when there is an immense amount of public funds involved. It was further argued that openness was needed to ensure the prudent expenditure of public funds.

Those arguing against openness said that the legislature could provide this openness if it was really necessary and that openness is not practical. Sufficient studies have been done which indicate that open negotiations virtually never result in either side making significant concessions necessary to come to an agreement. Instead, the parties at the bargaining table use that place for public posturing in order to look good before the public and their various constituencies.

Those advocating giving the legislature or county councils, rather than the executive, the primary responsibility for conducting collective bargaining negotiations felt this was needed because it is the legislature or county council which has to balance the public employees' interests with the interests of the rest of the community. Your Committee concluded that the legislature or county council does balance the interests involved because it ultimately approves or disapproves the final outcome of the negotiation sessions.

Your Committee of the Whole recommends the adoption of Com. Whole Rep. No. 5 and consideration of the passage of Com. P. No. 5, RD. 1, on second reading.

COMMITTEE OF THE WHOLE REPORT NO. 6

Your Committee of the Whole, to which was referred Com. P. No. 6 from the Committee on Education, having held its meetings on August 23 and 24, 1978, and having fully debated and considered the proposal, begs leave to report as follows:

The proposal covered Article IX of the State Constitution. The action taken is set forth as follows:

An amendment to delete the sentence "[n]o member shall serve more than two consecutive terms of four years each" from the proposed Section 2 of Article IX was introduced. As amended, Article IX, Section 2, on the board of education, reads as follows:

"There shall be a board of education composed of members who shall be elected in a nonpartisan manner by qualified voters in accordance with law from two at-large units. The first unit shall be comprised of the island of Oahu and all other islands not specifically enumerated. The second unit shall be comprised of the islands of Hawaii, Maui, Lanai, Molokai, Kahoolawe, Kauai and Niihau. Each at-large unit shall be divided into school districts, as may be provided by law. There shall be at least one member residing in each

school district. [No member shall serve more than two consecutive terms of four years each.]

Members elected in the 1978 general election shall serve for two-year terms."

Recommendation: Your Committee adopted the proposed deletion. Your Committee believes that board of education members who have developed expertise concerning public school matters should not be automatically foreclosed from serving more than two consecutive 4-year terms. Public schools may, for example, benefit from the experience of board members who have planned and monitored long-term educational programs. Further, board members who are ineffectual may be voted out of office. This amendment also allows the legislature to determine the length of terms for board members.

Several proposals to create a two-tiered board of education system were introduced. While the proposals differed slightly in their details, they called for the establishment of local boards of education composed of members elected by voters of the respective school districts. Each local board of education was to select from its membership a representative or representatives to serve as members of the state board of education.

Those favoring the two-tiered system claimed that such a system is the best method of assuring that members of the state board of education are accessible and accountable to the desires and needs of the people in their respective districts. Further, it was asserted that the two-tiered system would foster grass-roots participation of the public in the educational system.

After lengthy discussion, your Committee voted against adopting the two-tiered board of education system. There was concern that a two-tiered system would weaken Hawaii's centralized educational system, which has been nationally acclaimed. It was felt that members of a state board of education elected under a two-tiered system would advocate positions favoring their respective school districts rather than adopt policies beneficial to all state students. Further, the majority of your Committee believes that the direct method of electing board of education members suggested by the Committee on Education would result in board members who would be more visible and responsible to the public. Public opinion polls also indicated that the public favors a directly elected board. Your Committee also agrees with the other reasons cited in support of a directly elected board by the Committee on Education in Stand. Com. Rep. No. 39.

The Committee on Education proposed an amendment to Section 3 of Article IX which granted the board of education additional power with respect to rules to implement its policy and exercise control over the public school system.

The following amendment to Section 3 of Article IX, relating to powers of the board of education, was then offered by your Committee of the Whole:

"Section 3. The board of education shall have power, in accordance with law, to formulate policy, and to exercise control over the public school system through its executive officer, the superintendent of education, who shall be appointed by the board, except that the board shall have jurisdiction over the internal organization and management of the public school system, as provided by law, and shall exercise its jurisdiction in a manner consistent with general laws.

"[The board may adopt, amend or repeal rules as provided by law to implement its policy and to exercise control over the public school system. If the adoption, amendment or repeal of a rule promulgated by the board is prescribed by law to be subject to the approval of a designated authority who disapproves, the board may proceed to reconsider the adoption, amendment or repeal of the rule so disapproved. If after such reconsideration, the adoption, amendment or repeal of the rule shall be approved by a two-thirds vote of all members of the board, the same shall be deemed approved by the designated authority.]"

Recommendation: Your Committee recommends adoption of Section 3 as amended. The purpose of this amendment is to give the board of education jurisdiction over the internal organization and management of the public school system to the fullest extent possible. The legislature is to define those matters relating to the internal organization and management of the public school system which will be within the jurisdiction of the board. Your Committee recognizes, however, that the department of education is an executive de-

partment subject to the governor's statewide policy-making and executive powers. It is therefore anticipated that the governor and board of education will have concurrent jurisdiction in certain matters affecting the public school system.

In addition, this proposed amendment would not affect the governor's authority over the board of education with respect to policy formulation affecting the public in budget preparation. In the budget-making process, the governor would continue to review the board's requests before its submission to the legislature. Nor would the budget-making powers or process of the legislature be altered.

The requirement that the board "shall exercise its jurisdiction in a manner consistent with general laws" is intended to assure that the board complies with general laws. Examples of such general laws include the civil service and collective bargaining laws.

Although there was some support for retaining the language of Com. P. No. 6 relating to rules, your Committee agreed to delete that provision. It was felt that the legislature should retain the power to determine the methods by which rules and regulations affecting the public school system as well as other governmental entities should be adopted, amended or repealed.

An amendment to establish an independent statewide system of public libraries was suggested. This amendment stemmed from frustration with the present library system, which is administered by the department of education. It was noted that the department of education is so large and overburdened that it cannot adequately attend to the needs of the libraries. Shortened library hours, insufficient funds and inequitable personnel policies were cited as some of the problems of the library system. Proponents of this amendment suggested that the independent library system might be given departmental stature or might be housed in a proposed department of lifelong learning.

Opponents of the amendment agreed that the library system could be operated more efficiently and provide better services to the public. But the majority of your Committee concluded that granting the libraries an independent status might be costly, might add to the state government's bureaucracy and might not remedy the problems. In addition, it was felt that establishing a statewide independent library system was not a constitutional matter. Your Committee therefore rejected this amendment and urges the legislature to provide a solution to this problem. More specifically, it was suggested that the Convention adopt a resolution strongly recommending that the legislature improve the library system.

Recommendation: Your Committee recommends that Section 5 of Article IX, relating to the board of regents, be amended as follows:

"Section 5. There shall be a board of regents of the University of Hawaii, the members of which shall be nominated and, by and with the advice and consent of the senate, appointed by the governor. At least part of the membership of the board shall represent geographic subdivisions of the State. The board shall have power, in accordance with law, to formulate policy, and to exercise control over the university through its executive officer, the president of the university, who shall be appointed by the board. [Notwithstanding any law relating to the power to formulate policy and to exercise control over the university, the] The board shall have exclusive jurisdiction over the internal organization and management of the university as provided by law; except that this Section shall not limit the power of the legislature to enact laws of state-wide concern."

The purpose of your Committee's amendment is to clarify, and not change, the substance of the standing committee's proposed Section 5 of Article IX. Your Committee believes that the University of Hawaii is a superior university and that its pursuit of excellence should be encouraged. This proposal is intended to effectuate the university's status as a body corporate and to grant it the necessary flexibility to successfully compete with other institutions of higher learning.

The exclusive jurisdiction over the internal organization and management of the university granted to the board of regents by this proposal is to be self-executing; the phrase "as provided by law" is to guarantee that the legislature shall implement to the extent necessary any of the board's jurisdictional powers to effectuate the grant herein of the exclusive jurisdiction over the internal organization and management of the university. To this end, the legislature shall amend or enact such laws as may be necessary

to provide the board of regents with exclusive control of the internal organization and management over the university. This amendment is not, however, intended to affect the role of students, faculty and staff members in the affairs of the university.

Your Committee's amendment also states that Section 5 is "not [to] limit the power of the legislature to enact laws of state-wide concern." This provision is intended to re-affirm that laws of statewide concern are applicable to the university. Such laws include budgetary, civil service and collective bargaining laws.

Your Committee also considered proposals which would (1) provide for an elected superintendent of education, (2) require that members of the board of regents be elected, (3) establish school advisory councils, and (4) provide that the governor appoint the superintendent of education, who would be advised by local and state boards of education and who would have the power to exercise control over the public school system. After much debate these proposals were not adopted.

Your Committee of the Whole recommends the adoption of Com. Whole Rep. No. 6 and consideration of the passage of Com. P. No. 6, RD. 1, on second reading.

COMMITTEE OF THE WHOLE REPORT NO. 7

Your Committee of the Whole, to which was referred Stand. Com. Rep. No. 42 of the Committee on Local Government and Com. P. No. 7, entitled "A Proposal Relating to Local Government," having held a meeting on August 25, 1978, and having fully debated and considered the report and proposal, begs leave to report as follows:

The proposal covered amendments to Section 3 of Article VII and added new sections to Articles VII and XVI of the Hawaii Constitution. The action taken is set forth as follows.

Recommendation: Your Committee recommends the following amendment to Section 3 of Article VII, relating to taxation and finance:

"The taxing power shall be reserved to the State except so much thereof as may be delegated by the legislature to the political subdivisions [provided, that the power to levy a tax on]; except that all functions, powers and duties relating to the taxation of real property shall be exercised exclusively by the counties, [except] with the exception of the county of Kalawao. The legislature shall have the power to apportion state revenues among the several political subdivisions."

Your Committee changed this amendment to include the phrase "all functions, powers and duties relating to the taxation of real property" in order to clarify the standing committee's intent to grant all taxing powers relating to real property to the counties, except Kalawao. There was some question under the earlier language as to whether or not the counties would have the power to set exemptions. Although the mover of this amendment explained that the "power to levy" did include the lesser power of setting exemptions, this amendment was adopted as having the better language.

Your Committee of the Whole exempted Kalawao because the members felt that at this point Kalawao had no county government that could inherit these powers but that possibly in the future there would be a governmental organization for Kalawao, at which point it could assume its proper role. It is merely labelled a county today although in reality it does not rise to the level of a county.

Your Committee of the Whole defeated several other amendments to this section on taxation and finance. Your Committee rejected an amendment to grant the counties power to levy a general excise tax. Members reasoned that it would be adding taxes to the same people and would therefore be unfair; moreover, today when people are anti-tax, it could cause the entire proposal to be voted down. Your Committee rejected an amendment to return this section to its original language which rests all taxing powers with the State. Some members argued that this section should not be capriciously tampered with in light of the social policies already set forth by the State through its enactment of exemptions. Other members pointed out that the trend is toward more home rule and that the county governments want to take on more responsibility. That branch of government that is responsible for running certain affairs should have the responsibility and right to collect

revenues. It is anticipated that county councils, with their daily contact with constituents, will be more responsive. Members concluded that exemptions for a particular group or groups should not determine who has this power. In any event, there is no guarantee that the State will continue to retain the same exemptions.

Recommendation: Your Committee recommends the following amendment to the new section to Article VII, relating to state and county land use:

"Reclassification of land to urban use shall be subject to approval by ordinance by the county in which the land exists."

Your Committee added the phrase "by ordinance" to clarify the meaning of this section by setting forth the method for its approval. Members stated that the procedures will be dependent on the requirements of the county charters. Members argued that the county councils would be the appropriate body to make these decisions because they are the closest to the people and are democratically elected, rather than appointed.

Your Committee rejected other amendments to this section. Some members moved to delete the entire section, pointing out that this might subrogate state power to the counties, which are supposed to be subordinate powers. Other members stated that it does not take power away from the State but merely allows the people more power in the form of another check over the encroaching urban growth.

Recommendation: Your Committee recommends the following amendment to the new section to Article XVI, relating to the effective date and application of Article VII, Section 3:

"The amendments to Section 3 of Article VII shall take effect on the first [day of January] of July after [three] two full calendar years have elapsed following such ratification. Upon the taking effect of the amendments Article VII as amended shall apply to all county charters irrespective of whether adopted before or after the admission of the State."

Your Committee of the Whole determined that the effective date should begin at the commencement of a fiscal year rather than upon an arbitrary date connected with the date of ratification. Your Committee of the Whole noted that it had the full concurrence of all counties on this new date.

Your Committee of the Whole recommends the adoption of Com. Whole Rep. No. 7 and consideration of the passage of Com. P. No. 7, RD. 1, on second reading.

COMMITTEE OF THE WHOLE REPORT NO. 8

Your Committee of the Whole, to which was referred Com. P. No. 8 from the Committee on Legislature, entitled "A Proposal Relating to the Legislature," having held meetings on August 28 and 29, 1978, and having fully debated and considered the report and proposal, begs leave to report as follows:

The proposal covered amendments to Sections 2, 3, 4, 10, 11, 13 and 16 of Article III and Sections 1 and 2 of Article XVI. The action taken is set forth as follows.

Under Com. P. No. 8, Article III, Section 4, relating to reapportionment was removed from Article III and placed within a proposed new article. Section 4 was removed from Article III because the powers of the reapportionment commission were enlarged to include the re-drawing of congressional districts in addition to the reapportionment of the state legislature. Inasmuch as the matter of congressional districting was a subject without the matter of the state legislature under Article III, the removal of the matter of reapportionment of state legislature and congressional districting from Article III to a new article was appropriate.

An amendment to Com. P. No. 8 was offered to amend said new article relating to reapportionment by adding the following:

"PLACEMENT OF HOLDOVER SENATORS

"If a senator is serving a term which will extend past the general election at which an apportionment plan becomes effective, the reapportionment commission shall designate

in the plan the senatorial district the senator shall represent for the remaining period of the senator's term. In making such designation the senator need not live in the senatorial district which the senator is designated as representing during the remainder of the term which extends past the general election at which the reapportionment plan becomes effective; provided the reapportionment commission shall consider the following criteria:

1. The senatorial district from which the senator was elected.
2. The senatorial district in which the senator will reside under the reapportionment plan.
3. The requirement of continuing the staggered terms of senators in each district as established by Section 2 of Article XVI, the next paragraph in this article, and the number of senators in a senatorial district under the reapportionment plan of the commission.

"RETENTION OF STAGGERED TERMS FOR THE SENATE

"The senate shall be composed of senators who serve staggered terms of office as follows: senatorial districts with one member, the term of office shall end as provided by the constitution; senatorial districts with two members, each member shall serve a term ending on the date of a different general election; senatorial districts with three members, (A) two members shall serve a term ending on the date of the same general election and (B) one member shall serve a term ending on the date of a general election different than the other two members; senatorial election with four members, (A) two members shall serve a term ending on the date of the same general election and (B) two members shall serve a term ending on the date of a general election different than the other two members.

"If, in the first or second general election in which senators are elected after a reapportionment, the number of senators in a senatorial district whose terms would end on a date of a general election will be more than that set forth in the above paragraph, then at such general election the members of the senate shall be divided into two classes. The members of the first class shall hold office for a term of four years beginning with their election and ending on the day of the second general election held thereafter. The first class shall consist of that number of persons with the highest number of votes necessary to fulfill item (B) in the above paragraph for senatorial districts with three or four members or one person in senatorial districts with two members. The remaining persons shall constitute the second class and shall hold office for a term of two years beginning with their election and ending on the day of the next general election held thereafter." Additionally, a redistricting criterion for the apportionment within basic island units under said proposed new article was also added, to read as follows:

"9. No consideration shall be given to holdover senators in effecting redistricting."

Recommendation: Your Committee adopted the foregoing amendment to Com. P. No. 8. The amendment provides upon reapportionment for (1) the placement of holdover senators, (2) the retention of staggered terms for the senate and (3) the additional criterion that no consideration shall be given to holdover senators in effecting redistricting. If a senator is serving a term which will extend past the general election at which an apportionment plan becomes effective, it may become necessary to provide for the orderly placement of such holdover senators among the newly created districts. The amendment empowers the reapportionment commission to designate in the plan the senatorial district the senator shall represent for the remaining period of the senator's term. In making such designation, the senator need not live in the senatorial district which the senator is designated as representing during the remainder of the term which extends past the general election at which the reapportionment plan becomes effective. To this end, the reapportionment commission is mandated to consider the three criteria set forth above.

Your Committee intends that by the criteria aforesaid the reapportionment commission will, insofar as practicable, not make severe dislocations of a senator from the constituents of the district from which the senator was elected in designating a holdover senator to a district.

A mechanism to retain staggered terms within each senatorial district for the senate must also be provided upon reapportionment, which may reassign senators to different

districts such that the senators whose terms would end at the same general election may end up in the same district and upset the stagger within a senatorial district. The amendment would provide this mechanism to reinstate the staggering of terms within each senatorial district.

An example will serve to illustrate the intent of the amendment. Under the staggered system established under the amendment, a 4-member senatorial district should always have 2 members with a term ending on the date of the same general election and 2 members with a term ending on the date of a general election different from the other 2 members. If upon reapportionment the 4 senators representing a 4-member senatorial district consist of 3 senators with terms ending on the date of the first general election after reapportionment and 1 senator with a term ending on the date of the second general election after reapportionment (3-1 situation) then at the first general election after reapportionment the 3 senators will be divided into 2 classes whereby 2 of the 3 senators with the highest votes shall be in the first class with 4-year terms and the remaining third senator shall be in the second class with a 2-year term to coincide with the 1 senator whose term ends on the date of the second general election after reapportionment. The staggered terms within the senatorial district are thus reinstated. If the situation were reversed--that is, if the term of 1 senator ended on the date of the first general election after reapportionment and the terms of 3 senators ended on the date of the second general election after reapportionment (1-3 situation)--then the division of the senators into 2 classes would take place at the second general election after reapportionment to reinstate the staggered terms.

This example uses 3-1, 1-3 situations in a 4-member senatorial district. Other possible situations requiring staggering under the amendment would be 4-0, 0-4 situations in a 4-member district; 3-0, 0-3 situations in a 3-member district; and a 2-0, 0-2 situations in a 2-member district.

The additional criterion that no consideration shall be given to holdover senators in effecting redistricting is injected to mandate the reapportionment commission to redistrict in an objective manner without concern over trying to accommodate a holdover senator.

An amendment was offered to delete in their entirety Sections 3, 4, 5 and 6 of Article XVI, all relating to transitional provisions for the 1968 reapportionment of the state legislature.

Recommendation: Your Committee adopted the amendment proposing to delete these sections. Section 3 has been ruled unconstitutional, and Sections 4, 5 and 6 are no longer applicable.

Amendments were offered relating to the following sections and subjects:

1. Amending Sections 1, 2 and 3 to provide for a unicameral legislature.
2. Amending Section 5 to limit the members of the legislature from serving more than a total of 12 years.
3. Adding a new section to provide for the establishment of a legislative commission to study and report on the various aspects of the legislature.
4. Amending Section 10 to provide for incremental annual salary increases of 4 percent, effective at the general election of 1980.
5. Amending Section 11 to alter the commencement date of the legislative session.
6. Amending Section 13 to preclude the establishment of standing committees in the legislature, which shall operate only as a committee of the whole; and to require a record of all committee decision-making sessions, floor action and public hearings.
7. Amending the redistricting criteria to provide for single-member districts in the house of representatives.

8. Amending Article XVI, Section 2, to provide for staggered terms for the senate, to commence in 1982.

After considerable debate on said amendments, all of these amendments were rejected by your Committee.

Your Committee of the Whole recommends the adoption of Com. Whole Rep. No. 8 and consideration of the passage of Com. P. No. 8, RD. 1, on second reading.

COMMITTEE OF THE WHOLE REPORT NO. 9

Your Committee of the Whole, to which was referred Com. P. No. 9 of the Committee on Executive, entitled "A Proposal Relating to Executive and Administrative Offices and Departments," having met on August 30, 1978, and having fully debated and considered the committee proposal, begs leave to report as follows:

Stand. Com. Rep. No. 51 covered amendments to Sections 1, 2, 3 and 6 of Article IV. Your Committee agrees with the recommendations of the Committee on Executive that Section 6 be adopted as proposed and, having passed Com. P. No. 9 on second reading, recommends the adoption of Com. Whole Rep. No. 9.

COMMITTEE OF THE WHOLE REPORT NO. 10

Your Committee of the Whole, to which was referred Com. P. No. 10 of the Committee on Judiciary, entitled "A Proposal Relating to the Judiciary," having met on August 30 and 31, 1978, and having fully and freely debated and considered the committee proposal, begs leave to report as follows:

The proposal covered amendments to Sections 1, 2, 3 and 4, as well as additions of two new sections, to Article V of the Hawaii Constitution. No amendments were proposed for Sections 5 and 6 of Article V. Considerable debate was held on this proposal and several amendments were submitted. The action taken is set forth as follows.

Recommendation: Your Committee recommends that Section 1, relating to judiciary power, be adopted as proposed. The proposed Section 1 provides that the judicial power of the State shall be vested in one supreme court, circuit courts, district courts and a new intermediate appellate court. All of these courts are to establish time limits through their rule-making power for timely disposition of the cases before them.

Your Committee also recommends that Section 2 as proposed be adopted. This provides that judges from the newly created intermediate appellate court and circuit courts may be assigned by the chief justice for service on the supreme court as they are needed. Judges on the circuit and district courts may also be called upon to serve on higher courts if necessary.

Two of the amendments submitted to the committee called for the elimination of the proposed intermediate appellate court. In addition, one of the two amendments called for the expansion of the existing supreme court from five to seven members, and the power to sit in panels, or *en banc*, to hear its cases. After considerable debate, these amendments were rejected by your Committee.

Recommendation: Your Committee recommends that Section 3, paragraph 1, relating to the appointment of justices and judges; Section 3, paragraph 2, relating to qualification for appointment and Section 3, paragraph 3, relating to tenure, compensation and retirement, be adopted as proposed.

The proposed Section 3, paragraph 1, provides that candidates for all state court vacancies must apply to a judicial selection commission. This commission would screen the applicants and submit a list of not less than six of the most qualified candidates. The governor, or in the case of district court appointments the chief justice, is to pick a name from this list for appointment to the bench. Although all gubernatorial appointments are subject to senate confirmation, the district court appointments are not.

Numerous amendments to Section 3 were offered but failed to pass. Two of the amendments submitted called for the election of justices and judges, either in the initial phase of selection or upon retention. There were other amendments proposed which sought to eliminate senate confirmation from the proposed judicial selection plan and to reduce the number of nominees submitted to the appointing authority from six to three. These, however, were also rejected.

The proposed Section 3, paragraph 2, provides for the qualifications of all justices and judges in this State. Your Committee recommends that the language in Section 3, paragraph 2 as proposed be adopted. The proposed Section 3, paragraph 3 provides for the tenure, compensation and retirement of justices and judges. It retains 10-year terms of tenure for supreme court, intermediate appellate court and circuit court judges. District court terms are to be set by the legislature. In the event any of the justices or judges wish to remain in office, they must reapply to the commission for retention. The levels of justices' and judges' salaries are to be recommended by a salary commission as provided for by the legislature.

Recommendation: It is the recommendation of your Committee that Section 4, relating to retirement, removal and discipline, be adopted as proposed.

Section 4 as proposed gives the supreme court specific and broad powers to discipline any justice or judge. A judicial discipline commission is also created for the purpose of investigating and conducting hearings and making recommendations as to disciplinary measures to the supreme court. This procedure as contemplated would broaden the matters to be reviewed by the commission to include matters that would not warrant removal and yet simplify the present procedure. As authorized by statute, the present procedure utilizes a judicial qualifications commission which investigates complaints of judicial disability and misconduct and a board of judicial removal which reviews the results of investigations and makes the recommendations as to removal by the governor. The new procedure provides for a simpler process in that the new commission both investigates and makes recommendations directly to the supreme court.

Recommendation: Your Committee recommends the following amendments to the new section relating to the judicial selection commission:

1. Amend the first paragraph to read:

"There shall be a judicial selection commission that shall consist of nine members. The governor shall appoint three members to the commission, the initial appointments to be for terms of two, four and six years respectively. The president of the senate and the speaker of the house of representatives shall each respectively [elect] appoint one member to the commission, the initial appointments to be for a term of two years respectively. The chief justice of the supreme court shall [elect] appoint two members to the commission, the initial appointment to be for terms of four and six years respectively. Members in good standing of the bar of the state shall elect two of their number to the commission in an election conducted by the supreme court or its delegate, the initial election to be for terms of four and six years respectively."

The revision as proposed by your Committee would give the speaker of the state house of representatives, the president of the state senate and the chief justice of the state supreme court the responsibility of appointing their designated number of commission members to the judicial selection commission. It was felt that requiring the senate and house to act in their respective groups would be too cumbersome and create unneeded administrative delays. Although the responsibility to choose a commission member now lies in the hands of one individual within each group, it is intended that the leaders of the respective groups be responsive to the desires and feelings of each group as a whole and act accordingly.

2. Amend the second paragraph to read:

"The commission shall be selected and shall operate in a wholly nonpartisan manner. After the initial formation of the commission,

elections and appointments to the commission shall be for staggered terms of six years each. No member of the commission shall serve for more than one full six year term on the commission. [The legislature shall by statute provide for the time and manner of appointments and elections to conform with this section.]"

The revision as proposed by your Committee deletes the last sentence in the paragraph. It was agreed that in light of the adoption of the amendment allowing the speaker of the house, president of the senate and the chief justice of the supreme court to choose their respective representatives on the commission, language referring to the holding of elections by such bodies was superfluous and should be eliminated.

3. Amend the fifth paragraph to read:

"Any attorney member of the commission or [his employer or] that member's law firm representing any party before any nominee for justice or judge, shall disqualify himself in any judicial proceeding before the nominee for the period the nominee is being considered. Any non-attorney member of the commission who is a party or if his employer or firm is a party in any judicial proceeding before any nominee for justice or judge shall disqualify himself from voting."

The amendment as passed by your Committee does two things. First, it improves stylistically the language concerning the disqualification of any lawyer member of the commission from appearing in court before any judge who is being considered for retention by the commission. Second, this amendment adds a sentence to cover conflicts of interest that may arise for non-attorney members of the commission. Your Committee recognizes that this new language does not cover every potential conflict that could arise but intends that the legislature more fully address the problem. Your Committee also recognizes that there are canons of professional ethics that affect all lawyers and which address problems of conflicts. However, your Committee feels that these minimum specific guidelines are necessary in the Constitution.

The chairman of the standing committee clarified the effect of this provision as to the situation in which a commission member may be an employee of the federal, state or county government which was involved in a lawsuit before the judicial nominee being considered by the commission. This provision was intended to be stringent, even to the extent that in the situation described the disqualification provisions would apply to that member.

4. Amend the seventh paragraph to read:

"No member of the judicial commission shall receive any compensation for commission services, but shall be allowed necessary expenses for travel, board and lodging incurred in the performance of commission duties. The legislature shall provide for [operation,] the staff and [other] operating expenses [incidental to the performance of commission duties.] of the commission in a separate budget. The Judicial Selection Commission shall be attached to the Judiciary Branch of the State government for purposes of administration."

The amendment proposed specifically states that other than certain types of expenses and staff costs the members of the commission shall not be paid. It also states that for purposes of administration only, the judicial selection commission is to be placed under the jurisdiction of the judiciary branch.

Your Committee decided that it was necessary to clarify proposed language regarding the nonpayment of compensation to commission members. In conjunction with this language, the chairman of the judiciary committee expressed his belief that the chairman of the commission would be required to appear before the appropriate legislative committees to report on commission expenses and funding needs.

The additional language regarding the placement of the commission within the judiciary branch of state government solely for the purposes of administration was also needed for purposes of clarification.

There were several amendments to the proposed language in this section which were either withdrawn or failed to obtain the necessary votes for passage. One of the amendments proposed related to the confidentiality of the actions of the judicial selection commission. After considerable debate this amendment was withdrawn, with the understanding that the judicial selection commission would have power by way of its own rules to determine its boundaries and limits on the confidentiality of its actions.

There were several other amendments introduced concerning the makeup of the commission and the qualifications of the commission members themselves, which did not pass.

Your Committee recommends that this new section relating to the judicial selection commission be adopted as amended.

Recommendation: Your Committee recommends the following amendments to the new section relating to the transition and effective date of the amendments:

"The current terms of justices and judges in office shall terminate as heretofore provided by law, subject to earlier termination and removal as provided in this article. The amendments to Article V shall take effect upon ratification. The Judicial Selection Commission shall be created no later than April 1, 1979."

The amendment proposed adds a sentence to indicate the last date the judicial selection commission is to be created. This provision is intended to ascertain a date certain by which time the legislature must act to carry out the provisions contained in the constitutional amendment. During the discussion on this subject, the chairman of the judiciary committee indicated that any gubernatorial appointment of justices or judges made after the proposal on the judicial selection commission was ratified by the public would be considered an interim appointment only. In such instances vacancies in judicial offices must be filled through the judicial selection process.

Your Committee recommends that this new section relating to transition and effective date be adopted as amended.

Accordingly, your Committee of the Whole recommends the adoption of Com. Whole Rep. No. 10, and consideration of the passage of Com. P. No. 10, RD. 1, on second reading.

COMMITTEE OF THE WHOLE REPORT NO. 11

Your Committee of the Whole, to which was referred Stand. Com. Rep. No. 56 of the Committee on Hawaiian Affairs and Com. P. No. 11, entitled "A Proposal Relating to Hawaiian Affairs," having held a meeting on September 2, 1978, and having fully debated and considered the report and proposal, begs leave to report as follows:

This proposal covered amendments to Section 1 of Article XI and the Hawaiian Homes Commission Act, 1920, as amended. The action is set forth as follows.

No amendments were offered and no amendments were made.

Your Committee recognized that the intent and purpose of Com. P. No. 11 is to provide the means to locate more Hawaiians on the lands specified for them through the Hawaiian Homes Commission Act, 1920, as amended. Your Committee learned that the department of Hawaiian home lands must finance its own program through the general leasing of its lands and that it is the only one of 17 state departments which must fund itself. Therefore the land of any value through the years has been general leased for revenue purposes which are used by the department for its operating budget.

Members argued that, in its eagerness for statehood, the territory made promises regarding Hawaiians and the Act that it would soon forget. Members concluded that consequently it has taken all too long to even arrive at Com. P. No. 11.

There were no nay votes heard to this committee proposal. Your Committee of the Whole recommends adoption of Com. Whole Rep. No. 11 and consideration of the passage of Com. P. No. 11 on second reading.

COMMITTEE OF THE WHOLE REPORT NO. 12

Your Committee of the Whole, to which was referred Stand. Com. Rep. No. 57 of the Committee on Hawaiian Affairs and Com. P. No. 12, having held a meeting on September 2, 1978, and having fully debated and considered the report and proposal, begs leave to report as follows:

The proposal covered amendments in the form of new sections to Articles IX, XIII, XIV and I of the State Constitution. The action taken is set forth as follows.

Your Committee made no amendments to Com. P. No. 12. Your Committee did discuss the new sections proposed.

Your Committee decided to adopt the amendments relating to the Hawaiian education program. Your Committee found that there has been a strengthening of emphasis on the diversity of cultures in American society and a lessening of the emphasis on assimilation, or the "melting-pot" model, in America. Your Committee felt that the study of the Hawaiian language, culture and history was important to the diversity of cultures in the State of Hawaii. Moreover, this is the only place where Hawaiian studies is likely to occur since the State of Hawaii is the 'aina for Hawaiians; there is no other place. Other ethnic groups in Hawaii can return to their originating country, such as Japan, Korea, China, Portugal, England, the mainland, etc. to study. Finally, members of your Committee felt that it was imperative to begin such study today because we are losing the men and women who have significant information--the kupuna, who are dying.

Your Committee decided to adopt the amendment making Hawaiian and English the official languages of the State, in order to give full recognition and honor to the rich cultural heritage that Hawaiians have given to all ethnic groups of this State. Your Committee wanted to overcome certain insults of the past where the speaking of Hawaiian was forbidden in the public school system, and of today where Hawaiian is listed as a foreign language in the language department at the University of Hawaii.

Your Committee decided to adopt the amendment relating to traditional and customary rights. Your Committee found that this amendment does not attempt to grant unregulated, abusive and general rights to native Hawaiians; but rather it allows tenants of an ahupua'a, and not all native Hawaiians, access rights to the mountain and sea, as was traditionally and customarily asserted by their ancestors. This is very important since the large land-owners, who basically are 10 to 12 corporations and estates and who own almost 90 percent of all private lands, have intruded upon, interfered with and refused to recognize such rights. Sustenance, religious and cultural practices of native Hawaiians are an integral part of their culture, tradition and heritage, with such practices forming the basis of Hawaiian identity and value systems.

Although the enforcement problems require careful consideration of regulation changes in this area, it is possible, with work, to both protect the rights of private land-owners and allow for the preservation of an aboriginal people.

Delegates felt that this amendment would be an important and indispensable tool in preserving the small remaining vestiges of a quickly disappearing culture and in perpetuating a heritage that is unique and an integral part of our State. The members concluded that Hawaiian children need not be told to visit the Bishop Museum or see a tourist show if they want to learn about their Hawaiian culture, values and identity.

Amendments were offered to section 5 of Com. P. No. 12 relating to quieting title. Your Committee decided to follow the unanimous recommendation of the Committee on Hawaiian Affairs regarding this section.

One amendment offered read as follows:

"LAND TITLE ACTIONS

"Section . The State of Hawaii shall pay for all the expenses, including attorneys' fees, in securing land court titles to all estates or interests in real property when title to these lands is in dispute."

Members of your Committee argued that it would be too expensive for the State to cover the costs of all disputed land titles. An amendment was made to this amendment to add the words "for those people who can not afford to pay." Your Committee still concluded that it would be too expensive for the State. Moreover, some members pointed out that the attorneys' fees often force people to settle suits that otherwise might drag on for years. Both amendments were defeated.

Another amendment was offered to delete section 5 of Com. P. No. 12, relating to quieting title. This amendment was likewise defeated. Members argued that adverse possession was a legal means of thievery and that it had long been used by land barons against the small landowner, particularly the Hawaiians. There are 27 applications for seizing land through adverse possession before the courts today. Members offered examples where even today people often obtain only color of title and then settle their claim through adverse possession. Thus adverse possession is not a thing of the past. The committee concluded that it leaves Hawaii's people vulnerable. Although adverse possession is a concept that may have had validity on the mainland, where there are large tracts of undeveloped and unused land, we do not have that problem here in Hawaii. Your Committee defeated the amendment.

Your Committee of the Whole recommends the adoption of Com. Whole Rep. No. 12 and consideration of the passage of Com. P. No. 12 on second reading.

COMMITTEE OF THE WHOLE REPORT NO. 13

Your Committee of the Whole, to which was referred Stand. Com. Rep. No. 59 of the Committee on Hawaiian Affairs and Com. P. No. 13, entitled "A Proposal Relating to Hawaiian Affairs," having held a meeting on September 2, 1978 and having fully debated and considered the report and proposal, begs leave to report as follows:

The proposal covered a new title and four new sections to Article XI, which were considered together with a new section to Article XVI and amendments to Section 5 of Article X and Section 8 of Article XIV. Only one amendment was offered to Com. P. No. 13. The action taken is set forth as follows.

An amendment to the new Sections 4, 5, 6 and 7 of Article XI, reading as follows, was offered:

"PUBLIC TRUST

"Section 4. The lands granted to the State of Hawaii by Section 5(b) of the Admission Act and pursuant to Article XIV, Section 8 of the State Constitution, excluding therefrom lands defined as 'available lands' by Section 203 of the Hawaiian Homes Commission Act, 1920, as amended, shall be held by the State as a public trust for [those] native Hawaiians [, as defined in the Hawaiian Homes Commission Act, 1920, as amended or may be amended,] and the general public."

"OFFICE OF HAWAIIAN AFFAIRS; ESTABLISHMENT OF BOARD OF TRUSTEES

"Section 5. There is hereby established an Office of Hawaiian Affairs. The Office of Hawaiian Affairs shall hold title to all the real and personal property now or hereafter set aside or conveyed to it which shall be held in trust for native Hawaiians and Hawaiians. There shall be a board of trustees for the Office of Hawaiian Affairs elected by qualified voters who are [native] Hawaiians, in accordance with law. The board members shall be [native] Hawaiians. There shall be not less than 9 members of the board of trustees; provided that each of the following Islands have one representative: Oahu, Kauai, Maui, Molokai and Hawaii. The Board shall select a chairman from its members."

"POWERS OF BOARD OF TRUSTEES

"Section 6. The board shall exercise power in accordance with law, to manage and administer the proceeds from the sale or other disposition of the lands, natural resources, minerals, and income derived from whatever sources for native Hawaiians and Hawaiians, including all income and proceeds from that pro rata portion of the trust referred to in

Section 4 for [those] native Hawaiians [as defined in the Hawaiian Homes Commission Act, 1920, as amended or may be amended]; formulate policy relating to affairs of native Hawaiians and Hawaiians, and exercise control over real and personal property set aside by state, federal, or private sources and transferred to said Board for [Native] native Hawaiians and Hawaiians. The board shall have the power to exercise control over the Office of Hawaiian Affairs through its executive officer, the administrator of the Office of Hawaiian Affairs, who shall be appointed by the board."

"DEFINITION: HAWAIIAN; NATIVE HAWAIIAN

"Section 7. The term [Native] "Hawaiian" means any [individual any of whose ancestors were natives of the area which consisted of the Hawaiian Islands prior to 1778.] descendant of the races inhabiting the Hawaiian Islands, previous to 1778.

"[Native Hawaiians of one-half blood] The term "native Hawaiian" means any [individual] descendant of not less than one-half part of the blood of races inhabiting the Hawaiian Islands previous to 1778[.] as defined by the Hawaiian Homes Commission Act, 1920, as amended or may be amended."

Recommendation: Your Committee recommends adoption of this amendment. There was no objection to this amendment.

This amendment is considered housekeeping in nature. It clarifies the definitions in the amended Section 7 of Article XI. The amendment will assist the delegates and all readers in readily understanding this section. The term "Hawaiian" includes all Hawaiians. The group of Hawaiians traditionally referred to as "native Hawaiians" continues to follow the definition of the Hawaiian Homes Commission Act, 1920, as amended. It is important to qualify that definition by including the phrase "or may be amended" so as to allow the Constitution to reflect any changes that could possibly occur in this Act.

The new Sections 4, 5 and 6 to Article XI have been conformed to this improved definitional section. There has been no change in content.

No other amendments were offered to Com. P. No. 13. However, your Committee did consider the merits of this proposal.

Members were impressed by the concept of the Office of Hawaiian Affairs which establishes a public trust entity for the benefit of the people of Hawaiian ancestry. Members foresaw that it will provide Hawaiians the right to determine the priorities which will effectuate the betterment of their condition and welfare and promote the protection and preservation of the Hawaiian race, and that it will unite Hawaiians as a people.

The present Hawaiian population is a young one. Approximately 50 percent of the total Hawaiian population is under the age of 70. The Hawaiian people today should be given the opportunity to provide for the betterment of the condition and well-being of these young Hawaiians and to address the contemporary problems that Hawaiians face--crime, inadequate housing conditions, welfare rolls and education. This proposal gives Hawaiians, a great and proud people, the opportunity and the means to do so. Your Committee feels that it is time the Hawaiians have more impact on their future.

Your Committee found that the Office of Hawaiian Affairs is appropriately modelled after that of the University of Hawaii so as to give it maximum independence. The most important aspect of this model is the power to govern itself. The public trust entity provides a democratic process for the beneficiaries in order to insure accountability and opportunity for scrutiny of the trustees by the beneficiaries. It is an umbrella organization that is designed to embrace native Hawaiians and Hawaiians, the management of their assets and resources, the receipt of any future benefits, and possibly the administration of the department of Hawaiian home lands.

Your Committee of the Whole agreed with the reasoning of the Committee on Hawaiian Affairs regarding the election of the board of trustees. Your Committee felt that the legislature could best handle the further details necessary for the apportionment scheme. Proof of ancestry could also be determined by the legislature, although members did suggest several methods: birth certificates, genealogies, sworn statements and testimony of others. Your Committee concluded the elections would be constitutional, for the beneficiaries should rightfully have control and influence over their assets and future.

Moreover, it appears that the Committee on Hawaiian Affairs closely examined this issue. If one looks to the precedent of other native peoples, one finds that they have traditionally enjoyed self-determination and self-government. They have power to make their own substantive rules in internal matters. Although no longer possessed of the full attributes of sovereignty, they remain a separate people with the power of regulation over their internal and social problems. The establishment of the Office of Hawaiian Affairs is intended to grant similar rights to Hawaiians. The qualification for office and for exercising the franchise does not constitute discrimination. Rather it is a criterion reasonably designed to further the cause of Hawaiian self-government and to make the Office of Hawaiian Affairs more responsive to the needs of its constituents. It is directed to participation by the governed in the governing agency. This qualification does not cover any other government agency or activity. In conclusion, these provisions are constitutional due to the unique legal status of Hawaiians. (See Santa Clara Pueblo, et al. v. Julia Martinez, et al., 46 L.W. 4412 (5/16/78); Morton v. Mancari, 417 U.S. 535 (1974).)

Your Committee of the Whole recommends the adoption of Com. Whole Rep. No. 13 and consideration of the passage of Com. P. No. 13, RD. 1, on second reading.

COMMITTEE OF THE WHOLE REPORT NO. 14

Your Committee of the Whole, to which was referred Com. P. No. 14 from the Committee on Taxation and Finance, having held its meetings on September 6 and 7, 1978, and having fully debated and considered the proposal, begs leave to report as follows:

The proposal covered Article VI of the State Constitution. The action taken is set forth as follows.

A. The State Debt Limit.

There were two amendments introduced which purported to strengthen the state debt limit provisions included in Com. P. No. 14. The first measure would have limited the total sum of authorized general obligation bonds to no more than 140 percent of the total amount of outstanding general obligation bonds includable within the debt ceiling. It was argued that such a measure was necessary to prevent the continued accumulation of appropriated but unissued bonds. However, your Committee agreed that a ceiling on authorized bonds was unnecessary because of the proposed lapsing provision. In addition, it was felt that the more restrictive debt ceiling would act as an indirect but effective deterrent to the authorization of an excessive amount of bonds. Finally, your Committee recognized that under the new proposed debt ceiling the emphasis on state debt is being shifted from the total amount of bonds authorized to the total amount of bonds issued. Consequently, your Committee did not feel compelled to place a specific constitutional limitation on the authorization of bonds.

The second proposal would have prevented the issuance of general obligation bonds unless such issuance was authorized by a two-thirds vote of the members to which each house of the legislature is entitled. Proponents of the proposal claimed that incurring debt is an extraordinary matter which should require an extraordinary majority for approval. However, your Committee believed that less debt would be incurred if a simple majority were required for passage of general obligation bonds. Further, your Committee agreed that the requirement of a majority vote would adequately safeguard the State's financial interests.

B. Exclusions from the Debt Limit of the State and the Political Subdivisions.

An amendment to the new Section 3(h) of Article VI, reading as follows, was offered:

"(h) Bonds constituting instruments of indebtedness under which the State or any political subdivision incurs a contingent liability as a guarantor, but only to the extent the principal amount of such bonds does not exceed six percent of the principal amount of all outstanding general obligation bonds not otherwise excluded under this section; provided that the State or political subdivision shall establish and maintain a reserve in an amount in reasonable proportion to the outstanding loans guaranteed by the State or political subdivision as provided by law."

Recommendation: Your Committee recommends the adoption of this amendment. The new Section 3(h) exempts from the debt limit bonds used to guarantee loans, with "bonds" being defined in Section 3 as including instruments of indebtedness. Section 3(h) relates to contingent liabilities where the State or counties guarantee certain instruments of indebtedness involving special loan programs authorized by the legislature or the counties. Examples of these special loan programs include Hawaii Housing Authority projects, Hawaiian homes commission housing projects, aquaculture ventures and farm loans. Your Committee finds that these instruments of indebtedness represent a contingent liability which would only be used in case of default of the activity for which they were guaranteed. This amendment imposes a ceiling on the amount of these loans or instruments of indebtedness which may be excluded from the State's debt limit or any county's funded debt. Any Section 3(h) instruments of indebtedness in excess of six percent of the principal amount of the general obligation bonds not otherwise excluded under Section 3 will be counted against the debt limit of the State or the particular county. This amendment does not, however, limit the dollar amount of instruments of indebtedness which may be authorized by the State or any county for such projects. Rather, it merely states that if these authorized instruments of indebtedness exceed six percent of the outstanding general obligation bonds outstanding, such excess amount shall count against the debt service ceiling referred to earlier.

Your Committee agreed that this amendment provided another safeguard against the excessive incurrence of debt by the State or the counties. In contrast to revenue bonds and special purpose revenue bonds, which are issued on behalf of self-supporting entities, the bonds specified in Section 3(h) are issued for those activities or programs which have difficulty obtaining financing through normal financing methods. The State or a county therefore guarantees the loans provided for such activities or programs by financial institutions. Because of the contingent liability of the State and the counties, your Committee agreed that it was advisable to set a limit on the amount of such bonds which may be excluded from the debt limit. More particularly, your Committee was concerned that without such a ceiling, a method would be provided which would allow the State to circumvent the more restrictive debt ceiling suggested by your Committee. This amendment is also consistent with the new spending limit and lapsing provisions proposed for the State.

In addition, your Committee considered an amendment to the new Section 3(h) which would have required the State and each county to retain a reserve of at least 10 percent of the outstanding loans guaranteed. However, it was agreed that the provision of Com. P. No. 14 which requires that a reasonable reserve be established by the State and each county was a sufficient safeguard. It was noted that different ventures entail different risks; a rigid 10-percent-reserve requirement should not be imposed when a greater or smaller reserve might be appropriate for a particular venture. Rather, your Committee preferred to give the State and each county the flexibility to determine the reserve which would adequately protect their interests.

C. Special Purpose Revenue Bonds.

Recommendation: Your Committee recommends that this amendment be adopted. It requires the following:

1. That each authorization or enabling legislation for (1) manufacturing, processing or industrial enterprises, (2) utilities serving the general public, (3) health care facilities provided to the general public by not-for-profit corporations, and (4) low and moderate income housing programs be provided by separate general law, with a two-thirds vote of the members to which each house is entitled.

2. That each project for each such enterprise, utility, not-for-profit corporation and government housing program be provided by separate general law with a two-thirds vote of the members to which each house is entitled. Your Committee finds that the term "project" was not defined but was intended to be similar to the term "program," which is defined by statute as a combination of resources and activities designed to achieve an objective or objectives, and such a definition would serve well in implementing this amendment. Examples of such projects or programs include a single facility requiring improvement, anti-pollution facilities, a low and moderate income housing program consisting of various sites in the State, a housing loan program, a development of geothermal resources, or a capital improvement program over a period of years. Further, the authorization of bonds to provide projects or programs must be in a separate general law for each type of activity, enterprise, utility, not-for-profit corporation and housing program.

3. That such bonds are deemed in the public interest by the legislature.

The intent of this amendment is to tighten the controls with respect to the issuance of special purpose revenue bonds. While your Committee agreed that the four designated entities and their various types of projects or programs should be allowed to utilize special purpose revenue bonds, there was concern that such bonds be authorized only after careful scrutiny. The two-thirds vote requirement, for example, insures that there exists widespread agreement in the legislature that a particular approval is well-advised and that it is considered by itself on its own merits. Likewise, the requirement that each authorization or enabling legislation and also each type of project or program be included in a separate bill is designed to maximize public and legislative awareness in this area.

Your Committee also considered proposals (1) which would have deleted all of the provisions in Section 3 of Com. P. No. 14 relating to special purpose revenue bonds, or (2) which would have rendered manufacturing, processing or industrial enterprises ineligible for special purpose revenue bonds. There were several delegates who believed that government should not lend private businesses its name, particularly manufacturing enterprises, in order that such businesses can obtain funds in the bond market at a lower rate of interest. Your Committee, however, decided that special purpose revenue bonds should be available for the four enterprises and programs, or entities, specified in Com. P. No. 14. The requirement that the legislature find the issuance of such bonds to be in the public interest, the prohibition against the use of public funds to pay the principal and interest on any special purpose revenue bonds and the two-thirds authorization requirement discussed earlier in this report were considered sufficient safeguards against the issuance of bonds for questionable programs or entities.

D. Lapsing.

The following amendment to the lapsing provisions of Com. P. No. 14 was suggested:

Com. P. No. 14 is amended by amending section 5, paragraphs 3 and 4, to read:

"All appropriations for which the source is general obligation bond funds or general funds shall be for specified periods, and no such appropriation shall be made for a period exceeding [two] three years. Any such appropriation or any portion of any such appropriation which is unencumbered at the close of the fiscal period for which the appropriation is made shall lapse; provided that no appropriation for which the source is general obligation bond funds nor any portion of any such appropriation shall lapse if the legislature determines such appropriation or any portion of such appropriation is necessary to qualify for federal aid financing and reimbursement. Where general obligation bonds have been authorized for an appropriation, the amount of the bond authorization shall be reduced in an amount equal to the amount lapsed.

"Any appropriation for which the source is general obligation bond funds or general funds or any portion of any such appropriation which is effective on the date of ratification of this amendment and which is unencumbered on June 30, 1980 shall lapse on that date unless earlier lapsed by law; provided that no appropriation for which the source is general obligation bond funds nor any portion of any such appropriation shall lapse if the legislature determines such appropriation or any portion of such appropriation is necessary to qualify for federal aid financing and reimbursement. Where general obligation bonds have been authorized for an appropriation, the amount of the bond authorization shall be reduced in an amount equal to the amount lapsed on June 30, 1980."

Recommendation: Your Committee recommends the adoption of this amendment, which extends the lapsing period applicable to appropriations financed by general obligation bond funds or general funds from 2 years to 3 years. It does not, however, preclude the legislature from setting a shorter lapsing period for a particular appropriation. This amendment is not an attempt to weaken the lapsing provision but rather is a recognition of the practical difficulties encountered in complying with various governmental regulations and coordinating the efforts of numerous governmental agencies. It was feared that a 2-year lapsing period would result in the curtailment of funds for some worthwhile projects, particularly complex capital improvement projects. Your Committee agreed that the 3-year period would provide more flexibility in the implementation of projects and programs.

This amendment also provides that an appropriation for which the source is general

obligation bond funds shall not lapse if the legislature determines that such appropriation is necessary to qualify for federal aid financing and reimbursement. This requirement is applicable both to appropriations which must be examined during the transitional period of the lapsing provision ending on June 30, 1980, and thereafter. The intent of this amendment is to require the legislature to positively determine that a particular federal aid project or program is deserving of not being lapsed. Your Committee wishes to emphasize that such a determination should not be made before the regular session of the legislature preceding the date of lapsing.

E. The State Spending Limit.

Your Committee's debates on the section of Com. P. No. 14 pertaining to the state spending limit focused on whether a specific index of state spending should be specified. Some members of your Committee asserted that the State's spending limit should be synchronized with the growth of the State's total personal income, pursuant to a standard developed and reported by the U.S. Department of Commerce, Bureau of Labor Statistics. An amendment which would have used the State's total personal income as the state spending standard, until provided otherwise by the legislature, was offered. Other members of your Committee felt strongly, however, that neither personal income nor any economic measure should limit government spending and that spending limits should be a matter for the legislature to decide.

However, a majority of your Committee voted to allow the State to develop or select a standard which could be tailored to Hawaii's needs. While total personal income may be the best indicator of economic growth today, it was noted that some of the advantages of that index are lost because of the considerable delay in the publication of its results. More importantly, your Committee believed that it would be unwise to tie Hawaii to a particular standard. Rather, the State should have the option of selecting a standard now and changing it at a later time, if that is advisable.

F. Disposition of Excess Revenues.

The following new section was proposed:

"DISPOSITION OF EXCESS REVENUES

"Section . Whenever the state general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years, the legislature in the next regular session shall provide for a tax refund or tax credit to the taxpayers of the State, as provided by law."

Recommendation: Your Committee recommends the adoption of this amendment. This amendment provides for a tax refund or tax credit to the State's taxpayers when the State's general fund balance in each of 2 successive fiscal years exceeds 5 percent of general fund revenues for each of the 2 years. Your Committee believes that it is proper for the State's taxpayers to benefit from any surplus in the State's general fund balance. On the other hand, this amendment is designed to assure that such refund is not triggered by short-term surpluses. Instead, it requires that the State enjoy a substantial surplus in each of two successive years. Three other favorable features of the amendment were noted: (1) it does not specify the amount of surplus to be refunded to the taxpayers but leaves that decision to the discretion of the legislature, (2) it permits the legislature to determine the most efficient and economical form of such rebate, whether by tax refund or tax credit, and (3) it complements the state spending limit proposed by your Committee.

Your Committee also approved the deletion of Article XVI, Section 8, which reads as follows:

"[START OF BIENNIAL BUDGETING AND APPROPRIATIONS

"Section 8. Anything in this constitution to the contrary notwithstanding, the provisions relating to biennial budgeting and appropriations in Article VI shall take effect for the biennial period beginning July 1, 1971.]"

Section 8 of Article XVI was a transitional provision designed to facilitate the introduction of the biennial budgetary system. That section is no longer necessary since the State has converted to such a system.

Amendments (1) to strengthen the balanced budget provision of Com. P. No. 14 by preventing any deficit spending by the State, even for emergencies, (2) to constitutionally guarantee grants-in-aid to the counties, (3) to set the counties' debt limits at 10 percent of the total of the assessed values for tax rate purposes of real property in each county, (4) to abolish taxes on food purchased for domestic preparation and consumption or prescription drugs and (5) to require the State to pay the costs of any transfer of mandated programs to the political subdivisions were also discussed and defeated.

Accordingly, your Committee of the Whole recommends the adoption of Com. Whole Rep. No. 14 and consideration of the passage of Com. P. No. 14, RD. 1, on second reading.

COMMITTEE OF THE WHOLE REPORT NO. 15

Your Committee of the Whole, to which was referred Com. P. No. 15 from the Committee on Bill of Rights, Suffrage and Elections, having held its meetings on September 8 and 9, 1978, and having fully debated and considered the proposal, begs leave to report as follows:

The proposal covered Article I of the State Constitution. The action taken is set forth as follows.

An amendment to Article I, Section 11, entitled "Rights of Accused," reading as follows, was offered:

"In all criminal prosecutions, the accused shall enjoy the right of a speedy and public trial, by an impartial jury of the district wherein the crime shall have been committed, which district shall have been previously ascertained by law, or of such other district to which the prosecution may be removed with the consent of the accused; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense. Juries, where the crime charged is serious, shall consist of twelve persons. The State shall provide counsel for an indigent defendant charged with an offense punishable by imprisonment."

Your Committee recommends the adoption of this amendment because a 12-person jury is essential for a fair trial. Your Committee recognizes that the right to a fair and impartial jury trial is an integral part of a just determination of a criminal case. Traditionally the number of members of a jury has been 12 persons, but the U.S. supreme court has ruled that states are free to have juries composed of less than 12 members (William v. Florida, 399 U.S. 78, 90 S. Ct. 1893, 26 L. Ed. 2d 446 (1970).)

Your Committee is concerned about the possibility of any reduction in the size of the jury because it would have a detrimental effect on the fairness of the jury system. Studies have demonstrated that a decrease in the membership of a jury tends to lessen the reliability of their verdict. A jury decision reflects the considered, independent opinion reached within the framework of a group discussion. There is evidence to indicate that the effective quality of group discussion is diminished when the size of the group is decreased. Jurors are not free to take notes during the trial and must rely on their collective memories. Given the unreliability and frailty of the human mind, a larger group stands a better chance of remembering many of the nuances that are presented through testimony. During the course of discussion, one mind may be jogged to remember an important fact that others have forgotten, and obviously a 12-person group is more conducive to this occurrence.

A smaller group also makes it easier for one person to dominate the group discussion which is inimical to the concept of a verdict reflective of the independent opinion of all members of the body.

Perhaps more importantly, a 12-person jury better fulfills the goal of interposing between the accused and the government the common sense of the community in determining guilt or innocence. Community participation must reflect a cross section of the community, and in the multi-ethnic society we enjoy today it is essential that the jury verdict reflect the considered viewpoints of the entire community. Your Committee believes that a 12-person jury enhances the opportunity for a jury representative of the community.

Your Committee also discussed the ramifications of the adoption of section 6 of Com. P. No. 15. Section 6 would amend Article I of the Constitution to include a separate and distinct section on the right to privacy.

To make clear its intent, your Committee would like to reiterate and elaborate on certain matters contained in Stand. Com. Rep. No. 69. Should this section of the proposal be approved by the electorate, the Constitution will have two provisions related to privacy. However, the provisions are not to be construed as identical in intent. The privacy provision within Article I, Section 5, should be construed in light of the language in Katz v. United States, 389 U.S. 347, 88 S.Ct. 507, 19 L.Ed. 2d 576 (1967), regarding reasonable expectation of privacy. Privacy as used in this sense is not a fundamental right but a test of whether the prohibition against unreasonable searches and seizures applies.

By amending the Constitution to include a separate and distinct privacy right, it is the intent of your Committee to insure that privacy is treated as a fundamental right for purposes of constitutional analysis. Privacy as used in this sense concerns the possible abuses in the use of highly personal and intimate information in the hands of government or private parties but is not intended to deter the government from the legitimate compilation and dissemination of data. More importantly, this privacy concept encompasses the notion that in certain highly personal and intimate matters, the individual should be afforded freedom of choice absent a compelling state interest. This right is similar to the privacy right discussed in cases such as Griswold v. Connecticut, 381 U.S. 479 (1965), Eisenstadt v. Baird, 405 U.S. 438 (1972), Roe v. Wade, 410 U.S. 113 (1973), etc. It is a right that, though unstated in the federal Constitution, emanates from the penumbra of several guarantees of the Bill of Rights. Because of this, there has been some confusion as to the source of the right and the importance of it. As such, it is treated as a fundamental right subject to interference only when a compelling state interest is demonstrated. By inserting clear and specific language regarding this right into the Constitution, your Committee intends to alleviate any possible confusion over the source of the right and the existence of it.

Accordingly, your Committee of the Whole recommends the adoption of Com. Whole Rep. No. 15 and consideration of the passage of Com. P. No. 15, RD. 1, on second reading.

COMMITTEE OF THE WHOLE REPORT NO. 16

Your Committee of the Whole, to which was referred Com. P. No. 16 from the Committee on Bill of Rights, Suffrage and Elections, having held its meetings on September 11 and 12, 1978, and having fully debated and considered the proposal, begs leave to report as follows:

The proposal covered Article II of the State Constitution. The action taken is hereinafter set forth.

An amendment to Article II, relating to registration and voting, and reading as follows, was proposed:

"Section 4. The legislature shall provide for the registration voters and for absentee voting; and shall prescribe the method of voting at all elections. The ballots for all elections shall offer, in addition to the names of the candidates for any office, the option to vote for 'NONE OF THE ABOVE.' Only votes cast for the named candidates shall be counted in determining nomination or election, but for each office the number of ballots on which 'NONE OF THE ABOVE' was chosen shall be listed following the names of the candidates and the number of their votes in every official posting, abstract and proclamation of the results of the election.

"Secrecy of voting shall be preserved."

Your Committee recommends the adoption of this amendment. The effect of this amendment would add "NONE OF THE ABOVE" below the names of candidates standing for election in any race for public office. Thus a voter could vote for a candidate(s) or, if dissatisfied with all the candidates, he could mark "NONE OF THE ABOVE." Any ballots marked thusly shall be excluded from any computation determining the outcome of the election but the number of ballots so marked in each particular race should be published with the election results by the chief election officer.

Your Committee believes that this would be one method of allowing voters disenchanted with candidates running for a particular office to register their lack of choice in a concrete and positive manner rather than withdrawing from the electoral process. Since voters can choose "NONE OF THE ABOVE" to register any negative feelings about a candidate or candidates, your Committee believes that votes for a candidate can be interpreted as a positive sign of support.

A large number of "NONE OF THE ABOVE" would clearly indicate a vote of nonsupport for those running for a particular office and encourage new candidates to enter that race to capitalize on such feelings.

An amendment to Article II, relating to registration, voting, and reading as follows, was proposed:

"Section 4. The legislature shall provide for the registration of voters and for absentee voting; and shall prescribe the method of voting at all elections. Secrecy of voting shall be preserved[.]; provided that no person shall be required to declare their party preference or nonpartisanship as a condition of voting in any primary or special primary election. Secrecy of voting and choice of political party affiliation or nonpartisanship shall be preserved."

Your Committee recommends the adoption of this amendment. No longer will prospective voters have to register as a Democrat, Republican or nonpartisan. However, voters will still be required to vote only for candidates of one political persuasion. Therefore any person who votes for candidates in both the Republican and Democratic primary shall not have his vote counted.

Your Committee believes that this change is warranted to encourage voters with minimal party affiliation or those without any party affiliation to participate in the electoral process.

Implementation is left to the appropriate body but your Committee wishes to make clear its intent that a person registering to vote need not state his political affiliation, be it a party preference or nonpartisan. Thus, the change from the current system is only in the fact that a voter's party preference or political affiliation need no longer be revealed.

Accordingly, your Committee of the Whole recommends the adoption of Com. Whole Rep. No. 16 and consideration of the passage of Com. P. No. 16, RD. 1, on second reading.

COMMITTEE OF THE WHOLE REPORT NO. 17

Your Committee of the Whole, to which was referred Com P. No. 18 from the Committee on Style, having held its meeting on September 12, 1978, and having fully debated and considered the proposal, begs leave to report as follows:

The proposal implemented the direction given to the Committee on Style to use non-discriminatory nouns, pronouns and adjectives in the Constitution of the State of Hawaii.

An amendment to delete sections 15, 16 and 17, relating to the judiciary, from Com. P. No. 18 and to renumber sections 18 to 21 as sections 15 to 18, respectively, was introduced. This deletion is a technical change. Your Committee noted that after the Committee on Style presented Com. P. No. 18 for the consideration of your Committee, the Committee on Judiciary altered Sections 2, 3 and 4 of Article V of the State Constitution, which were included in sections 15, 16 and 17, respectively, of Com. P. No. 18. Since sections 15, 16 and 17 of Com. P. No. 18 do not correspond with the Committee on Judiciary's proposal, they should be deleted. Your Committee, therefore, recommends adoption of this amendment of Com. P. No. 18.

Your Committee of the Whole recommends the adoption of Com. Whole Rep. No. 17 and consideration of the passage of Com. P. No. 18, RD. 1, on second reading.

COMMITTEE OF THE WHOLE REPORT NO. 18

Your Committee of the Whole, to which was referred Com. P. No. 17 from the Committee on Environment, Agriculture, Conservation and Land, having held its meeting on September 14, 1978, and having fully debated and considered the proposal, begs leave to report as follows:

The proposal covered amendments to Articles X and XVI, Section 13, of the State Constitution.

The general intent of your Committee's efforts in the area of natural resources was clarified. In the present Constitution, the policy with regard to natural resources seems to be overly weighted by the emphasis on development and utilization. Though the use of our natural resources is necessary it must be done in such a manner as to ensure the optimum long-term benefits for the inhabitants of our State. The development and use of natural resources must be consistent with their conservation for future availability.

When considering use and development of our natural resources, economic and social benefits are major concerns. However, the broad definition of economics, that of "careful and thrifty" use of the resources, rather than in the narrow sense of immediate financial return, should be adopted.

An amendment to Com. P. No. 17, section 8, relating to water resources, was offered:

"Section . [All waters shall be held by the State as a public trust for the people of Hawaii.] The State has an obligation to protect, control and regulate the use of Hawaii's water resources for the benefit of its people.

"The Legislature shall provide for a water resources agency which shall, in accordance with law, set overall water conservation, quality and use policies; define beneficial and reasonable uses; protect [groundwater] ground and surface water resources, watersheds, and natural stream environments; establish criteria for water use priorities while assuring appurtenant rights and existing correlative and riparian uses; and establish procedures for regulating all [new] uses of Hawaii's water resources."

Your Committee has proposed the above amendment to clarify the intent behind the use of the term "public trust." Some confusion has been generated by the term because "trust" implies ownership. However, it was never intended that the proposal confront the question of ownership of water resources because that is more appropriately a matter for the courts. The question of ownership of the freshwater resources is irrelevant to the ability of the State to exercise its police powers with regard to water because the State has long possessed the police power to protect, control and regulate Hawaii's freshwater resources for the health and welfare of Hawaii's people. Because of the evergrowing population, the need to maintain present agricultural uses and develop some new ones and the diminishing freshwater supply, it is extremely important that the State act with a sense of fiduciary responsibility with regard to the use of water. Therefore, "public trust" was used to describe the nature of the relationship between the State and its people and the duty of the State to actively and affirmatively protect, control and regulate water resources, including the development, use and allocation of water.

The public trust theory holds that the public has certain important rights in water resources, including land underlying navigable water and fisheries. These resources are to be held in trust for the use and enjoyment of the people. The Hawaii supreme court has already imposed the public trust on navigable waters and the lands under them in the case of Bishop v. Mahiko, 35 Haw. 608 (1940). However, to avoid confusion and possible litigation, your Committee has substituted language which your Committee believes fully conveys the theory of "public trust."

In addition, your Committee recommends that surface waters be included among the water resources to be protected. Furthermore, since appurtenant rights and existing correlative and riparian uses are assured, it would not be warranted to restrict the water resource agency to regulating only new uses of water. To avoid any crisis in water supply, whether it be quantity or quality, the agency should have the flexibility to regulate existing as well as future water usage of Hawaii's water resources and the proposal has been appropriately amended.

A number of amendments to control or ban the construction of nuclear fission power

plants and to regulate the disposal of radioactive materials were proposed. After much debate, your Committee voted to adopt the following amendment:

"NUCLEAR ENERGY

"Section . No nuclear fission power plant shall be constructed or radioactive material disposed of in the State of Hawaii without the prior approval by a two-thirds vote in each house of the legislature."

This proposal reflects your Committee's great concern with the potential health hazards and environmental damage which may result from power generated by nuclear fission power plants or the disposal of radioactive waste products. It has been noted, for example, that one speck of some radioactive products may cause cancer, long-term genetic defects or death. "Radioactive material," as used in this amendment, includes the products of the operation and maintenance of a nuclear power plant, such as fuel, waste materials or other contaminated items. This amendment is not, however, intended to limit the use of radioactive materials in medical research or treatment.

The intent of this amendment is to pose threshold questions with respect to the construction of nuclear fission power plants and the disposal of radioactive material in the State to the legislature; this amendment would require legislative approval of such construction or disposal. It should be emphasized, however, that this amendment is not intended to supersede the complex federal statutory and regulatory schemes wherever it has preempted the State from acting with respect to these matters.

The requirement of approval by a two-thirds vote of the legislature underscores your Committee's belief that these activities should be undertaken only if there is widespread agreement among the legislators that such activities are prudent. On the other hand, the development of nuclear fission power plants or the disposal of radioactive material is not completely banned. If sufficient safeguards are developed in the future, the State may wish to take advantage of such developments.

Accordingly, your Committee of the Whole recommends the adoption of Com. Whole Rep. No. 18 and consideration of the passage of Com. P. No. 17, RD. 1, on second reading.

Special Committee Reports

SPECIAL COMMITTEE REPORT NO. 1

Your Committee on Credentials begs leave to report that it has examined the Certificates of Election of the Delegates to the Constitutional Convention of Hawaii of 1978, which were issued by the Lieutenant Governor of the State of Hawaii as provided by law, and finds that the delegates certified thereby have been legally elected and are duly qualified to sit as delegates from their respective constitutional convention districts as follows:

District 1	Floyd W. Pulham Gil Silva
District 2A	Helene H. Hale Lawrence H. Kono
District 2B	Bruce C. McCall Philip I. Yoshimura
District 3	Lester T. Fushikoshi Marcelliano K. Villaverde
District 4	Yvonne Y. Izu Leon K. Sterling, Jr.
District 5A	Mark J. Andrews Allen W. Barr
District 5B	Masami Hironaka John E. Tam
District 6A	David W. Blean Riki Hokama
District 6B	Joseph M. Souki Anthony P. Takitani
District 7A	Steve O'Toole David D. Stegmaier
District 7B	Tom Okamura Wallace W. Weatherwax
District 8A	Thomas H. Hamilton Craig G. Nakamura
District 8B	Rai Saint Chu Barbara Marumoto
District 9A	Karen H. Iwamoto Bruce I. Yamashita
District 9B	Les S. Ihara, Jr. Dean T. Tamayori
District 10A	M. Haunani Ching Walter H. Ikeda

District 10B	Dennis K. S. Chun John J. Stone
District 11A	H. Jean Goodenow Paul L. Lacy
District 11B	Georgia E. Miller James T. Shon
District 12A	Mary Ann Barnard Michael M. F. Liu
District 12B	Milton Y. Hirata Kekoa D. Kaapu
District 13A	Bruce E. Barnes H. William Burgess
District 13B	Teruo Ihara Anne H. Takemoto
District 13C	Carol A. Fukunaga Masako H. Ledward
District 14A	John M. Ishikawa C. Randall Peterson
District 14B	Calvin C. Ching Alan W. Kimball
District 15A	Anthony K. Chang Peter C. Lewis
District 15B	Warner Sutton Robert S. Taira
District 16A	Laura M. Ching Dennis Ihara
District 16B	Franklin I. Hayashida Akira Sakima
District 17A	Naomi S. Campbell Larry S. Uyehara
District 17B	Marion Lee John D. Waihee III
District 18A	Kay K. Kaito Alice T. Takehara
District 18B	Emilio S. Alcon Richard I. Fujimoto
District 19A	Donald D. H. Ching Elayne M. Funakoshi
District 19B	Clarice Y. Hashimoto Donna Odanaka
District 20A	Gerald T. Hagino Ginger K. Wurdeman
District 20B	Melvin Y. Nishimoto Wayne T. Takahashi

District 21A	Adelaide (Frenchy) De Soto Patricia P. Nozaki
District 21B	Michael L. Crozier Calvin W. Ontai
District 22A	Famika Anae William W. Paty, Jr.
District 22B	Akira Hino Rachel K. Lee
District 23	Jacqueline T. Chong Charlene R. Hoe
District 24A	Kayo R. Chung Dona L. Hanaike
District 24B	Paul E. DiBianco Richard Y. Sasaki
District 25A	Walter K. Cabral Masu K. Dyer
District 25B	Robert F. Ellis Leslee G. Hornick
District 26	Donald W. Eastvold, Jr. John R. Penebacker
District 27A	Lehua Fernandes Salling Jeremy Harris
District 27B	Frank de Costa Yoshio Kojima
District 27C	Hartwell K. Blake James M. Shinno

Your Committee, to which were referred a letter dated June 6, 1978 from Joseph A. Ryan to the Convention and a letter dated June 26, 1978 from Clarence Ching to the Convention, reports thereon as follows:

The letter dated June 6, 1978 from Joseph A. Ryan requested that all of the 16 candidates from District 8A be declared elected as delegates to the Convention because no candidate in the district received a majority of the votes cast. Your Committee finds that the two delegates from District 8A have been legally elected pursuant to Act 17, Session Laws of Hawaii, Special Session of 1977, which provides in part that the "candidates receiving the highest number of votes in the election, not to exceed the number of delegates to which the respective district is entitled, shall be elected as delegates to the convention."

The letter dated June 26, 1978 from Clarence Ching alleged that Warner (Kimo) Sutton does not meet the residency requirements to be a qualified voter necessary to be a delegate from District 15B. Your Committee has examined the evidence presented to it by both Mr. Ching and Mr. Sutton and finds that Warner (Kimo) Sutton is a qualified elector of District 15B from which he has been duly elected.

For the reasons aforesaid, your Committee recommends that the persons named in the Certificates of Election of the Delegates to the Constitutional Convention of Hawaii of 1978 be seated as delegates from their respective constitutional convention districts as aforesaid.

SPECIAL COMMITTEE REPORT NO. 2

Your Ad Hoc Committee on Ethics to which was referred the matter relating to a Code of Ethics begs leave to report as follows:

The purpose of this Code of Ethics is to prescribe standards of conduct for the delegates and employees of the Convention and to provide enforcement provisions therefor.

There is presently no code of ethics prescribed for any constitutional convention in the nation. The Hawaii Constitution does not require nor provide for standards of conduct for either Convention delegates or Convention employees. This code of ethics will be the first such code in the nation for a constitutional convention.

Your Committee recognizes that a constitution is a document embodying fundamental principles that determine the powers and duties of the government and guarantee certain rights to the people; it is a document which perforce requires a broad application upon government and people as a whole. However, your Committee is in agreement that the Convention should avoid even an aura or appearance of conflict of interest or abuse of office so that public confidence in the efforts and work product of the Convention will be assured when the electorate is asked to ratify the constitutional amendments proposed. To this end, your Committee has fashioned a code which requires a standard of conduct among the delegates and employees of the Convention and which provides a disclosure mechanism by which the public has an opportunity to assess the performance of the delegates under that standard.

The code includes (1) a requirement of financial disclosure by a delegate reflecting the financial interests of the delegate, the delegate's spouse and dependent children, (2) a prohibition on delegates and employees receiving any gift under circumstances in which it can reasonably be inferred that the gift is intended to influence him in the performance of his official duties or is intended as a reward for any official action, (3) a prohibition on delegates and employees using or attempting to use his official position to secure unwarranted privileges, and (4) a prohibition on action by delegates and employees who have conflicts of interest by such action.

Your Committee also reviewed the matter of delegates hiring family members and relatives as Convention employees. The practice of hiring a family member or relative is not in itself against the Convention's interest. The family member or relative may be well qualified for and diligent on the job. Indeed, it should be noted that there have been no reports to the Committee's knowledge that any family member or relative hired in this Convention is not qualified for the job or is failing to perform his duties. Nepotism, however, does not serve the Convention's interest when the employee is not qualified for the job and takes unwarranted advantage of the family relationship. Not unmindful that the hiring of a family member or relative might draw criticism on the Convention, your Committee believes it would neither be fair nor be in the best interest of the Convention to require at this late date that family members or relatives lawfully hired in good faith now be replaced even if they are qualified and diligent. Delegates and staff are well underway in their organization and operation in this Convention, and any replacement of staff would severely disrupt and impede the Convention proceedings. Your Committee believes that the publicity generated by discussion on this matter will serve as a sufficient check against abuse in employment among those family members and relatives who have been hired. Accordingly, the Code of Ethics contains no reference to the matter of hiring of family members and relatives. It is hoped that future Conventions will note the concern experienced by your Committee on the matter.

Your Ad Hoc Committee on Ethics is in accord with the Code of Ethics in the form attached hereto and recommends its adoption.

PREAMBLE

The purpose of this Code of Ethics is to prescribe standards of conduct for the delegates and employees of the 1978 Constitutional Convention of the State of Hawaii and to provide enforcement provisions therefor so that public confidence in the Convention will be preserved.

Section 1. Definitions.

- (1) "Business" includes a corporation, a partnership, a sole proprietorship,

a trust or foundation, or any other individual or organization carrying on a business, whether or not operated for profit.

(2) "Compensation" means any money, thing of value, or economic benefit conferred on or received by any person in return for services rendered or to be rendered by himself or another.

(3) "Controlling interest" means an interest in a business or other undertaking which is sufficient in fact to control, whether the interest be greater or less than fifty percent.

(4) "Convention" means the 1978 Constitutional Convention of the State of Hawaii.

(5) "Delegate" means any appointed or elected delegate to the 1978 Constitutional Convention.

(6) "Disclosure period" means the period from July 5, 1977 to July 5, 1978.

(7) "Employee" means any nominated officer or employee of the Convention, including any employee under contract to the Convention.

(8) "Employment" means any rendering of services for compensation.

(9) "Financial interest" means an interest held by an individual, his spouse or dependent children which is:

- (A) An ownership interest in a business.
- (B) A creditor interest in an insolvent business.
- (C) An employment, or prospective employment for which negotiations have begun.
- (D) An ownership interest in real or personal property.
- (E) A loan or other debtor interest.
- (F) A directorship or officership in a business.

(10) "Official act" or "official action" means a decision, recommendation, approval, disapproval, or other action, including inaction, which involves the use of discretionary authority.

Section 2. Gifts. No delegate or employee shall solicit, accept, or receive, directly or indirectly, any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it can reasonably be inferred that the gift is intended to influence him in the performance of his official duties or is intended as a reward for any official action on his part.

Section 3. Confidential information. No delegate or employee shall disclose information which by law or practice is not available to the public and which he acquires in the course of his official duties, or use the information for his personal gain or for the benefit of anyone.

Section 4. Fair treatment. No delegate or employee shall use or attempt to use his official position to secure or grant unwarranted privileges, exemptions, advantages, contracts or treatment, for himself or others; including but not limited to the following:

(1) Seeking other employment or contract for services for himself by the use or attempted use of his office or position.

(2) Accepting, receiving, or soliciting compensation or other consideration for the performance of his official duties or responsibilities except as provided by law.

(3) Using convention time, equipment or other facilities for private business purposes.

Nothing herein shall be construed to prohibit a delegate from introducing proposals and resolutions, serving on committees or from making statements or taking action in the exercise of his Convention functions.

Section 5. Conflicts of interest.

(1) No delegate or employee shall assist any person or business or act in a representative capacity for a fee or other compensation or under a contingent compensation arrangement to secure passage or defeat of a proposal, or other transaction in which he has participated or will participate as a delegate or employee.

(2) Any delegate who in the discharge of his official duties would be required to take official action or make a decision which would substantially and directly affect his financial interests or those of a business with which he is associated, shall orally disclose how the action or decision would substantially and directly affect his financial interest.

(3) The chairman of the committee of which the delegate is a member or the presiding officer of the Convention may excuse the delegate from taking part in the action or decision in question only if the affect on that delegate is greater than on other members of his business classification, profession or occupation.

Section 6. Contracts. The Convention shall not enter into any contract with a delegate or an employer or with a business in which a delegate or an employee has a controlling interest.

Section 7. Requirements of disclosure.

(1) Every delegate shall file a public disclosure which shall state the financial interests of the delegate, the delegate's spouse and dependent children and shall include:

- (A) The source and amount of all income of \$1,000 or more received, for services rendered, by the person in his own name or by any other person for his use or benefit during the disclosure period and the nature of the services rendered; provided that information that may be privileged by law or individual items of compensation that constitute a portion of the gross income of the business or profession from which the person derives income need not be disclosed.
- (B) The amount and identity of every ownership or beneficial interest held during the disclosure period in any business incorporated, regulated, or licensed to carry on business in the State having a value of \$5,000 or more or equal to ten percent of the ownership of the business and, if the interest was transferred during the disclosure period, the date of the transfer; provided that an interest in the form of an account in a federal or state regulated financial institution, an interest in the form of a policy in a mutual insurance company, or individual items in a mutual fund or a blind trust, if the mutual fund or blind trust has been disclosed pursuant to this paragraph, need not be disclosed.
- (C) Every officership, directorship, trusteeship, or other fiduciary relationship held in a business during the disclosure period, the term of office and the annual compensation.
- (D) The name of each creditor to whom the value of \$3,000 or more was owed during the disclosure period and the original amount and amount outstanding; provided that debts arising out of retail installment transactions for the purchase of consumer goods need not be disclosed.

- (E) The tax map key number and street address, if any, and the value of any real property in the State in which the person holds an interest whose value is \$10,000 or more, and, if the interest was transferred or obtained during the disclosure period, a statement of the amount and nature of the consideration received or paid in exchange for such interest, and the name of the person furnishing or receiving the consideration.
- (F) The amount and identity of every creditor interest in an insolvent business held during the disclosure period having a value of \$5,000 or more.
- (G) A description of every arrangement for compensation, including whether such compensation is being paid in full, in part, or suspended, by any business while receiving a salary as a Convention delegate.
- (H) Where an amount is required to be reported, the delegate disclosing may indicate whether the amount is at least \$1,000 but less than \$5,000, at least \$5,000 but less than \$10,000, at least \$10,000 but less than \$25,000, at least \$25,000 but less than \$50,000, at least \$50,000 but less than \$75,000, at least \$75,000 but less than \$100,000, at least \$100,000 but less than \$125,000, at least \$125,000 but less than \$150,000 or \$150,000 or more. An amount of stock may be indicated by the number of shares instead of by market value.

(2) The disclosure shall be filed between July 14, and July 31, of 1978 with the President of the Convention.

(3) The disclosure shall be filed on a form provided by the Convention.

(4) An exact copy of the disclosure shall be available for public inspection at the office of the President of the Convention between the hours of 8 a.m. and 4:30 p.m. daily, except on Saturdays, Sundays and holidays. For purposes of public inspection, the copy of the disclosure shall not include the home address and telephone number of the delegate.

(5) Any person wishing to inspect the exact copy of the disclosure statement shall complete and file a form listing the name and address of the person requesting the inspection, the name and address of any person or organization for whom the person requesting the inspection is acting, the name of the person whose disclosure is to be inspected, and the date of the inspection. The disclosure statement or the exact copy shall not be reproduced nor removed from the office of the President.

(6) During the period between the date of a delegate's initial disclosure statement and October 31, 1978, a delegate shall file an updating statement with the office of the President within seven days of any deletion, addition, transfer or termination of any financial interest which is required to be disclosed by this section. Such updating statements shall indicate the nature and date of the change and shall be made available for public inspection in the same manner as the delegate's initial financial disclosure.

(7) After the date the proposals are put before the electorate, the disclosure form and all updating statements shall be returned to each delegate.

Section 8. Violation. Any delegate or employee who fails to comply with any provision of this code will be subject to public reprimand, censure, suspension or removal from office or employment by the Convention.

Governor's Messages

GOVERNOR'S MESSAGE NO. 1

REMARKS BY GOVERNOR GEORGE R. ARIYOSHI
OPENING DAY CEREMONY OF THE
1978 CONSTITUTIONAL CONVENTION
OLD FEDERAL BUILDING

Wednesday, July 5, 1978

You are gathered here today for a very solemn and almost sacred task--the review of the Constitution of the State of Hawaii. Into the hands of a few has been placed the trust of many. You are the architects of our future. What you do, or choose not to do, will affect all our lives for many years to come.

I am sure that I do not need to impress upon you the importance of your tasks. Their magnitude was known to you when you sought election to this Convention, and I am sure have been further impressed upon you in your preliminary deliberations.

I do not intend to speak here this morning at any length. But permit me a few observations based upon my experience as a constitutional convention delegate ten years ago, and also as Governor of this State during some of the most trying and challenging years of our existence.

I hope that none of you come to this Convention with such a rigidity of ideas that you are inflexible. You all have convictions, and that is as it should be. You also have areas in which you feel very strongly, and again that is as it should be. But please do not be so strong either in convictions or areas of concern that you cannot approach the proceedings here with an open mind. Please do not be so convinced of the correctness of a certain position that you cannot listen to another side or a contrary point of view. It is the sharing of ideas and viewpoints and wisdom that will make this Convention a worthwhile exercise for the people of Hawaii. It is your flexibility to expand beyond what you now feel is possible that will determine the success or failure of this Convention.

I am not advocating that you abandon long-held beliefs and philosophies, but I am advocating a tolerance for contrary points of view and a spirit of cooperation. The democratic process is best served when we have free and open discussions, and when we have a willingness to consider points of view other than our own. No one at this Convention can afford to have tunnel vision. There must be a wide field upon which the issues of this Convention can be played. It would be tragic, in my view, if this Convention failed to consider all the alternatives to all of the issues. It just might be that an alternative not now in favor, or even considered, might be the best ultimate choice.

I do not feel that the success or failure of this Constitutional Convention will be measured either by how few or many changes are made. Rather, success or failure will be measured by the approach to the problems and the process by which decisions are made. The acceptance and rejection of ideas--that is what is important and that is what history will remember. Also, I hope that the delegates to this Convention will continue to recognize the uniqueness of our State. We are unique in so many ways. In geography. In people. In resources. In problems. And in solutions.

We have a unique approach to living. We have a unique concept of the dignity of all persons, regardless of ethnic origins or economic circumstances. We have a unique quality called the Aloha Spirit, which possibly is our most prized, but yet fragile, possession. Our uniqueness is precious and it must be preserved, and I hope that the document ultimately emerging from this Convention will reflect that. We are the only island State in this Union of States, and we have become accustomed--partly because of our

geographical isolation--to finding our own solutions and developing our own style.

That independence of spirit and action and style must be continued. We must adopt Hawaiian solutions to Hawaiian problems. Certainly, we can borrow from the wisdom and the experiences of others, but we cannot and we should not blindly assume that something is good for Hawaii merely because it happens to be good for some other area.

At present, we have a very strong central government. For instance, we are alone in having a statewide school system and a statewide system for the delivery of health, social and other human services. Is that bad? The proponents of 'home rule' would say yes. The proponents of equal opportunities for all of our citizens, regardless of where they live, rural or urban, affluent or not, would say no. Home rule is a catch phrase with much appeal. But equal opportunities and equal services for all also have great appeal. Are the two philosophies inconsistent? Can they be reconciled? Should they be reconciled?

I will not attempt to answer these questions here today. I bring them up only as being illustrative of the issues you will confront. They are indeed worthy of your best efforts, and I urge once again that you approach the challenging tasks ahead of you with an open-mindedness that will do credit to this assembly and to this State.

The Preamble to our present Constitution notes that the people of Hawaii are "mindful of our Hawaiian heritage." This says volumes about our approach to government, and I hope that these words would become a living slogan for this Convention. The Preamble also says that we approach all the world with "an understanding heart." These are not just words. They represent a credo of life in these Islands, a credo that has served us so well over the years and one that can carry us forward into the years ahead.

During the course of your deliberations here in the coming weeks, you will hear, I am sure, many discussions of the rights of citizens. I have always cherished human rights--as a person, as an attorney and as an elected official. But at the same time, I also have cherished the collective and individual responsibilities that have made these rights possible. For every right, there has to be a counterbalancing responsibility. If there is not, anarchy will result.

We have a bill of rights, both in the federal and state Constitutions. This guarantee of rights sets our governments apart from all others and provides basic guarantees to our citizens that exist nowhere else. But somewhere in your deliberations, I feel it is very important to acknowledge that responsibilities go hand in hand with rights.

Today is the start of a significant event in the history of Hawaii. It merits the most extensive public input that can be obtained, and with that in mind, I am releasing funds to enable KHET-TV to provide news and interpretive coverage of this Constitutional Convention. You cannot and should not operate in a vacuum, and I feel that it is very important that the public share to the greatest possible extent in this important process of government. Also, I want you to know that my office and our departments will render every assistance to the delegates of this Convention. Please feel that state government is a resource for information and assistance whenever and wherever it is needed.

In closing, I would like to share a few words and thoughts of Thomas Jefferson. He is a man, without question, who was experienced in the ways of constitutions. In a letter written in 1816, President Jefferson said:

"Some men look at constitutions with sanctimonious reverence, and deem them like the ark of the covenant, too sacred to be touched. They ascribe to the men of the preceding age a wisdom more than human, and suppose what they did to be beyond amendment. . . . I am certainly not an advocate for frequent and untried changes in laws and constitutions. I think moderate imperfections had better be borne with. . . . But I know also, that laws and institutions must go hand in hand with the progress of the human mind. . . . [A]s new discoveries are made, new truths disclosed, and manners and opinions change with the change of circumstances, institutions must advance also, and keep pace with the times. . . . Each generation is as independent of the one preceding, as that was of all which had gone before. It has then, like them, a right to choose for itself the form of government it believes most promotive of its own happiness. . . ."

"I know of no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion by education."

These words were written 157 years ago, but they could have been written today.

Indeed, the power of our government rests with the people, and you, the delegates to this Constitutional Convention, are their chosen representatives. Exercise that power well. Seek to reflect the spirit and the ideals of this society rather than its instant problems and anxieties. Allow the Constitution to express Hawaii's unique relation to our environment, our nation and our world. Allow it to continue to set broad guidelines for the governance of this State, and allow it most of all to represent our philosophies, our hopes and our collective wisdom.

The challenges you face, beginning today, are great. But even greater is the opportunity to serve, in a unique way, our State and all of its citizens.

You have my prayerful support as you begin your deliberations.

Mahalo and aloha.

GOVERNOR'S MESSAGE NO. 2

EXECUTIVE CHAMBERS
Honolulu

July 7, 1978

The Honorable William W. Paty, Jr.
President 1978 Constitutional Convention of Hawaii

Dear President Paty:

This is to acknowledge your letter of July 6, 1978, in which you ask for approval to sign vouchers for the Constitutional Convention.

I am enclosing with this letter a copy of my memorandum to State Comptroller Hideo Murakami which advises him that I am delegating to you authority to expend funds appropriated by Section 7, Act 17, SSLH 1977, and so much thereof as may be necessary as authorized under Act 243, SLH 1978, to defray expenses of the Constitutional Convention. The memorandum authorizes the Comptroller to honor warrant vouchers signed by you.

With warm personal regards, I remain,

Yours very truly,

George R. Ariyoshi
Governor of Hawaii

Enclosure

MEMORANDUM

To: The Honorable Hideo Murakami, Comptroller
Department of Accounting and General Services

Subject: Authority to Sign Vouchers for the Constitutional Convention

Please be advised that I am hereby delegating to Mr. William W. Paty, Jr.,

who has been duly elected the president of the Constitutional Convention convened under the provisions of Act 17, SSLH 1977, the authority to expend funds appropriated by said Act and so much thereof as may be necessary as authorized under Act 243, SLH 1978, for defraying expenses of the Constitutional Convention.

In accordance with the above delegation of authority, warrant vouchers prepared and signed by President Paty are to be paid by your office.

GOVERNOR'S MESSAGE NO. 3

EXECUTIVE CHAMBERS
Honolulu

July 13, 1978

The Honorable William W. Paty, Jr.
President
1978 Constitutional Convention of Hawaii

Dear President Paty:

I write in response to your letter of June 28, 1978, in which you support the request of the Hawaii Public Broadcasting Authority for funds to provide television coverage of the Constitutional Convention.

I am pleased to report that I have approved the Authority's request. I am in agreement with you that publicizing this significant political milestone is a valuable public service project providing for citizen education on the Constitutional Convention. I further believe that the State should play a major role in informing and educating the public on the issues introduced before the Constitutional Convention.

I wish you and your colleagues well as you enter into your important deliberations on the Constitution of Hawaii.

With warm personal regards, I remain,

Yours very truly,

George R. Ariyoshi
Governor of Hawaii

Departmental Communications

DEPARTMENTAL COMMUNICATION NO. 1

OFFICE OF THE LIEUTENANT GOVERNOR
Honolulu

July 13, 1978

Mr. William W. Paty, Jr.
President
1978 Constitutional Convention of Hawaii

Dear President Paty:

In response to your inquiry concerning the deadline for submission of amendments to the State Constitution proposed by the Con Con, we are requesting that all of the proposals, including the required translated material, be in our office on or before September 20, 1978.

I am sure that you are aware that our state has been covered under the minority-language provisions of the Voting Rights Act Amendments of 1975, whereby we are required to provide voting assistance in the Filipino, Chinese and Japanese languages. Diamond International Corporation will be awarded the contract for being the low bidder on the ballot printing job. Because their printing plant is in California, the translated material will have to be sent to California to be typeset, then sent back here for proofing before the actual printing can commence. If errors are caught, the process is again repeated. We will begin the process for the printing of the 1978 general election ballots on the 8th of October. By analyzing the aforementioned procedure, you could readily conclude that our office will need all of the eighteen preceding days to prepare for the printing.

Since we already have the experience and the contacts in having our voting instructions and election materials translated into the required languages, we would be happy to offer assistance to your committee which will be responsible for having your proposals translated. I would in fact further recommend that we coordinate our efforts in the following two areas:

- (1) Presentation of proposals on ballot. There is limited space on our ballot cards. The proposals should be as concise as possible but detailed enough to be understandable.
- (2) Voter Education. As thoroughly as possible, our voters need to know what amendments are being proposed and to understand them before entering the voting booths. Otherwise, voter confusion may result in an abundance of spoiled ballots and/or long voting lines which occurred at many polling places in the 1968 general election.

Should you have any detailed questions on the matter, please feel free to call Morris Takushi of my elections staff at 548-2517. I'm sure that he'll also be happy to meet with you if that is your desire.

With warmest aloha, I remain,

Yours very truly,

Nelson K. Doi
Lieutenant Governor of Hawaii

DEPARTMENTAL COMMUNICATION NO. 2

OFFICE OF THE LIEUTENANT GOVERNOR
Honolulu

July 17, 1978

Mr. William W. Paty, Jr.
President
1978 Constitutional Convention of Hawaii

Dear President Paty,

I am writing to clarify any misunderstanding that may have arisen regarding the Constitutional Convention proposals and the general election ballots this November.

I am informed by my staff that the latest possible day for this office to have the proposals in hand in time to get them on the November ballots is September 20. We have, therefore, set September 20 as the absolute deadline for Con Con proposals to be physically in this office if they are to be a part of the November ballots.

This does not mean, of course, that the Con Con will have to adjourn on September 20 or earlier. It is not my intent to inhibit the Con Con in any way, merely to point out that if proposals are to be on the November ballot this office must have them by September 20. The placement of proposals on this year's ballots is the prerogative of the Con Con and we are eager to cooperate in any way, but we must have sufficient time to get the ballots printed and presented in accordance with the Voting Rights Act Amendments of 1975 (which require assistance in Filipino, Chinese and Japanese languages) and to be able to re-print in the event there are errors.

I hope this clears up any confusion. If I can be of any assistance, please let me know.

Yours very truly,

Nelson K. Doi
Lieutenant Governor of Hawaii

DEPARTMENTAL COMMUNICATION NO. 3

OFFICE OF THE LIEUTENANT GOVERNOR
Honolulu

September 20, 1978

Honorable Karen H. Iwamoto, Chairperson
Committee on Submission and Information
1978 Constitutional Convention of Hawaii

Dear Delegate Iwamoto:

For your information, I have enclosed a copy of an Attorney General's Opinion which I had received regarding the legality of ignoring a vote in Part A of the ballot containing the proposed amendments to the State Constitution should a voter vote in both Parts A and B. In light of this opinion, your committee and the convention may wish to reconsider the matter of the vote tabulation.

With warmest aloha, I remain,

Sincerely yours,

Morris T. Takushi
Director of Elections

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL

September 20, 1978

Mr. Morris T. Takushi
Director of Elections
Office of the Lieutenant Governor
Hawaii State Capitol

Dear Mr. Takushi:

This is in response to your letter dated September 18, 1978 requesting our opinion on the following questions:

"(1) Should we consider the ballot to be invalidated if a voter votes 'Yes' in Part A and 'No' for some or all of the items in Part B?"

We answer in the affirmative.

"(2) Should we consider the ballot to be invalidated if a voter votes 'No' in Part A and 'No' for some or all of the items in Part B?"

We answer in the affirmative with one exception to be discussed below.

"(3) Should we recognize only the votes in Part B, if the voter voted in both Parts A and B?"

We answer in the negative.

The foregoing questions arose as a result of a submission to the Lieutenant Governor's Office of a proposed ballot by the Submission and Information Committee of the 1978 Constitutional Convention, a copy of which is attached to your request.

Upon examination of the proposed ballot, it is clear that the choice of voting in Part A and Part B is mutually exclusive.

Relevant authorities indicate that where there is an inconsistency in the marking of the ballot, the voter's intent is not clearly manifested and the ballot must be discarded or the vote invalidated. (State v. Barber, 198 So. 49 (1940); Murray v. Waite, 94 A. 943 (1915).)

The difficulty in this case lies in the equivocal interpretation of an inconsistent vote in Parts A and B. It is our position that in the event a voter votes in Part A and Part B, his intention cannot be determined and his ballot must be invalidated.

In only one instance, where the voter marks "No" to Part A, then proceeds to mark "No" to all items in Part B will his intention be clear and unambiguous. In all other cases where both parts are marked, the ballots should be considered to be "spoiled" and invalid.

Please note that this opinion is limited to the questions posed by you in your letter of September 18, 1978. We express no opinion on the form of the ballot, the grouping and wording of proposals, or any other matter.

Very truly yours,

Maria Sousa
Deputy Attorney General

Hiromu Suzawa
(for) Valri Lei Kunimoto
Deputy Attorney General

Approved:

Ronald Y. Amemiya
Attorney General

OFFICE OF THE LIEUTENANT GOVERNOR
Honolulu

September 21, 1978

Memorandum

To: Committee on Submission and Information

From: Office of the Lieutenant Governor
Elections Division

Subject: 1978 Con Con Ballot Format

In prior discussions on ballot format, the use of more than one ballot card to accommodate a two or three part ballot was discounted because tabulation of votes would not be technically possible. The computer program currently in use is not capable of relating one ballot card to another card. Thus, once the voter drops his ballot into the ballot box there would be no way of determining whether or not he voted in more than one part. However, it is possible to utilize two or more ballot cards in the case where each ballot card submitted to the voter contains a blanket "YES" and a blanket "NO" vote covering the proposed amendments itemized on that ballot card. For example:

CARD 1

PART A	YES
Proposed Amendments 1-17	NO
PART B	
Yes EXCEPT For:	
1.	NO
2.	NO
3.	NO
17.	NO

CARD 2

PART A	YES
Proposed Ammdments 18-34	NO
PART B	
Yes EXCEPT For:	
18.	NO
19.	NO
20.	NO
34.	NO

Utilization of this method of submission raises the question of whether a two or three card ballot would confuse voters.

Miscellaneous Communications

MISCELLANEOUS COMMUNICATION NO. 1

July 3, 1978

VIA TELECOPIER

Mr. William W. Paty, Jr., President
1978 Constitutional Convention of Hawaii

Permit me by this means to extend my fond aloha to all attendants at the opening ceremony of the 1978 Constitutional Convention and my heartiest congratulations to the elected delegates.

You and the delegates are about to undertake the portentous task of reviewing and amending Hawaii's State Constitution. Yours is a responsibility weightier than that of a legislator, for you will be shaping the very foundation of all future State laws. I am confident that you will assume this responsibility with a consciousness of past history and foresight of the future consequences of your actions, for only then will you be able to say that you have truly served Hawaii and its people.

I regret that I am unable to join you personally on this historic occasion, but my thoughts are with you for a most meaningful and successful Convention.

Me ke aloha pumehana.

Sincerely,

Spark Matsunaga, U.S. Senator

MISCELLANEOUS COMMUNICATION NO. 2

July 19, 1978

The Honorable William W. Paty, Jr.
President
1978 Constitutional Convention of Hawaii

Sir:

Re: Delegate Ledward's motion relating to discretionary power
of the President to adjust budget

If a matter authorizes or contemplates the expenditure of money, the matter must be referred to the Committee on Budget, Accounts and Printing for its consideration and report under Rule 20. Delegate Ledward's motion relating to the discretionary power of the President to adjust the budget covers a subject for referral to and report by the Committee on Budget, Accounts and Printing under Rule 20. Thus, action by the Convention of such a motion would be in contravention of Rule 20.

Inasmuch as the subject of the motion was already reported on by the Committee on Budget, Accounts and Printing under Standing Committee Report No. 9 which was duly adopted by the Convention, Delegate Ledward's motion is unnecessary.

Yours very truly,

James T. Funaki, Chief Attorney
Constitutional Convention of Hawaii of 1978

Petitions

PETITION NO. 1

August 14, 1978

WHEREAS, a secret meeting of certain delegates was apparently held on Sunday, August 13, 1978, at the Fort Delicatessen; and

WHEREAS, this meeting was apparently attended by President William W. Paty, Jr., and a member of the Convention legal staff; and

WHEREAS, some questions have arisen regarding this meeting; now, therefore,

We, the undersigned, respectfully petition and request that President William W. Paty, Jr. answer the following questions:

1. What was the purpose of the meeting of certain delegates at the Fort Delicatessen on August 13, 1978?
2. Who called the meeting?
3. Who attended? Who was invited?
4. Why wasn't an invitation extended to all delegates?
5. What was discussed at the meeting?
6. Why did you, President Paty, attend?
7. What was your role in this meeting?
8. Isn't it true that your position as President of the Convention requires a position of neutrality on your part?
9. Isn't it also true that attending secret meetings compromises your position of neutrality?
10. Have any other meetings of this sort been held? (When, where and why?)
11. Have any of the Convention staff or Convention attorneys attended these meetings? If so, at whose request and for what purpose?
12. Why was this meeting held off the Convention grounds?
13. Who paid for this meeting?
14. Were Convention funds used for any of these off-Convention meetings?
15. Were any non-Convention persons present or invited to the Fort Delicatessen meeting?
16. Why was this restaurant chosen for this meeting when the Convention Hall was empty and available for such meeting on Sunday?

17. Are any of these secret meetings scheduled for the future?

Signed by Delegates Kono, Peterson, Sterling, Barnes, Odanaka, Rachel Lee, Lacy, DiBianco, Chu, Miller, Campbell, Liu, Marumoto, Blean, Hale, O'Toole, Wurdeman, Goodenow, Hanaïke and Cabral.

PETITION NO. 2

To the Delegates to Hawaii's Third Constitutional Convention:

We, who are citizens of Hawaii, earnestly petition you to include Initiative and Referendum among your proposals for amendment to our Constitution.

[signed by over 20,000 citizens of the State]

PETITION NO. 3

We, the undersigned concerned citizens of Hawaii, are against any amendment to the State of Hawaii Constitution that permits initiative, referendum and recall.

[signed by over 18,000 citizens of the State]

FINAL STATUS OF MEASURES PROPOSED

Data in this section was prepared by the Legislative Reference Bureau, with the assistance of Computer Center 3, Kalanimoku Building.

Measures referred to are set forth in the preceding Documents section of this volume.

Total Number of Measures Introduced:

Proposals	835
Committee Proposals	18
Resolutions	<u>53</u>
	906

Guide to the Use of the Index:

Every measure introduced in the Convention is accounted for in the following Index of Proposals and Resolutions.

The General Index accounts for all measures and includes request measures of general interest. Principles common to most indexes have been employed, hence the entries are indexed generically by subject--the broader category first. The subject categories or subject headings of the index reflect, in most instances, the subject categories or article headings of the present Hawaii Constitution.

The following abbreviations have been employed:

DP	Delegate Proposal
CP	Committee Proposal
R	Resolution
CR	Committee Resolution

Index of Proposals and Resolutions

A

- Access -- see Bill of Rights
- Accused, rights of -- see Bill of Rights
- Agriculture
 - Agricultural lands, preservation; acquisition of development rights -- DP 583
 - Agricultural lands, preservation of -- DP 14, 582, 585, 724, 831, CP 17
 - Agricultural policy -- DP 52
 - Agricultural lands, parks and recreational areas; preservation and conservation -- DP 489
 - Agricultural use, definition -- DP 88, 89, 90
- Native crops research center -- DP 148
- Aina Malama -- see Conservation and Development of Resources
- Air rights -- DP 485
- Appellate Court -- see Judiciary
- Apportionment, Legislative -- see Legislature
- Appropriations -- see Taxation and Finance
- Artifacts, procurement -- DP 82, 559
- Attorney General -- see Executive
- Attorney General, appreciation -- R 39
- Auditor -- see Taxation and Finance

B

- Bail -- see Bill of Rights, Bail, Excessive Punishment
- Beppu, Tadao, Appreciation -- R 49
- Bifurcated trial -- see Bill of Rights
- Bill of Rights
 - Access to courts -- DP 650
 - Access to information -- DP 73, 207
 - Access, right of -- DP 646
 - Accused, Rights of
 - Counsel, provision for any defendant -- DP 397
 - General amendments -- DP 324, 360, 361, 371
 - Indigent defendant, provision of counsel -- DP 604
 - Insanity defense prohibition -- DP 546
 - Juries; membership -- CP 15
 - Juries, representation of cross section of community -- DP 380
 - Affordable and decent housing; right to -- DP 295, 772
 - Arms, Right to Bear
 - Ownership of arms by certain individuals, prohibition -- DP 639
 - Regulation by law -- DP 602
 - Right to keep and bear arms collectively in defense of the State -- DP 78
 - Bail, Excessive Punishment
 - Bail, right of all persons; exceptions -- DP 166, 170
 - Death penalty, prohibition -- DP 376
 - Excessive bail, cruel and unusual punishment; prohibition -- DP 549
 - Bifurcated trial -- DP 247
 - Capital punishment -- DP 276
 - Citizen participation; public access -- DP 517
 - Citizens, Rights of
 - Definition of rights -- DP 454
 - Right to engage in activity not injuring property or person -- DP 461
 - Collective bargaining rights of tenants -- DP 756
 - Communication rights -- DP 400
 - Death with dignity -- R 16
 - Due Process and Equal Protection
 - Discrimination based on age or confinement in a long-term medical care facility; prohibition -- DP 463
 - Discrimination based on age or marital status; prohibition -- DP 597
 - Discrimination based on age; prohibition -- DP 220
 - Discrimination based on language; prohibition -- DP 272
 - Discrimination based on marital status; prohibition -- DP 610
 - Discrimination based on mental or physical handicap; prohibition -- DP 569
 - Discrimination based on sexual orientation; prohibition -- DP 662
 - Male-female physiological or functional differences; consideration in equal protection -- DP 255
 - Protection of all rights -- DP 164
 - Economic security; legislative protection -- DP 167
 - Economic security, right to; government as last resort employers -- DP 12
 - Elderly, right of -- DP 526
 - Enjoyment of home, persons over age 60; protection -- DP 515
 - Fair hearing, right to -- DP 556
 - Freedom of Religion, Speech, Press, Assembly and Petition
 - Freedom of the Press -- R 51
 - Discharge from employment for exercise of freedom of speech; prohibition -- DP 17
 - Press, exclusion -- DP 691
 - Repeal -- DP 400
 - Gambling legalization; prohibition -- DP 822
 - Habeas corpus; suspension in violent overthrow of government -- DP 435
 - Indictment, Double Jeopardy, Self-Incrimination
 - Grand jury, now convened -- DP 142
 - Grand jury investigations; preliminary hearing -- DP 498
 - Grand jury system, abolition -- DP 85
 - Grand jury system, retention -- R 6
 - Information and preliminary hearing -- DP 427
 - Preliminary hearing, alternative to grand jury -- DP 111
 - Preliminary hearing, rights of accused -- DP 142
 - Privacy laws, validity -- DP 253
 - Self-incrimination, rights of accused -- DP 140, 168
 - Jury Service
 - Disqualification because of occupation; prohibition -- DP 378
 - Disqualification because of race, religion, or ancestry; prohibition -- DP 598
 - Leasehold interest conversion; equity and interest value -- DP 763
 - Man, Rights of
 - Healthful environment -- DP 294, 758
 - Protection of life and property -- DP 301
 - Public safety -- DP 151
 - Right to a cultural heritage -- DP 779
 - Right to economic security -- DP 76

- Right to make childbearing decisions -- DP 601
 - Right to minimum standard of living -- DP 684
 - Mandatory retirement, prohibition -- DP 13
 - Marijuana
 - Decriminalization -- DP 652
 - Possession, cultivation and use -- DP 387, 506
 - Media; rights and responsibilities -- DP 691
 - Medical care, right to -- DP 681
 - Militia, exemption of women from compulsory service -- DP 254
 - National traditions, preservation -- DP 117
 - News sources, protection -- DP 402
 - News sources of reporters, right to know -- DP 610
 - Privacy, right to -- DP 99, 460, CP 15
 - Public or financial assistance, right to -- DP 819
 - Public service, right to continuity -- DP 333
 - Quieting title -- DP 81, CP 12
 - Residential leases of real property -- DP 731
 - Right to die -- DP 491
 - Sunshine and access principles; codification -- R 23
 - Traditional Hawaiian rights of access -- DP 100
 - Trial by jury, right -- DP 520, 547
 - Work, right to -- DP 436, 590, 821
 - Bills -- see Legislature
 - Blanket Primary Elections -- see Elections and Suffrage
 - Boards and Commissions -- see Executive
 - Bonds -- see Taxation and Finance
 - Boundaries
 - Archipelagic waters inclusion -- DP 594, 661, CP 2
 - Midway Islands, inclusion -- DP 211
 - Redefinition of boundaries -- DP 8, 531
 - Budget, constitutional convention; amendment -- R 8
 - Budget Review Committee -- see Taxation and Finance
- C
- Campaign Expenses -- see Elections and Suffrage
 - Capital Improvement Projects -- see Taxation and Finance
 - Capital Punishment -- see Bill of Rights
 - Central Services Division, appreciation -- R 36
 - Child care centers, establishment -- DP 464
 - Chun, Joe; appreciation -- R 44
 - Circuit Courts -- see Judiciary
 - Citizen Participation -- see Bill of Rights
 - Civil Defense, construction of shelters -- DP 584
 - Civil Service
 - Equal employment provisions -- DP 648
 - Hiring process -- DP 803
 - Merit promotions -- DP 363
 - Repeal -- DP 174
 - Collective Bargaining
 - Public Employees
 - Chief negotiator for employer, legislator -- DP 216
 - Civil service provisions, inapplicability to employees covered by bargaining agreement -- DP 443
 - Collective bargaining negotiations -- DP 131
 - Higher education faculty, academic staff; repeal of right to strike -- DP 448
 - Part-time/temporary employees; equal rights -- DP 191
 - Police officers/firefighters; settlement of disputes, right to strike prohibited -- DP 384
 - Right to strike, prohibition -- DP 334, 449
 - Commonwealth status; submittal of question -- DP 494
 - Community character/local lifestyles, preservation -- DP 825
 - Community Colleges
 - Board of Governors -- DP 16
 - Establishment -- DP 528
 - State system -- DP 16, 764
 - Conference Committees -- see Legislature
 - Conflicts of interest; public employee delegates -- R 9
 - Conservation and Development of Resources
 - Aina malama -- DP 411, 416
 - Conservation Districts, authorized uses -- DP 640
 - Conservation lands or historic sites; destruction by armed forces prohibited -- DP 221
 - Fisheries, condemnation -- DP 462
 - Historic/cultural conservation; public policy -- DP 482, 808
 - Historic sites, preservation -- DP 552
 - Land and Natural Resources, Board of; composition -- DP 335
 - Land speculation limitation -- DP 182
 - Marine resources in channels between islands; State control -- DP 483, CP 17
 - Marine resources, ownership and management -- DP 690
 - Mineral rights -- DP 315
 - Native ecotypes, preservation -- DP 743
 - Native Hawaiians, resources held in trust -- DP 673
 - Natural beauty, historic/cultural objectives and places sightliness, and physical order; conservation and development -- DP 7, 273, 704
 - Natural energy, energy resources -- DP 113
 - Natural Resources
 - Conservation, development and use; enforcement -- DP 171
 - Management by boards or commissions -- DP 808
 - Nonrenewable resources, controlled use -- DP 768
 - Priorities for use -- DP 230
 - Public natural resources, trust -- DP 657
 - Public policy; historical/cultural preservation, growth management -- DP 658
 - Regulation -- DP 540
 - Utilization -- DP 37
 - Ocean and marine resources, State management and control -- DP 48
 - Public policy statement -- DP 757
 - Recreational areas, public access -- DP 199
 - Resources; development and utilization consistent with conservation -- DP 518
 - Resources; state control -- DP 740
 - Sea resources, public rights -- DP 465
 - Shoreline access -- DP 47
 - State treasures; designation for conservation purposes -- DP 721
 - Constitutional Convention
 - Budget, adoption -- CR 8
 - Compensation limitations -- DP 106
 - Conflicts of interest; public employee delegates -- R 9
 - Constitution, nondiscriminatory language -- R 13
 - Constitution, phraseology -- R 22
 - Constitution, plain wording -- R 3
 - Constitution, technical changes -- R 29
 - Constitutional Convention "Question"
 - Cost inclusion -- DP 251
 - Preliminary plan and cost inclusion -- DP 802
 - Submittal required -- DP 362
 - Submittal to electorate every 15 years -- DP 325
 - Submittal not later than 10th year -- DP 471
 - Submittal to electorate every 20 years -- DP 269, 330, 604
 - Submittal to electorate every 25 years -- DP 102
 - Constitutional Convention staff; appreciation -- R 41
 - Convening at State Capitol or other place -- DP 6
 - Convening not less than 5 months prior to next general election -- DP 481, CP 4
 - Delegates salary; subsidies to supplement salary to amount equal to salary before election -- DP 759

Durational residency requirements -- DP 711
 Elected officials, disqualification -- DP 359
 Facilities and equipment -- CP 4
 Future constitutional conventions; 1978 Convention as basis -- DP 41
 Legislators, disqualification -- DP 292
 Lieutenant governor, administrator; organization -- DP 185, 487
 Lobbyists, guidelines -- DP 109
 Nepotism, prohibition -- DP 94
 Niihau, inclusion in Waimea district -- DP 781
 Opening; other than in general election years -- DP 407
 Pages; appreciation -- R 34, 46
 Pre-convention committees -- DP 439, 444
 Rule 15, amendment -- R 15
 Rules, adoption -- R 1
 Rules, amendment -- R 11, 20, 21, 31

Submission and information, guidelines -- R 32
 Submission of amendments -- R 30
 Sunday meeting prohibition -- R 12
 Sunshine provisions -- DP 434
 Constitutional Revision Commission -- DP 383, 486, 776
 Contracting for public services -- DP 733
 Corporate Dividends -- see Taxation and Finance
 Council of Churches, appreciation -- R 48
 Council on Revenues and Expenditures -- see Taxation and Finance
 Counties -- see Local Government
 County Prosecutors -- see Local Government
 Cultural resources, promotion and support -- DP 401, CP 5
 Culture and the Arts, State Foundation on; appreciation -- R 50

D

Death Penalty -- see Bill of Rights
 Death with Dignity -- see Bill of Rights
 Debt Limitations -- see Taxation and Finance
 Departments -- see Executive

Deposits -- see Taxation and Finance
 Discrimination -- see Bill of Rights
 Disqualification from public office or employment; persons convicted of act or attempt to overthrow State or the United States -- DP 173

E

Education

Alternative education -- DP 202
 Citizen participation -- DP 332
 Colleges, community colleges, technical schools; establishment -- DP 528
 Discrimination based on sex, prohibition -- DP 184
 Discrimination based on national origin, sex, age, or handicap; prohibition -- DP 717
 District School Advisory Councils -- DP 386, 656
 Education, Board of
 Abolition -- DP 298, 329
 Advisory Board of Education -- DP 386, 538
 Appointed Board -- DP 311
 Appointed member -- DP 477
 Apportionment -- DP 32, 132, 162, 265, 375, 488, 594, 752
 County representation requirement -- DP 210, 237, 432, 527
 District residency requirement -- DP 680
 Eight elected members from school board districts -- DP 477
 Election at-large; 13-member Board -- DP 55
 Local boards of education -- DP 616
 Molokai and Lanai representation -- DP 165, 580
 Nonpartisan election -- DP 291, CP 6
 Regional Boards of Education -- DP 541
 School Advisory Council chairperson members -- DP 256
 School district representation -- DP 153, 217, 680
 Staff -- DP 172
 Terms limit; vacancies -- DP 527
 Education, Board of; Powers
 Amendments -- CP 6
 Budget submittal -- DP 219, 431, 509, 535
 Budget; minimum percentage of State budget -- DP 227
 Law-making power -- DP 795
 Overriding of gubernatorial disapproval of Board action -- DP 561
 Policies; exemption from legislative review or change -- DP 133
 Rules and regulation; adoption without gubernatorial approval -- DP 3
 Taxing power -- DP 364
 Educational services, equal opportunity -- DP 134
 Free choice of public schools -- DP 200

Free public schools -- DP 208
 Hawaiian education program -- DP 645
 Hawaiian Homes lessees, educational/cultural programs -- DP 328
 Hawaiian studies -- DP 331, CP 6
 Native Hawaiians, educational needs -- DP 284
 Private education, funding -- DP 287, 530, 568
 Public education coordinator -- DP 18
 Public education; goals and priorities -- DP 775
 Public Libraries, Department of -- DP 61, 835
 Public libraries problems; independent state-wide system -- R 14
 Regents, Board of; Powers
 Amendments -- CP 6
 County boards of regents -- DP 279
 Elected Board -- DP 5, 179
 Legislative nomination and appointment of members -- DP 58
 Membership selection -- DP 589
 Membership; full-time student and tenured faculty members -- DP 135
 Rules and regulations, adoption without gubernatorial approval -- DP 3
 School Advisory Councils -- DP 201, 256, 282
 School facilities, maximum utilization -- DP 579
 School Security -- DP 155
 Segregation, prohibition -- DP 188
 Segregation based on sex, prohibition -- DP 75
 Student loan and scholarship programs, state matching funds -- DP 304
 Superintendent of Education, appointment -- DP 298, 329, 476, 538
 Vocational Education, Board of -- DP 296
 Elderly
 Assistance -- DP 144
 Care -- DP 466
 Economic security -- DP 453, CP 5
 Enjoyment of home -- DP 515
 Old age assistance, pension fund -- DP 410, 642
 Elections and Suffrage
 Ballots; "None of the above are acceptable" provision -- DP 430
 Campaign Contributions and Expenditures
 Contributions, limitation -- DP 339, 351, CP 16
 Full disclosure -- DP 388, 573
 Disqualifications
 Certain elected public officials -- DP 40, 377
 Unsound mind -- DP 671
 Election campaigns, public financing -- DP 342, 479, 647, CP 16

- Election process, guidelines -- DP 609
 House of Representatives, election in odd-numbered years -- DP 63
 Multi-lingual requirements, Hawaii exemption -- R 33
 Newspaper supplement on candidates -- DP 660
 Primary Election
 Open primary -- DP 4, 92, 97, 163, 403, 415, 560, 705, 833
 When held -- DP 39, 46, 86, 163, 413, 609, 611, CP 16
 Qualification for office -- DP 617, CP 16
 Public office terms, limitation -- DP 176
 Registration, Voting
 Choice of political affiliation, voters' privacy rights -- DP 609
 Election day registration -- DP 357
 Mail registration -- DP 357
 Party selection after candidate filing deadline -- DP 787
 Voter education and information -- DP 274
 Voter rights -- DP 120
 Voting age, 16 years -- DP 519
 Electronic communication/information network -- DP 423
 Employees' Retirement System
 Benefits; equal application, exceptions -- DP 103
 Elected and appointed officers benefits; equitability -- R 18
 Repeal -- DP 175
 Energy
 Energy policy -- DP 51
 Energy resources agency -- DP 497
 Energy resources; conservation and development -- DP 587
 Energy resources State property -- DP 421
 Natural energy resources -- DP 113, CP 17
 Nuclear power plants, prohibition -- DP 587
 Nuclear power projects, prohibition -- DP 832
 Nuclear power referendum -- DP 570
 Solar access -- DP 47
 Environment
 Environmental Protection, Department of -- DP 572
 Environmental Protection Policy -- DP 53, 534
 Environmental rights -- DP 30
 Healthful environment, public policy -- DP 45, 536
 Healthful environment, right to sue -- DP 381
 Equal rights amendment, support -- R 4
 Ethics, Code of
 Constitutional Convention members -- DP 31, 94, 116, 404, CP 1
 Ethics code guidelines; separate ethics commissions -- CP 1
 Ethics Commission; administration, duties -- DP 539, 641
 Ethics opinions, publication -- DP 318
 Fiduciary duty of officers and employees -- DP 183
 General standards of conduct -- DP 418
 Justices and justices -- DP 492, 500, 734
 Legislators, financial conflict of interest -- DP 500
 Lobbyists -- DP 734
 News media -- DP 551
 Requirements -- DP 116, 823
 Excise tax; food and medicine exemption -- DP 278
 Executive
 Attorney general
 Appointed attorney general -- DP 577
 Attorney General Commission -- DP 713
 Elected attorney general -- DP 26, 56, 62, 114, 127, 154, 596
 Random selection -- DP 635
 Boards and commissions
 Appointments, expiration of terms -- DP 473
 Appointments, representative of population -- DP 165
 Merit nomination commission -- DP 467
 Selection commission -- DP 710
 Executive and Administrative Offices and Departments
 Agencies, departments, boards, and commissions; grouping into five offices -- DP 575
 Department heads, expiration of term -- DP 26, 114
 Department heads, members of legislature -- DP 830
 Human rights, department of -- DP 192
 Principal departments, ten maximum -- DP 389
 Principal departments, twelve maximum -- DP 659
 Recall of department heads -- DP 391
 Residency/citizenship requirement for appointed officers, repeal -- DP 428
 Residency; three-year requirement for appointed officers -- DP 495
 Fiscal officer, election -- DP 510
 Governor
 Cabinet -- DP 766
 Consecutive terms, limitation -- DP 41, 42, 115, 235, 238, 562
 Consecutive terms, prohibition -- DP 765
 Election by legislature -- DP 830
 Limitation of terms -- DP 104, 119, CP 3
 Native-born eligibility -- DP 683
 Senate president, succession to governor -- DP 319, 533
 Lieutenant Governor
 Abolition -- DP 319, 345, 533
 Appointed lieutenant governor -- DP 249
 Appointed secretary of state to replace lieutenant governor -- DP 223
 Boards and commissions, administration -- DP 468
 Chief environmental and conservation officer -- DP 374
 Independent election -- DP 419
 Limitation of consecutive terms -- DP 42, 115, 238, CP 3
 Non-partisan election -- DP 54, 157
 Recall -- DP 765
 Repeives, commutations, pardons; lieutenant governor function -- DP 241
 Secretary of state to replace lieutenant governor -- DP 223, 563
 Senate presiding officer -- DP 65
 Ombudsman; election, powers, report -- DP 708
 Publications by chief legal officer -- DP 317
 Special public authorities -- DP 737

F

- Fair Hearing -- see Bill of Rights
 Federal lands, return and use -- DP 112
 Fiscal Impact Statements -- see Taxation and Finance

- Fiscal Officer -- see Executive
 Fisheries -- see Conservation and Resources
 Flag; state seal on white field -- DP 399

G

- Gambling, prohibition -- DP 337
 Gender -- DP 438
 Governor -- see Executive
 Grand Jury -- See Bill of Rights

- Growth
 Limitation of dwelling units and resort units -- DP 811
 Management -- DP 34, CP 5

H

Habeas corpus -- see Bill of Rights
 Handicapped
 Education -- DP 633
 Emotionally handicapped, care -- DP 150
 Seriously handicapped persons, care -- DP 628
 Hawaiian Affairs
 Available lands, public trust -- CP 13
 Hawaiian Affairs, Commission on -- DP 405
 Hawaiian Affairs, Office of -- CP 13
 Hawaiian Education Program -- CP 12
 Hawaiian king or queen -- DP 493
 Hawaiian Native Claims Settlement Study Commission -- R 24
 Native Hawaiian definition -- CP 13
 Tradition and customary rights -- CP 12
 Hawaiian artifacts -- DP 82, 559
 Hawaiian Home Lands
 Amendments -- CP 11
 Beneficiaries, compensation for litigation costs -- DP 283
 Departmental rules -- DP 108
 Elected commission -- DP 233, 478
 Eminent domain over private lands -- DP 805
 Funding, bond sales -- DP 806
 General plan -- DP 665
 Hawaiian Homes Commission Act
 Available lands, exchange for private lands -- DP 310
 Districts -- DP 615
 Land exchange with government -- DP 804
 Leasing priorities -- DP 145, 784, 785
 Legislative funding -- DP 308
 Lessee, minimum age 18 years -- DP 762
 Native Hawaiian lessees; educational/cultural programs -- DP 328
 Native Hawaiian rehabilitation fund -- DP 392
 Public trust, establishment -- DP 674
 Public uses of Hawaiian Home Lands -- DP 245

Rehabilitation projects, definition -- DP 308
 Water, control -- DP 385
 Hawaiian language -- DP 672, CP 12
 Hawaiian Telephone Company, appreciation -- R 43
 Health
 Adequate medical care -- DP 15
 Definition -- DP 555
 Health and welfare policy statement -- DP 258
 Health care costs -- R 28
 Health care services -- DP 625
 Healthful environment -- DP 33, 761
 Human organ registry -- DP 651
 Mandatory comprehensive health plan -- DP 812
 Mental and physical health problems -- DP 554
 Preventative health -- DP 347
 Public health, state duty -- DP 638
 Public hospitals, county administration -- DP 258
 Right to adequate medical care -- DP 818
 Highways
 County highways -- DP 17
 Privately built highways, government maintenance and repair -- DP 736
 Historic Preservation
 Hawaiian artifacts -- DP 82, 559
 Historic place destruction; penalty -- DP 544
 Historic sites, destruction by armed forces; prohibition -- DP 221
 Historic sites, preservation -- DP 552
 Hotel Room Tax -- see Local Government
 Housing
 Low income housing -- DP 213
 Right to affordable and decent housing -- DP 295, 772
 Human Organ Registry -- see Health
 Human Rights -- see Bill of Rights
 Human Rights, Department of -- see Executive

I

Ihara, Teruo; Facilities Committee Chairman, thanks and congratulations -- R 2
 Income Tax -- see Taxation and Finance
 Information Access -- see Bill of Rights
 Initiative, Referendum, and Recall
 Indirect initiative -- DP 619
 Initiative -- DP 95, 96, 122, 123, 149, 242, 248, 326, 327, 398, 426, 816, 827, 828
 Initiative, prohibition -- DP 834

Recall -- DP 137, 261, 262, 281, 420, 747, 810
 Recall, justices and judges -- DP 141
 Referendum -- DP 138, 827
 Referendum, prohibition -- DP 834
 Insanity defense, abolishment -- R 25
 Intermediate Appellate Court -- see Judiciary
 Item veto -- see Legislature

J

Judges and Justices -- see Judiciary
 Judiciary
 Circuit Court Division of Appeals -- DP 669
 Grand juries, independent counsel -- DP 125, 424, CP 15
 Judicial commission -- DP 57, 80, 98, 128, 129, 139, 234, 239, 240, 348, 545
 Judiciary Power
 District courts -- DP 289, 496
 District courts, neighborhood mediation boards, and adjudication bodies -- DP 143
 Intermediate appellate court -- DP 83, 105, 126, 289, 496, 777, CP 10
 Justices and Judges
 Additional Qualification -- DP 425
 Age and residency qualifications -- DP 452
 Discipline -- CP 10
 Disqualification procedure -- DP 229
 District court judges, retirement for incapacity and removal -- DP 74
 Election of judges -- DP 66
 Election of justices and judges -- DP 502
 Financial disclosure requirement -- DP 786
 Gubernatorial appointment, Judicial

Confirmation Commission -- DP 290
 Judicial Advisory Commission -- DP 725
 Judicial Selection Commission -- CP 10
 Lay justices and judges -- DP 268
 Merit selection -- DP 159
 Merit system -- DP 689
 Nonpartisan election -- DP 440, 576
 Qualifications -- CP 10
 Recall -- DP 141
 Retirement for incapacity and removal, repeal -- DP 98
 Salary Commission -- CP 10
 Terms, 4 years -- DP 101
 Vacancies, consideration of present justices and judges as replacements -- DP 548
 Reorganization of the judicial system -- DP 110, 180
 Supreme Court
 Decision deadlines -- DP 668
 Organization; panels; procedures -- DP 286
 Time limits on matters before the Court -- DP 670
 Jury Service -- see Bill of rights
 Juveniles, criminal prosecution -- DP 773

K

Kahoolawe, return and use -- DP 341, R 17
Kalawao County -- see Local Government

Kapiolani Community College, appreciation -- R 44
Kuleana lands, tax exemption -- DP 644

L

Land

Foreign landowners, limitation -- DP 313
Land and Natural Resources, Board of; composition -- DP 335

Land Banking -- see Public Lands

Land title actions -- DP 10

Land Use

County powers -- DP 366

Land Use Commission

Appointment by legislative committees -- DP 59

Establishment, authority -- DP 336, 588, 809

Languages; Hawaiian and English -- DP 187, CP 12

Law of the Splintered Paddle -- DP 214, CP 5

League of Women Voters, appreciation -- R 42

Lee, Harry; appreciation -- R 53

Legislative Reference Bureau, appreciation -- R 45

Legislature

Bicameral legislature, retention -- R 7

Bills, Passage of

Bill cut-off; recess -- DP 285

Carry-over provision, repeal -- DP 622

Conference committees; limitation of scope -- DP 71, 130, 459

Third reading deadlines -- DP 321

Third reading, hearing requirement -- DP 417

Time between readings -- DP 22, 146

Title changes, prohibition -- DP 591

Disqualification of Members

Disqualification for constitutional convention -- DP 292

Outside employment, prohibition -- DP 323

District recess, district public hearings -- DP 621

Education decision making -- DP 619

Election of Members

Consecutive terms, limitation -- DP 42, 562

Post election/pre-session organization -- DP 196

Total years of service, limitation -- DP 79

House of Representatives

Four-year, staggered terms -- DP 60

Kauai; three representative districts -- DP 631

Single-member districts -- DP 280, 455

Legislation applicable to less than all counties, refrain -- R 19

Legislative fiscal management -- DP 796

Legislative information office -- DP 161

Legislative Power

Referendum -- DP 138

Special or local acts; prohibition where general act applicable -- DP 193

Legislative Salary, Commission on

Appointment, implementation of plan -- DP 147, 243, CP 8

Appointment, 1984 and every 10 years -- DP 382

Commission plan, approval; membership -- DP 565

Commission procedures, enactment of recommendations; membership -- DP 446

Legislative study commission -- DP 730

Legislature, full-time staff -- DP 797

Ombudsman -- DP 643, 801

Ombudsman commission -- DP 406

Organization; Discipline; Rules; Procedure

Bill cut-off; recess -- DP 285

Leadership positions; limit of terms -- DP 322

Open meetings -- DP 186, 195, 212, 417, 513

Proportional representation of all members on

committees; organization -- DP 390

Public hearings, scheduling -- DP 624

Rules committee -- DP 266

Single legislative rules -- DP 297

Standing committees; limitation of number; referrals -- DP 236

Privileges of members; informing on criminal activity -- DP 503

Qualification of Members

Constitutional convention delegates; disqualification in election of proposal ratification -- DP 263

One year residency -- DP 592

Reapportionment

Amendments -- CP 8

Congressional districts -- DP 28

Kauai; 3 representative districts -- DP 631

Molokai, Lanai, Kahoolawe; fifth basic island unit -- DP 472

Reapportionment, every 6th year -- DP 275

Reapportionment, every 12th year -- DP 190, 305

Single-member house districts -- DP 280, 455

Single-member senate districts -- DP 373, 455

Staggered house terms, holdover representatives -- DP 60, 91, 408

Staggered senate terms, holdover senators -- DP 27, 70, 91, 267, 408, 532, CP 8

Two-member representative districts -- DP 437

Revenue estimates, basis for appropriation bill -- DP 789

Rules and regulations, review -- DP 395

Salary; Allowances

Amendment -- DP 323

Compensation for time served in session -- DP 558

Salary, \$18,000 -- DP 382, 445

Salary, half the salary of congressional delegation member -- DP 288

Salary plan, inclusion of other benefits -- DP 511

Salary, percentage of congressional delegation member -- DP 271

Salary, \$17,000, increases based on Consumer Price Index -- DP 346

Salary, \$12,000 with 4 percent annual increase -- DP 542

Salary, \$24,000 -- DP 446

Legislators' expenses; payment on vouchered, expense-incurred basis -- DP 623

Sessions

Biennial sessions -- DP 226

Eighty-day session -- DP 146

Five-day recess -- DP 252

Full-time legislature -- DP -68, 323

Legislative deadlines -- DP 25

Open meetings -- DP 186, 195, 212, CP 8

Opening day, first Wednesday in February -- DP 306

Recess -- CP 8

Seventy-five day sessions; recesses -- DP 321

Sessions; 15 days, 20 days, 25 days with 10-day recesses -- DP 792

Special sessions; unlimited scope -- DP 396

Two 30-day sessions with 14-day recess -- DP 350

Senate, single-member districts -- DP 372, 455

Statutes, annual collection -- DP 788

Unicameral legislature -- DP 158, 177, 181, 412

Vacancies; filling by next highest vote-getter -- DP 340

Veto

Education funds; veto prohibition -- DP 69
 Item veto, repeal -- DP 567
 Libraries -- see Education
 Lieutenant Governor -- see Executive
 Lieutenant Governor, appreciation -- R 47
 Local Government
 Air rights, subsurface rights; authority -- DP 485
 Charter
 Amendments; approval -- DP 366
 Charter Review commission -- DP 352
 Constitutional provisions, repeal -- DP 457
 County councils; nonpartisan election -- DP 372
 Elective offices, term limitation -- DP 42
 Executive offices, term limitation -- DP 115
 General laws, application to all counties -- DP 246
 Highways and parks -- DP 17
 Land use, county powers -- DP 366, 620
 Mandated programs, transfer -- CP 14
 Mayors
 Terms coinciding with term of governor -- DP 379
 Terms, limitation -- DP 118
 Neighborhoods and neighborhood boards -- DP 1, 2
 Political Subdivisions; Creation, Powers
 Appointed managers; organization as extensions of state government -- DP 653
 Charter counties -- DP 194, 264
 Counties, boundaries -- DP 293

Counties; creation with population of not more than 200,000 -- DP 687
 Counties, creation; petition by voters -- DP 606
 Kalawao, County of -- DP 692
 Rights of counties -- DP 654
 Self-government; powers and authority -- DP 442, 537, 578
 Self-government; boundaries -- DP 366
 Prosecuting attorneys, election -- DP 62, 124
 Public transportation function -- DP 484
 Referendum; Aina Malama, land use, zoning and local issues -- DP 501
 State revenue sharing -- DP 369
 State-wide Laws
 Laws increasing or decreasing revenues; county approval -- DP 366
 Redundant functions and programs, prohibition -- DP 475
 Taxation and Finance
 Apportionment of revenues, distribution -- DP 655
 Excise tax; county authority -- DP 514
 Hotel room tax; county powers -- DP 277
 Real property tax; county powers -- DP 293, 307, 366, 514, CP 7
 Real property transactions, conveyance tax -- DP 780
 Taxing power; minimum grants-in-aid -- DP 782

M

Marijuana -- see Bill of Rights
 Marine Resources -- see Conservation and Development of Resources
 Mass Transit -- see Local Government
 Mayors -- see Local Government

Medical Care -- see Health
 Merit Nomination Commission -- see Judiciary
 Motto: "Ua mau ke ea o ka aina i ka pono" -- DP 422, CP 2

N

National Constitutional Convention -- DP 499, R 27
 Native Hawaiian Bill of Rights -- DP 303
 Native Hawaiians, admission fees -- DP 550
 Natural Resources -- see Conservation and Development of Resources
 Nee, Richard; appreciation -- R 53
 Neighborhood Boards -- see Local Government

News media, appreciation -- R 37
 Newspaper editors and publishers; financial disclosure statements -- R 10
 Nondiscriminatory nouns, pronouns and adjectives -- CP 17
 Nuclear Power -- see Energy

O

Ocean and Marine Resources -- see Conservation and Development of Resources
 Ombudsman -- see Legislature

Open Primary -- see Elections and Suffrage
 Organ Registry -- see Health

P

Parks -- see Local Government
 Party Selection -- see Elections and Suffrage
 Plain language requirement -- DP 314, CP 4
 Police, State force -- DP 225
 Porteus, Hebden; appreciation -- R 49
 Post-audits -- see Taxation and Finance
 Preamble -- DP 349, 456, 521, 553, 664, 702, 817, CP 4
 Pre-auditor -- see Taxation and Finance
 Preliminary Hearing -- see Bill of Rights
 Presidential Preference Primary -- see Elections and Suffrage
 Press, regulation -- DP 618
 Price regulation laws, prohibition -- DP 629, 815
 Primary Elections -- see Elections and Suffrage
 Privacy -- see Bill of Rights
 Proposals, introduction deadline -- R 5
 Public Assistance
 Elderly, assistance -- DP 144
 Eligibility -- DP 38, 205 814

Medical assistance, social services -- CP 5
 State duty -- DP 637, 820
 Public Lands
 Aina Malama -- DP 411, 416
 Conservation lands or historic sites, destruction by armed forces; prohibition -- DP 221
 Federal lands, return and use -- DP 112
 Kahoolawe; return and use -- DP 341
 Kuleana lands; tax exemption -- DP 644
 Land banking -- DP 490, CP 17
 Private land; acquisition, tax reduction -- DP 525
 Public lands, use for cultural/recreational purposes -- DP 599
 Public lands, use for recreation, agriculture and conservation -- DP 49
 Shoreline access -- DP 228
 State/county lands, disposition by lease only -- DP 414
 Public Officers and Employees

Elected officials; elected public employee, leave without pay -- DP 738
 Equal employment guidelines -- DP 648
 Person convicted of conspiracy; disqualified from office or employment -- DP 173, CP 4
 Personnel position count increase, limitations

-- DP 607
 Public employment performance -- DP 508
 Terms of public office, limitation -- DP 176
 Public sightliness and good order -- DP 707
 Public utilities, state ownership -- DP 663
 Public Works Division, appreciation -- R 36

Q

Quieting Title -- see Bill of Rights

R

Radioactive wastes; regulation and control -- R 35
 Real Property Tax -- see Taxation and Finance and Local Government
 Reapportionment -- see Legislature
 Recall -- see Initiative, Referendum and Recall
 Referendum -- See Initiative, Referendum and Recall
 Repeat offenders, sentencing -- DP 774
 Resources -- see Conservation and Development of Resources

Retirement System -- see Employees' Retirement System
 Revenues and Expenditures -- see Taxation and Finance
 Revenue Sharing -- see Local Government
 Revision and Amendment
 Articles I and II; no revisions or amendments to reduce rights -- DP 778
 Constitutional Revision Commission -- DP 383, 486, 776

S

Schools -- see Education
 Search and Seizure -- see Bill of Rights
 Secretary of State -- see Executive
 Senate -- see Legislature
 Senate President, appreciation -- R 38
 Speaker of the House, appreciation -- R 38
 State Government
 Commonwealth status; submittal of question -- DP 494
 Electronic communication/information network -- DP 423
 Plain language, government writing require-

ment -- DP 314
 Programs promoting mutual understanding among Pacific peoples -- DP 300
 Rules of agencies; legislative approval -- DP 447
 Small business, commission on -- DP 744
 State police force -- DP 225
 Statutes -- see Legislature
 Subsurface Rights -- see Local Government
 Sunshine Provisions -- see Bill of Rights and Legislature
 Supreme Court -- see Judiciary

T

Taxation and Finance
 Appropriations
 Growth rate limits -- DP 742
 Restrictions -- DP 244, 259
 Appropriations for Private Purposes Prohibited
 Legislative determination -- DP 771
 Post-secondary private education; public funding -- DP 530
 Public purpose; defraying necessary expenses of government -- DP 749
 Auditor
 Businesses created by statute, audit and review of records -- DP 626
 Post-audits -- DP 429
 Pre-auditor, post-auditor; establishment -- DP 566
 Resources utilization; post-audits to determine efficiency -- DP 543
 Bonds; Debt Limitations
 Bond debt limit -- DP 312, 470, 798
 Bond issuance, limitation -- DP 20, CP 14
 Debt ceiling, exclusion of certain revenue bonds -- DP 43, 769
 Debt service limit, 12 percent -- DP 250
 Funded debt limit of counties -- DP 204
 General obligation bond debt service limit -- DP 370, DP 666
 General obligation bonds; definition, reimbursement -- DP 748
 Real property assessed values -- DP 505
 Special purpose revenue bonds -- CP 14
 Total indebtedness, determination -- DP 441
 Budget
 Amendments -- CP 14
 Annual budget -- DP 450, 469, 522, 608
 Budget Review Committee -- DP 394

Education budget, direct submission to legislature -- DP 793
 Executive and judicial budget; submission procedure -- DP 614
 Fiscal impact statements -- DP 353
 Passage of budget, 15 days prior to legislative adjournment -- DP 790
 Capital Improvements
 Project readjustment fund ceiling -- DP 799
 Referenda -- DP 667
 Corporate dividends, tax deduction -- DP 829
 Council on Revenues and Expenditures -- DP 84, 224
 Expenditure Controls
 Appropriated funds; transfer or expenditure for other purposes, prohibition -- DP 67
 Capital expenditures, lapsing -- DP 394
 Expenditure ceiling/controls -- CP 14
 Federal funds, expenditure for purposes received -- DP 72
 Federal funds/grants-in-aid; legislative review and approval -- DP 393
 Funds; transfer or freezing of allocations, legislative approval -- DP 316
 Laws increasing expenditures or decreasing revenues of counties; prohibition unless State shares costs -- DP 260
 Reduction of expenditures -- DP 751
 Restriction of funds, prohibition; regulated release of funds -- DP 791
 Salaries or benefits for employees providing services that can be reasonably obtained from the private sector, prohibition -- DP 732
 State spending limit -- DP 365, 368
 Three year lapsing provision -- CP 14

- Excess Revenues, disposition -- CP 14
 Fiscal notes -- DP 367
 Food/prescription drugs; excise tax prohibition -- DP 409
 Grants-in-aid from general fund revenues -- DP 800
 Income Tax
 Conformance of state and federal laws -- DP 23, 358, 755, CP 14
 Refund of general fund surplus -- DP 178
 Lapsing of bonds and appropriations -- DP 24, 354
 Legislative and administrative accountability -- DP 613
 Legislative Appropriations; Procedures
 Annual appropriations bill, limitations -- DP 469
 Authorized appropriations equal to anticipated revenues -- DP 750
 Capital expenditures; priorities established by neighborhood boards -- DP 2
 Expenditures, limit -- DP 767
 General fund expenditure ceiling -- DP 21
 Operating/capital appropriations in even-numbered years; maximum -- DP 344
 Public television coverage, funds -- DP 299
 Supplemental appropriations bill, passage by two-thirds vote of each house -- DP 343
 Persons on fixed income; tax limits -- DP 630
 Pre-auditor, post-auditor -- DP 566
 Private or sectarian institutional tax deduction -- DP 480
 Public contract review boards -- DP 338
 Public funds, equitable distribution among financial institutions -- R 26
 Public rights-of-way and utility easements; real property tax exemption -- DP 504
 Refund of excess revenues -- DP 755
 Revenues, Council on -- CP 14
 Special tax refunds -- DP 649
 State money, deposit requirements -- DP 770
 Tax collections and expenditures, publication -- DP 605
 Tax limitation -- DP 474, 557
 Tax Review Commission -- DP 355, CP 14
 Transfer of appropriations, legislative approval -- DP 571
 Voters tax credit -- DP 218
 Tenants, Collective Bargaining -- see Bill of Rights
 Transportation, Department of; appreciation -- R 40
 Trial by Jury -- see Bill of Rights
- U
- Unemployment program -- DP 93
 Unicameral Legislature -- see Legislature
 University of Hawaii -- see Education
- V
- Vocational Education, Board of -- see Education
 Voting -- see Elections and Suffrage
- W
- Water Resources
 678, 679, 700, 808
 Condemnation for public use -- DP 160, 222
 Freshwater, trusteeship -- DO 189, 197
 Groundwater, availability for public use -- DP 36
 State management and control -- DP 50, 524,
 Water hookups, limitation -- DP 813
 Water resources agency -- DP 699, CP 17
 Water; rights, use and compensation -- DP 222
 Welfare -- see Public Assistance
- Z
- Zoning changes, referendum -- DP 595

Final Status of Proposals and Resolutions

The status table gives an abbreviated history of all proposals and resolutions as they proceed through the Convention consideration process. There are three different types of tables and these are arranged by type of measure.

TYPE OF MEASURE

1. (P) Proposals
2. (CP) Committee Proposals
3. (R) Resolutions

TYPE OF INFORMATION GIVEN FOR EACH MEASURE

1. Proposals and Committee Proposals
 - a. Short and abbreviated title
 - b. Calendar day of introduction
 - c. Calendar day of readings
 - d. Committee referrals and committee report numbers
 - e. Calendar day and manner of final disposition
2. Resolutions
 - a. Short and abbreviated title
 - b. Calendar day of introduction
 - c. Committee referrals and committee report numbers
 - d. Calendar day and manner of final disposition

ABBREVIATIONS EMPLOYED

Amendments

An asterisk (*) in the "Day" column indicates that a new draft (or redraft) of the measure was adopted.

Committee Referrals

A comma (,) between committees indicates that the measure has been referred to the committees jointly.

Committee Abbreviations

BORSE	Bill of Rights, Suffrage and Elections
LEG	Legislature
EXEC	Executive
JUD	Judiciary
TAX	Taxation and Finance
LGOVT	Local Government
PHWLI	Public Health and Welfare; Labor and Industry
ED	Education
EACL	Environment, Agriculture, Conservation and Land

HA	Hawaiian Affairs
ETH	Ethics
RA	Revision, Amendment and Other Provisions
STYLE	Style
SI	Submission and Information
BAP	Budget, Accounts and Printing
RULES	Rules

Committee report numbers are designated next to the committee referral column. Except for standing committee report numbers, committee report numbers are preceded by the following abbreviation:

COMM WHLE or Committee of the Whole Report
CWR

Dates of Convention Action

The month and calendar day on which proposals and resolutions are introduced in Convention or passed on readings or adopted by the Convention are noted in the "Day" column. The following abbreviations are employed:

J July
A August
S September

Thus the notation "J06" means July 6, 1978.

HOW TO READ THE STATUS TABLE

DELEGATE PROPOSALS

NUMBER	SUBJECT	READING	DAY (Amended*)	COMMITTEES	COMMITTEE REPORTS	DISPOSITION
1	NEIGHBORHOOD BOARDS	1	J6	BAP, LGOVT		FILED

Proposal number and title.

Proposal introduced in Convention on July 6. Passed 1st reading and referred to standing committee.

Names of Convention standing committees to which proposal was referred and committee report numbers, if any.

Proposal filed.

COMMITTEE PROPOSALS

NUMBER	SUBJECT	READING	DAY (Amended*)	COMMITTEES	COMMITTEE REPORTS	DISPOSITION
9	EXECUTIVE BRANCH RD 2	1	A25	EXEC	51	
		2	A28 A30*	STYLE	73	
	(SEE SCR 51)	3	S04 S08*	COMM WHLE STYLE	CWR 9 104	

RD refers to redraft. The numbers which follow the initials indicate the number of times the proposal has been amended.

Refers to standing committee report which introduces committee proposals.

Proposal passed 3rd reading and referred back to Committee on Style for proper arrangement in the Constitution.

Proposal passed 2nd reading and referred to Committee on Style for editing. Asterisk denotes amendment prior to passage of 2nd reading on August 30.

PROPOSALS

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
1	NEIGHBORHOOD BOARDS	1	J06	LGOVT	42	FILE A23
2	NEIGHBORHOOD BOARDS	1	J06	LGOVT, TAX	42 66	FILE A23 FILE S04
3	BRD OF EDUCATION, BRD OF REGENTS; AMEND POWERS	1	J06	ED	39	FILE A21
4	OPEN PRIMARY ELECTION	1	J06	BORSE	72	FILE S07
5	BOARD OF REGENTS	1	J06	ED	39	FILE A21
6	CONSTITUTIONAL CONVENTIONS	1	J06	RA	34	FILE A16
7	SIGHTLINESS AND GOOD ORDER	1	J06	PHWLI	36	FILE A18
8	BOUNDARIES	1	J07	RA	30	FILE A14
9	REAL PROPERTY TITLE CLAIMS	1	J07	BORSE, HA	57 69	FILE A31 FILE S06
10	LAND TITLE EXPENSES	1	J07	RA	34	FILE A16
11	PRESIDENTIAL PREFERENCE PRIMARIES	1	J07	BORSE	72	FILE S07
12	RIGHT OF ECONOMIC SECURITY	1	J07	BORSE	69	FILE S06
13	MANDATORY RETIREMENT	1	J07	BORSE		FILE S22

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
14	AGRICULTURAL LANDS	1	J07	EACL	77	FILE S12
15	ADEQUATE MEDICAL CARE	1	J07	PHWLI	36	FILE A18
16	COMMUNITY COLLEGES	1	J07	ED	39	FILE A21
17	LOCAL GOVERNMENT	1	J07	LGOVT	42	FILE A23
18	PUBLIC EDUCATION COORDINATOR	1	J07	ED	39	FILE A21
19	PEOPLE'S RIGHT TO KNOW	1	J07	BORSE	69	FILE S06
20	ALTERNATE STATE DEBT LIMIT	1	J07	TAX	66	FILE S04
21	GENERAL FUND EXPENDITURE CEILING, ESTABLISHMENT	1	J07	TAX	66	FILE S04
22	PASSAGE OF BILLS	1	J07	LEG	46	FILE A25
23	TAXATION POWER; STATE INCOME TAX CONFORM TO FEDERAL	1	J07	TAX	66	FILE S04
24	LAPSING OF CAPITAL IMPROVEMENT PROJECTS	1	J07	TAX	66	FILE S04
25	LEGISLATIVE SESSIONS	1	J07	LEG	46	FILE A25
26	ELECTED ATTORNEY GENERAL	1	J07	EXEC	32	FILE A15
27	STAGGERED TERMS FOR THE SENATE	1	J07	LEG	46	FILE A25
28	REAPPORTIONMENT	1	J07	LEG	46	FILE A25
29	CONSTITUTIONAL CONVENTION	1	J07	RA	34	FILE A16
30	ENVIRONMENTAL RIGHTS	1	J07	EACL	77	FILE S12

31	CODES OF ETHICS	1	J07	ETH	26	FILE A11
32	APPORTIONING THE BOARD OF EDUCATION	1	J07	ED	39	FILE A21
33	HEALTHFUL ENVIRONMENT	1	J07	PHWLI, EACL	36 77	FILE A18 FILE S12
34	MANAGEMENT OF STATE POPULATION GROWTH	1	J07	PHWLI, EACL	36 77	FILE A18 FILE S12
35	SELECTIVE GROWTH MANAGEMENT	1	J07	EACL	77	FILE S12
36	AVAILABILITY OF GROUNDWATER FOR PUBLIC USE	1	J07	EACL	77	FILE S12
37	UTILIZATION OF STATE RESOURCES	1	J07	EACL	77	FILE S12
38	RELATING TO PUBLIC ASSISTANCE	1	J07	PHWLI	36	FILE A18
39	PRIMARY ELECTIONS	1	J07	BORSE	72	FILE S07
40	DISQUALIFICATION FROM OFFICE	1	J07	BORSE	72	FILE S07
41	TERMS OF THE OFFICE OF THE GOVERNOR	1	J07	EXEC	32	FILE A15
42	TERMS OF OFFICE OF ELECTED OFFICIALS	1	J07	LEG, EXEC, LGOVT	32 42 46	FILE A15 FILE A23 FILE A25
43	EXEMPTIONS FROM THE DEBT LIMIT	1	J07	TAX	66	FILE S04
44	FREEDOM OF THE PRESS	1	J07	BORSE	69	FILE S06
45	HEALTHFUL ENVIRONMENT	1	J10	EACL	77	FILE S12
46	PRIMARY ELECTIONS	1	J10	BORSE	72	FILE S07
47	SOLAR ACCESS	1	J10	EACL	77	FILE S12

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
48	OCEAN AND MARINE RESOURCES	1	J10	EACL	77	FILE S12
49	PUBLIC LANDS	1	J10	EACL	77	FILE S12
50	WATER RESOURCES	1	J10	EACL	77	FILE S12
51	ENERGY	1	J10	EACL	77	FILE S12
52	AGRICULTURE	1	J10	EACL	77	FILE S12
53	ENVIRONMENTAL PROTECTION	1	J10	EACL	77	FILE S12
54	METHOD OF ELECTING THE LIEUTENANT GOVERNOR	1	J10	EXEC	32	FILE A15
55	MEMBERSHIP OF THE BOARD OF EDUCATION	1	J10	ED	39	FILE A21
56	EXECUTIVE	1	J10	EXEC	32	FILE A15
57	JUDICIARY	1	J10	JUD	52	FILE A28
58	BOARD OF REGENTS	1	J10	ED	39	FILE A21
59	LAND USE COMMISSION	1	J10	EACL	77	FILE S12
60	TERMS OF LEGISLATORS	1	J10	LEG	46	FILE A25
61	PUBLIC LIBRARIES	1	J10	ED	39	FILE A21
62	ELECTION OF THE ATTORNEY GENERAL & COUNTY PROSECUTORS	1	J10	EXEC, LGOVT	32 42	FILE A15 FILE A23
63	TERMS OF LEGISLATORS	1	J10	LEG, BORSE	46 72	FILE A25 FILE S07
64	FULL EMPLOYMENT	1	J10	BORSE	69	FILE S06

65	DUTIES OF THE LIEUTENANT GOVERNOR	1	J10	EXEC	32	FILE A15
66	NONPARTISAN ELECTION OF JUDGES	1	J10	JUD	52	FILE A28
67	APPROPRIATED FUNDS BY GOVERNOR	1	J10	TAX, EXEC	51 66	FILE A28 FILE S04
68	FULL-TIME LEGISLATURE	1	J10	LEG, TAX	46 66	FILE A25 FILE S04
69	BOARD OF EDUCATION	1	J10	ED, LEG	39 46	FILE A21 FILE A25
70	STAGGERED TERMS FOR THE SENATE	1	J10	LEG	46	FILE A25
71	LEGISLATIVE CONFERENCE COMMITTEES	1	J10	LEG	46	FILE A25
72	EXPENDITURE OF FEDERAL FUNDS	1	J10	TAX	66	FILE S04
73	ACCESS TO INFORMATION	1	J10	BORSE	69	FILE S06
74	REMOVAL OF DISTRICT COURT JUDGES	1	J10	JUD	52	FILE A28
75	SEX SEGREGATION IN PUBLIC EDUCATIONAL INSTITUTIONS	1	J10	ED	39	FILE A21
76	ECONOMIC SECURITY	1	J10	BORSE	69	FILE S06
77	FREEDOM OF SPEECH	1	J10	BORSE	69	FILE S06
78	RIGHT TO BEAR ARMS	1	J10	BORSE		FILE S22
79	LEGISLATURE	1	J10	LEG	46	FILE A25
80	JUDICIARY	1	J10	JUD	52	FILE A28
81	QUIET TITLE	1	J10	BORSE, HA	57 69	FILE A31 FILE S06
82	PROCUREMENT OF NATIVE HAWAIIAN ARTIFACTS	1	J10	HA	57	FILE A31

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
83	INTERMEDIATE APPELLATE COURT	1	J10	JUD	52	FILE A28
84	COUNCIL ON REVENUES AND EXPENDITURES	1	J10	TAX, EXEC	51 66	FILE A28 FILE S04
85	ABOLISHMENT OF THE GRAND JURY	1	J10	BORSE	69	FILE S06
86	PRIMARY ELECTIONS	1	J10	BORSE	72	FILE S07
87	PRESIDENTIAL PREFERENCE PRIMARIES	1	J10	BORSE	72	FILE S07
88	AGRICULTURE	1	J10	EACL	77	FILE S12
89	AGRICULTURE	1	J10	EACL	77	FILE S12
90	AGRICULTURE	1	J10	EACL	77	FILE S12
91	TERMS OF LEGISLATORS	1	J10	LEG	46	FILE A25
92	OPEN PRIMARY ELECTION	1	J10	BORSE	72	FILE S07
93	UNEMPLOYMENT	1	J10	RA	34	FILE A16
94	CONSTITUTIONAL CONVENTION DELEGATES	1	J10	ETH	26	FILE A11
95	DIRECT INITIATIVE	1	J10	BORSE	72	FILE S07
96	PEOPLE AMEND/REVISE CONSTITUTION; INITIATIVE; REFERENDUM	1	J10	BORSE	72	FILE S07
97	OPEN PRIMARY ELECTION	1	J10	BORSE	72	FILE S07
98	SELECTION OF JUDGES	1	J11	JUD	52	FILE A28
99	RIGHT TO PRIVACY	1	J11	BORSE	69	FILE S06

100	TRADITIONAL HAWAIIAN RIGHTS OF ACCESS	1	J11	BORSE, HA	57 69	FILE A31 FILE S06
101	JUDICIAL TERMS OF OFFICE	1	J11	JUD	52	FILE A28
102	CONSTITUTIONAL CONVENTIONS	1	J11	RA	34	FILE A16
103	EMPLOYEES' RETIREMENT SYSTEM	1	J11	RA	34	FILE A16
104	EXECUTIVE	1	J11	EXEC	32	FILE A15
105	INTERMEDIATE COURT OF APPEALS	1	J11	JUD	52	FILE A28
106	CONSTITUTIONAL CONVENTION	1	J11	ETH	26	FILE A11
107	GROWTH AND NATURAL RESOURCES	1	J11	EACL	77	FILE S12
108	HAWAIIAN HOME LANDS	1	J11	HA	56	FILE A31
109	CONSTITUTIONAL CONVENTION LOBBYISTS	1	J11	ETH	26	FILE A11
110	JUDICIARY	1	J11	JUD	52	FILE A28
111	GRAND JURY	1	J11	BORSE	69	FILE S06
112	FEDERAL LANDS	1	J11	RA	34	FILE A16
113	CONSERVATION AND DEVELOPMENT OF RESOURCES	1	J11	EACL	77	FILE S12
114	ELECTED ATTORNEY GENERAL	1	J11	EXEC	32	FILE A15
115	TERMS OF OFFICE OF ELECTED OFFICIALS	1	J11	EXEC, LGOVT, LEG	32 42 46	FILE A15 FILE A23 FILE A25
116	CODES OF ETHICS	1	J12	ETH	26	FILE A11
117	PRESERVATION OF NATURAL TRADITIONS	1	J12	BORSE, HA	57 69	FILE A31 FILE S06

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
118	NUMBER OF MAYORAL TERMS	1	J12	LGOVT	42	FILE A23
119	EXECUTIVE	1	J12	EXEC	32	FILE A15
120	VOTERS RIGHTS	1	J12	BORSE	72	FILE S07
121	SCHOOL PERSONNEL	1	J12	ED	39	FILE A21
122	STATUTORY INITIATIVE	1	J12	BORSE	72	FILE S07
123	REVISION AND AMENDMENTS OF THE CONSTITUTION	1	J12	BORSE	72	FILE S07
124	ELECTION OF COUNTY PROSECUTORS	1	J12	LGOVT	42	FILE A23
125	CREATION OF INDEPENDENT COUNSEL FOR GRAND JURIES	1	J12	BORSE, JUD	52 69	FILE A28 FILE S06
126	INTRMDTE APPELLATE CRT; SUPREME CRT, APPEAL RIGHTS LIMIT	1	J12	JUD	52	FILE A28
127	ELECTION OF THE ATTORNEY GENERAL	1	J12	EXEC	32	FILE A15
128	JUDICIAL COMMISSION	1	J12	JUD	52	FILE A28
129	JUDICIAL COMMISSION	1	J12	JUD	52	FILE A28
130	CONFERENCE COMMITTEES	1	J12	LEG	46	FILE A25
131	COLLECTIVE BARGAINING NEGOTIATIONS	1	J12	PHWLI	36	FILE A18
132	APPORTIONING THE BOARD OF EDUCATION	1	J12	ED	39	FILE A21
133	POWER OF THE BOARD OF EDUCATION	1	J12	ED	39	FILE A21
134	PUBLIC EDUCATION	1	J12	ED	39	FILE A21

135	MEMBERSHIP OF THE BOARD OF REGENTS	1	J12	ED	39	FILE A21
136	SCHEDULE	1	J12	LEG	46	FILE A25
137	RECALL OF ELECTED PUBLIC OFFICIALS	1	J12	BORSE	72	FILE S07
138	REFERENDUM	1	J12	BORSE	72	FILE S07
139	JUDICIAL COMMISSION	1	J12	JUD	52	FILE A28
140	GRAND JURY	1	J12	BORSE	69	FILE S06
141	RECALL OF JUSTICES AND JUDGES	1	J12	JUD	52	FILE A28
142	CONVENING OF THE GRAND JURY & PRELIMINARY HEARINGS	1	J12	BORSE	69	FILE S06
143	NEIGHBORHOOD MEDIATION BOARDS & ADJUDICATION BODIES	1	J12	JUD	52	FILE A28
144	ELDERLY	1	J12	PHWLI	36	FILE A18
145	HAWAIIAN HOME LANDS	1	J13	EACL, HA	56 77	FILE A31 FILE S12
146	LEGISLATIVE SESSIONS	1	J13	LEG	46	FILE A25
147	COMMISSION ON LEGISLATIVE SALARIES	1	J13	LEG	46	FILE A25
148	NATIVE CROPS RESEARCH CENTER	1	J13	EACL, HA	57 77	FILE A31 FILE S12
149	INITIATIVE	1	J13	BORSE	72	FILE S07
150	CARE OF THE TOTAL PERSON	1	J13	PHWLI	36	FILE A18
151	PUBLIC SAFETY	1	J13	BORSE	69	FILE S06
152	SECRETARY OF THE BOARD OF EDUCATION	1	J13	ED	39	FILE A21

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
153	SCHOOL DIST REPRESENTATION OF BOARD OF ED MEMBERSHIP	1	J13	ED	39	FILE A21
154	ELECTION OF THE ATTORNEY GENERAL	1	J13	EXEC	32	FILE A15
155	SCHOOL SECURITY	1	J13	ED	39	FILE A21
156	BOARD OF EDUCATION REPRESENTATION	1	J13	ED	39	FILE A21
157	METHOD OF ELECTING THE LT GOV	1	J13	EXEC	32	FILE A15
158	UNICAMERAL LEGISLATURE	1	J13	LEG	46	FILE A25
159	MERIT SELECTION OF JUSTICES AND JUDGES	1	J13	JUD	52	FILE A28
160	WATER RESOURCES	1	J13	EACL	77	FILE S12
161	LEGISLATIVE INFORMATION OFFICE	1	J13	LEG	46	FILE A25
162	BOARD OF EDUCATION NUMBER AND APPORTIONMENT	1	J13	ED	39	FILE A21
163	PRIMARY ELECTIONS	1	J13	BORSE	72	FILE S07
164	DUE PROCESS AND EQUAL PROTECTION	1	J13	BORSE		FILE S22
165	BOARDS, COMMISSIONS, ETC; APPOINT- MENTS, REPRSNTATV OF POP	1	J13	EXEC	51	FILE A28
166	BAIL	1	J13	BORSE		FILE S22
167	ECONOMIC SECURITY	1	J13	BORSE	69	FILE S06
168	SELF-INCRIMINATION	1	J13	BORSE	69	FILE S06
169	SEARCHES AND SEIZURES	1	J13	BORSE	69	FILE S06

170	BAILABLE OFFENSES	1	J13	BORSE		FILE S22
171	CONSERVATION AND DEVELOPMENT OF RESOURCES	1	J13	EACL	77	FILE S12
172	BOARD OF EDUCATION STAFF	1	J13	ED	39	FILE A21
173	DISQUALIFICATION FROM PUBLIC OFFICE OR EMPLOYMENT	1	J13	RA	34	FILE A16
174	CIVIL SERVICE	1	J13	RA	34	FILE A16
175	EMPLOYEES' RETIREMENT SYSTEM	1	J13	RA	34	FILE A16
176	LIMITING TERMS OF PUBLIC OFFICE	1	J13	LGOVT	42	FILE A23
177	UNICAMERAL LEGISLATURE	1	J13	LEG	46	FILE A25
178	INCOME TAX REFUND	1	J13	TAX	66	FILE S04
179	BOARD OF REGENTS	1	J13	ED	39	FILE A21
180	JUDICIARY	1	J13	JUD	52	FILE A28
181	UNICAMERAL LEGISLATURE	1	J13	LEG	46	FILE A25
182	LAND SPECULATION	1	J13	EACL	77	FILE S12
183	CODES OF ETHICS	1	J13	ETH	26	FILE A11
184	SEX DISCRIMINATION IN PUBLIC EDUCATIONAL INSTITUTIONS	1	J14	ED	39	FILE A21
185	CONSTITUTIONAL CONVENTIONS	1	J14	RA	34	FILE A16
186	ORGANIZATION; DISCIPLINE; RULES; PROCEDURE	1	J14	LEG	46	FILE A25
187	STATE LANGUAGE	1	J14	HA	57	FILE A31
188	SEGREGATION IN PUBLIC SCHOOLS	1	J14	ED	39	FILE A21

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
189	TRUSTEESHIP OF FRESHWATER	1	J14	EACL	77	FILE S12
190	REAPPORTIONMENT	1	J14	LEG	46	FILE A25
191	COLLECTIVE BARGAINING RIGHTS	1	J14	PHWLI	36	FILE A18
192	HUMAN RIGHTS	1	J14	EXEC	51	FILE A28
193	LEGISLATIVE ACTS	1	J14	LEG	46	FILE A25
194	DESIGNATION OF COUNTIES	1	J14	LGOVT	42	FILE A23
195	OPENNESS OF COMMITTEE MEETINGS	1	J14	LEG	46	FILE A25
196	INTERIM ORGANIZATION OF LEGISLATORS FOLLOWING ELECTION	1	J14	LEG	46	FILE A25
197	WATER OWNERSHIP	1	J14	EACL	77	FILE S12
198	PUBLIC HEARINGS ON LAND USE	1	J14	EACL	77	FILE S12
199	PUBLIC ACCESS TO RECREATIONAL AREAS	1	J14	EACL	77	FILE S12
200	FREE CHOICE OF PUBLIC SCHOOLS	1	J14	ED	39	FILE A21
201	PUBLIC PARTICIPATION IN PUBLIC SCHOOL SYSTEM	1	J14	ED	39	FILE A21
202	ALTERNATIVE EDUCATION PROGRAMS	1	J14	ED	39	FILE A21
203	LOCAL GOVERNMENT	1	J14	LGOVT	42	FILE A23
204	DEBT LIMITATIONS FOR POLITICAL SUBDIVISIONS	1	J14	TAX	66	FILE S04
205	PUBLIC ASSISTANCE	1	J14	PHWLI	36	FILE A18

206	BUDGET AND FINANCE	1	J14	LEG, TAX	46 66	FILE A25 FILE S04
207	BILL OF RIGHTS	1	J14	BORSE	69	FILE S06
208	PUBLIC EDUCATION	1	J14	ED	39	FILE A21
209	HAWAIIAN HOME LANDS	1	J14	HA	56	FILE A31
210	BOARD OF EDUCATION, GEOGRAPHIC REPRESENTATION	1	J14	ED	39	FILE A21
211	STATE BOUNDARIES	1	J14	RA	30	FILE A14
212	LEGISLATIVE PROCEEDINGS	1	J14	LEG	46	FILE A25
213	LOW INCOME HOUSING	1	J14	PHWLI	36	FILE A18
214	PUBLIC SAFETY	1	J14	PHWLI	36	FILE A18
215	LOCAL GOVERNMENT	1	J14	LGOVT	42	FILE A23
216	COLLECTIVE BARGAINING NEGOTIATIONS	1	J14	PHWLI	36	FILE A18
217	BOARD OF EDUCATION	1	J14	ED	39	FILE A21
218	TAX CREDIT FOR VOTERS	1	J14	RA, TAX	34 66	FILE A16 FILE S04
219	BOARD OF EDUCATION & BOARD OF REGENTS OF THE UH	1	J14	ED	39	FILE A21
220	AGE DISCRIMINATION IN CIVIL RIGHTS	1	J14	BORSE		FILE S22
221	CONSERVATION LANDS & HISTORIC SITES, PROHIBIT DESTRUCTION	1	J14	EACL	77	FILE S12
222	WATER OWNERSHIP	1	J14	EACL	77	FILE S12
223	SECRETARY OF STATE	1	J17	EXEC, LEG	32 46	FILE A15 FILE A25

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
224	COUNCIL ON REVENUES AND EXPENDITURES	1	J17	TAX, EXEC	51 66	FILE A28 FILE S04
225	STATE POLICE FORCE	1	J17	RA	34	FILE A16
226	BIENNIAL SESSIONS	1	J17	LEG	46	FILE A25
227	BOARD OF EDUCATION BUDGET	1	J17	ED, TAX	39 66	FILE A21 FILE S04
228	SHORELINES AND PUBLIC RIGHTS-OF-WAY	1	J17	EACL	77	FILE S12
229	DISQUALIFICATION OF JUDGES	1	J17	JUD	52	FILE A28
230	SELF-SUFFICIENT OPPORTUNITIES	1	J17	EACL	77	FILE S12
231	EDUCATION PERSONNEL	1	J17	ED	39	FILE A21
232	STATE PLAN	1	J17	EACL	77	FILE S12
233	HAWAIIAN HOME LANDS	1	J17	HA	56	FILE A31
234	JUDICIARY	1	J17	JUD	52	FILE A28
235	OFFICE OF THE GOVERNOR	1	J17	EXEC	32	FILE A15
236	LEGISLATURE	1	J17	LEG	46	FILE A25
237	BOARD OF EDUCATION	1	J17	ED	39	FILE A21
238	TERMS OF OFFICE	1	J17	EXEC	32	FILE A15
239	JUDICIAL OFFICES, MERIT SELECTION, MISSOURI SYSTEM	1	J17	JUD	52	FILE A28
240	JUDICIAL OFFICES, MERIT SELECTION	1	J17	JUD	52	FILE A28

241	POWERS OF THE LIEUTENANT GOVERNOR	1	J17	EXEC	32	FILE A15
242	PUBLICLY FINANCED INITIATIVE	1	J17	BORSE	72	FILE S07
243	COMMISSION ON LEGISLATIVE SALARIES	1	J17	LEG	46	FILE A25
244	RESTRICTING STATE APPROPRIATIONS	1	J17	TAX	66	FILE S04
245	USES OF HAWAIIAN HOME LANDS	1	J18	EACL, HA	56 77	FILE A31 FILE S12
246	EQUAL TREATMENT FOR LOCAL GOVERNMENTS	1	J18	LGOVT	42	FILE A23
247	BIFURCATED CRIMINAL TRIALS	1	J18	BORSE	69	FILE S06
248	DIRECT INITIATIVE	1	J18	BORSE	72	FILE S07
249	LIEUTENANT GOVERNOR	1	J18	EXEC	32	FILE A15
250	BONDS AND DEBT LIMITATIONS FOR THE STATE	1	J18	TAX	66	FILE S04
251	CONSTITUTIONAL CONVENTIONS	1	J18	RA	34	FILE A16
252	LEGISLATIVE SESSIONS	1	J18	LEG	46	FILE A25
253	RIGHT TO PRIVACY	1	J18	BORSE	69	FILE S06
254	STATE MILITIA	1	J18	BORSE		FILE S22
255	EQUAL PROTECTION	1	J18	BORSE		FILE S22
256	BOARD OF EDUCATION	1	J18	ED	39	FILE A21
257	SEGREGATION AND DISCRIMINATION IN PUBLIC EDUCATION	1	J18	ED	39	FILE A21
258	PUBLIC HEALTH AND WELFARE	1	J18	PHWLI	36	FILE A18

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
259	RESTRICTING THE TOTAL APPROPRIATIONS OF THE STATE	1	J18	TAX	66	FILE S04
260	COUNTY COSTS	1	J18	TAX	66	FILE S04
261	RECALL OF ELECTED STATE OFFICIALS	1	J18	BORSE	72	FILE S07
262	RECALL OF ELECTED STATE OFFICIALS	1	J18	BORSE	72	FILE S07
263	CONSTITUTIONAL CONVENTION DELEGATES	1	J18	LEG	46	FILE A25
264	DESIGNATION OF COUNTIES, INCLUDING MOLOKAI	1	J18	LGOVT	42	FILE A23
265	APPORTIONING THE BOARD OF EDUCATION	1	J18	ED	39	FILE A21
266	LEGISLATIVE RULES	1	J18	LEG	46	FILE A25
267	STAGGERED TERMS FOR SENATORS	1	J18	LEG	46	FILE A25
268	APPOINTMENT OF JUSTICES AND JUDGES	1	J18	JUD	52	FILE A28
269	CONSTITUTIONAL CONVENTION	1	J18	RA	34	FILE A16
270	NATURAL RESOURCES	1	J18	EACL	77	FILE S12
271	LEGISLATORS' SALARIES	1	J18	LEG	46	FILE A25
272	HUMAN RIGHTS AND LANGUAGE DISCRIMINATION	1	J18	BORSE		FILE S22
273	PUBLIC SIGHTLINESS AND GOOD ORDER	1	J18	PHWLI	36	FILE A18
274	VOTER EDUCATION AND INFORMATION	1	J18	BORSE	72	FILE A07
275	REAPPORTIONMENT	1	J18	LEG	46	FILE A25

276	CAPITAL PUNISHMENT	1	J18	BORSE		FILE S22
277	IMPOSITION OF A TRANSIENT ACCOMMODATION TAX BY COUNTIES	1	J18	LGOVT	42	FILE A23
278	EXCISE (SALES) TAX	1	J18	TAX	66	FILE S04
279	SEPARATE BOARD OF REGENTS FOR EACH COUNTY	1	J18	ED	39	FILE A21
280	REAPPORTIONMENT	1	J18	LEG	46	FILE A25
281	RECALL OF ELECTED AND APPOINTED OFFICIALS	1	J18	BORSE	72	FILE S07
282	SCHOOL ADVISORY COUNCILS	1	J18	ED	39	FILE A21
283	STANDING TO CERTAIN BENEFICIARIES	1	J18	HA	56	FILE A31
284	EDUCATIONAL NEEDS OF NATIVE HAWAIIANS	1	J18	ED, HA	39 57	FILE A21 FILE A31
285	BILL INTRODUCTIONS AND RECESS	1	J18	LEG	46	FILE A25
286	SUPREME COURT	1	J18	JUD	52	FILE A28
287	FUNDING FOR PRIVATE EDUCATION	1	J18	ED	39	FILE A21
288	SALARIES OF LEGISLATORS	1	J18	LEG	46	FILE A25
289	JUDICIARY	1	J18	JUD	52	FILE A28
290	APPOINTMENT OF JUSTICES AND JUDGES	1	J18	JUD	52	FILE A28
291	NONPARTISAN ELECTIONS FOR THE BOARD OF EDUCATION	1	J18	ED	39	FILE A21
292	DISQUALIFICATION OF MEMBERS	1	J18	LEG	46	FILE A25
293	LOCAL GOVERNMENT	1	J19	LGOVT, TAX	42 66	FILE A23 FILE S04

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
294	BILL OF RIGHTS	1	J19	BORSE, EAACL	69 77	FILE S06 FILE S12
295	HOUSING	1	J19	BORSE, EAACL	69 77	FILE S06 FILE S12
296	ESTABLISHMENT OF BOARD OF VOCATIONAL EDUCATION	1	J19	ED	39	FILE A21
297	LEGISLATURE	1	J19	LEG	46	FILE A25
298	EDUCATION	1	J19	ED	39	FILE A21
299	LEGISLATIVE APPROPRIATIONS	1	J19	TAX	66	FILE S04
300	INTERGOVERNMENTAL RELATIONS	1	J19	RA	34	FILE A16
301	RIGHTS OF MAN	1	J19	BORSE	69	FILE S06
302	HAWAIIAN HOMES COMMISSION ACT	1	J19	HA	56	FILE A31
303	HAWAIIAN BILL OF RIGHTS	1	J19	HA, BORSE	57 69	FILE A31 FILE S06
304	PUBLIC EDUCATION	1	J19	ED	39	FILE A21
305	REAPPORTIONMENT	1	J19	LEG	46	FILE A25
306	LEGISLATIVE SESSIONS	1	J19	LEG	46	FILE A25
307	IMPOSITION OF REAL PROPERTY TAXES BY THE COUNTIES	1	J19	LGOVT, TAX	42 66	FILE A23 FILE S04
308	HAWAIIAN HOMES COMMISSION ACT	1	J19	HA	56	FILE A31

309	CONSERVATION LANDS , HISTORIC , SPIRITUAL , & CULTURAL SITES	1	J19	EACL	77	FILE S12
310	AVAILABLE LANDS	1	J19	HA , EACL	56 77	FILE A31 FILE S12
311	APPOINTED BOARD OF EDUCATION	1	J19	ED	39	FILE A21
312	DEBT LIMIT	1	J19	TAX	66	FILE S04
313	OWNERSHIP OF LAND	1	J19	EACL	77	FILE S12
314	PLAIN LANGUAGE	1	J19	RA	30	FILE A14
315	MINERAL RIGHTS	1	J19	EACL	77	FILE S12
316	EXPENDITURE CONTROLS	1	J19	TAX, EXEC	51 66	FILE A28 FILE S04
317	CHIEF LEGAL OFFICER OF THE STATE	1	J19	EXEC	51	FILE A28
318	PUBLICATION OF ETHICS OPINIONS	1	J19	ETH	26	FILE A11
319	OFFICE OF LIEUTENANT GOVERNOR	1	J19	EXEC	32	FILE A15
320	LEGISLATIVE LEADERSHIP	1	J19	LEG	46	FILE A25
321	LEGISLATIVE SESSION	1	J19	LEG	46	FILE A25
322	STATEWIDE POLICE FORCE	1	J19	RA	34	FILE A16
323	LEGISLATIVE SESSIONS AND LEGISLATORS' INCOMES	1	J19	LEG	46	FILE A25
324	RIGHTS OF THE ACCUSED	1	J19	BORSE	69	FILE S06
325	CONSTITUTIONAL CONVENTIONS	1	J19	RA	34	FILE A16
326	POPULAR INITIATIVE	1	J19	BORSE	72	FILE S07
327	AMENDMENT AND REVISION OF THE CONSTITUTION	1	J19	BORSE	72	FILE S07

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
328	EDUCATION	1	J19	ED, TAX	39 66	FILE A21 FILE S04
329	GOVERNANCE OF THE PUBLIC SCHOOL SYSTEM	1	J19	ED	39	FILE A21
330	CONSTITUTIONAL CONVENTIONS	1	J19	RA	34	FILE A16
331	HAWAIIAN STUDIES	1	J20	ED	39	FILE A21
332	CITIZEN PARTICIPATION IN EDUCATION	1	J20	ED	39	FILE A21
333	RIGHT OF PEOPLE TO CONTINUITY OF PUBLIC SERVICES	1	J20	PHWLI	36	FILE A18
334	PUBLIC EMPLOYEES	1	J20	PHWLI	36	FILE A18
335	BOARD OF LAND AND NATURAL RESOURCES	1	J20	EACL	77	FILE S12
336	STATE LAND USE COMMISSION	1	J20	EACL	77	FILE S12
337	GAMBLING LEGISLATION	1	J20	RA	34	FILE A16
338	PUBLIC CONTRACTS	1	J20	EXEC	51	FILE A28
339	CAMPAIGN CONTRIBUTIONS	1	J20	BORSE	72	FILE S07
340	VACANCIES IN THE STATE LEGISLATURE	1	J20	LEG	46	FILE A25
341	RETURN OF KAHOO LAWE TO THE PEOPLE OF THE STATE OF HAWAII	1	J20	HA	57	FILE A31
342	PUBLIC FINANCING OF ELECTION CAMPAIGNS	1	J20	BORSE	72	FILE S07
343	LEGISLATIVE APPROVAL ON SUPPLEMENTAL APPROPRIATIONS	1	J20	TAX	66	FILE S04

344	APPROPRIATIONS	1	J20	TAX	66	FILE S04
345	ABOLISHING THE OFFICE OF LIEUTENANT GOVERNOR	1	J20	EXEC	32	FILE A15
346	LEGISLATIVE SALARIES	1	J20	LEG	46	FILE A25
347	PUBLIC HEALTH	1	J20	PHWLI	36	FILE A18
348	SELECTION OF JUDGES	1	J20	JUD	52	FILE A28
349	PREAMBLE	1	J20	RA	34	FILE A16
350	LEGISLATIVE SESSIONS	1	J20	LEG	46	FILE A25
351	LIMITATIONS ON CAMPAIGN CONTRIBUTIONS	1	J20	BORSE	72	FILE S07
352	LOCAL GOVERNMENT, CHARTER REVIEW COMMISSION	1	J20	LGOVT	42	FILE A23
353	FISCAL IMPACT	1	J20	TAX, EXEC	51 66	FILE A28 FILE S04
354	LAPSING APPROPRIATIONS AND BOND AUTHORIZATION REDUCTION	1	J20	TAX	66	FILE S04
355	TAX REVIEW	1	J20	TAX	66	FILE S04
356	PRESIDENTIAL PREFERENCE PRIMARIES	1	J20	BORSE	72	FILE S07
357	VOTER REGISTRATION	1	J20	BORSE	72	FILE S07
358	POWER OF TAXATION	1	J20	TAX	66	FILE S04
359	CONSTITUTIONAL CONVENTION DELEGATES	1	J20	RA	34	FILE A16
360	RIGHTS OF ACCUSED	1	J20	BORSE		FILE S22
361	RIGHTS OF ACCUSED	1	J20	BORSE	69	FILE S06
362	LANGUAGE	1	J20	RA	34	FILE A16

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
363	CIVIL SERVICE	1	J20	RA	34	FILE A16
364	TAXING POWER OF BOARD OF EDUCATION	1	J20	ED, TAX	39 66	FILE A21 FILE S04
365	LIMITATION ON STATE SPENDING	1	J20	TAX	66	FILE S04
366	LOCAL GOVERNMENT	1	J20	LGOVT, TAX	42 66	FILE A23 FILE S04
367	APPROPRIATIONS AND EXPENDITURES	1	J20	TAX	66	FILE S04
368	LIMITATION ON STATE SPENDING	1	J20	TAX	66	FILE S04
369	STATE REVENUE SHARING WITH POLITICAL SUBDIVISIONS	1	J20	LGOVT, TAX	42 66	FILE A23 FILE S04
370	STATE DEBT LIMIT	1	J20	TAX	66	FILE S04
371	RIGHTS OF ACCUSED	1	J20	BORSE	69	FILE S06
372	COUNTY COUNCILS	1	J20	LGOVT	42	FILE A23
373	SINGLE MEMBER SENATE DISTRICTS	1	J20	LEG	46	FILE A25
374	POWER & DUTIES OF THE LIEUTENANT GOVERNOR	1	J20	EXEC	32	FILE A15
375	BOARD OF EDUCATION	1	J21	ED	39	FILE A21
376	CRUEL AND UNUSUAL PUNISHMENT	1	J21	BORSE		FILE S22
377	QUALIFICATIONS FOR ELECTIVE OFFICE	1	J21	BORSE	72	FILE S07
378	JURY SERVICE	1	J21	BORSE	69	FILE S06

379	ELECTIVE TERMS OF COUNTY OFFICERS	1	J21	LGOVT	42	FILE A23
380	RIGHTS OF ACCUSED	1	J21	BORSE	69	FILE S06
381	HEALTHFUL ENVIRONMENT	1	J21	EACL	77	FILE S12
382	SALARIES	1	J21	LEG	46	FILE S25
383	CONSTITUTIONAL REVISION COMMISSION	1	J21	RA	34	FILE A16
384	RIGHT TO STRIKE BY CERTAIN PUBLIC EMPLOYEES	1	J21	PHWLI	36	FILE A18
385	HAWAIIAN HOMES COMMISSION ACT	1	J21	HA	56	FILE A31
386	SCH ADVISORY COUNCILS, BRD OF ED, SUPERINTENDENT OF ED	1	J21	ED	39	FILE A21
387	POSSESSION AND USE OF MARIJUANA	1	J21	BORSE		FILE S22
388	ELECTIONS	1	J21	BORSE	72	FILE S07
389	STATE DEPARTMENTS	1	J21	EXEC	51	FILE A28
390	LEGISLATIVE ORGANIZATION	1	J21	LEG	46	FILE A25
391	RECALL OF PRINCIPAL DEPARTMENT HEADS	1	J21	BORSE	72	FILE S07
392	REHABILITATION OF NATIVE HAWAIIANS	1	J21	HA	56	FILE A31
393	FEDERAL FUNDS	1	J21	TAX, EXEC	51 66	FILE A28 FILE S04
394	BUDGET AND FINANCE	1	J21	TAX, EXEC	51 66	FILE A28 FILE S04
395	REVIEW OF RULES AND REGULATIONS	1	J21	LEG	46	FILE A25
396	SPECIAL SESSIONS	1	J21	LEG	46	FILE A25
397	RIGHTS OF THE ACCUSED	1	J21	BORSE	69	FILE S06

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
398	INITIATIVE POWER AND PROCESS	1	J21	BORSE	72	FILE S07
399	STATE FLAG	1	J21	RA	30	FILE A14
400	COMMUNICATION RIGHTS	1	J21	BORSE	69	FILE S06
401	CULTURAL RESOURCES	1	J21	PHWLI	36	FILE A18
402	PEOPLES' RIGHT TO KNOW	1	J21	BORSE	69	FILE S06
403	PRIMARY ELECTIONS	1	J21	BORSE	72	FILE S07
404	CONSTITUTIONAL CONVENTION	1	J21	ETH	26	FILE A11
405	HAWAIIAN AFFAIRS	1	J21	HA	59	FILE A31
406	OMBUDSMAN COMMISSION	1	J21	LEG	46	FILE A25
407	CONSTITUTIONAL CONVENTIONS	1	J21	RA	34	FILE A16
408	TERMS OF LEGISLATORS	1	J21	LEG	46	FILE A25
409	TAXATION OF FOOD AND DRUGS	1	J21	TAX	66	FILE S04
410	OLD AGE ASSISTANCE	1	J21	PHWLI	36	FILE A18
411	AINA MALAMA - PRESERVATION OF LANDS, PARKS, & REC AREAS	1	J21	EACL	77	FILE S12
412	UNICAMERAL LEGISLATURE	1	J21	LEG	46	FILE A25
413	PRIMARY ELECTIONS	1	J21	BORSE	72	FILE S07
414	RESTRICTIONS ON DISPOSITION OF STATE & COUNTY OWNED LANDS	1	J21	EACL	77	FILE S12

415	BLANKET PRIMARY ELECTIONS	1	J21	BORSE	72	FILE S07
416	AINA MALAMA - PRESERVATION OF LANDS, PARKS, & REC AREAS	1	J21	EACL	77	FILE S12
417	PUBLIC'S RIGHT TO KNOW	1	J21	BORSE, LEG	46 69	FILE A25 FILE S06
418	CODES OF ETHICS	1	J21	ETH	26	FILE A11
419	ELECTION AND POWERS OF THE LIEUTENANT GOVERNOR	1	J21	EXEC, LEG	32 46	FILE A15 FILE A25
420	RECALL OF ELECTED OFFICIALS	1	J21	BORSE	72	FILE S07
421	ENERGY RESOURCES	1	J21	EACL	77	FILE S12
422	STATE MOTTO	1	J21	RA	30	FILE A14
423	ELEC COMMUNCTN & INFO NETWORK AMONG ISLANDS & STATES	1	J21	RA	34	FILE A16
424	INDEPENDENT GRAND JURY	1	J21	BORSE, JUD	52 69	FILE A28 FILE S06
425	QUALIFICATIONS FOR JUDGES	1	J21	JUD	52	FILE A28
426	INITIATIVE	1	J21	BORSE	72	FILE S07
427	FILING OF INFORMATION AND PRELIMINARY HEARINGS	1	J21	BORSE	69	FILE S06
428	RESIDENCY AND CITIZENSHIP REQUIREMENTS	1	J21	EXEC	51	FILE A28
429	AUDITOR	1	J21	TAX	66	FILE S04
430	ELECTIONS	1	J21	BORSE	72	FILE S07
431	POWER OF THE BOARD OF EDUCATION	1	J21	ED	39	FILE A21
432	BOARD OF EDUCATION	1	J21	ED	39	FILE A21

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
433	PUBLIC EDUCATION	1	J21	ED	39	FILE A21
434	CONSTITUTIONAL CONVENTION	1	J24	RA	34	FILE A16
435	HABEAS CORPUS AND SUSPENSION OF LAWS	1	J24	BORSE	69	FILE S06
436	RIGHT TO WORK	1	J24	PHWLI	36	FILE A18
437	APPORTIONMENT WITHIN BASIC ISLAND UNITS	1	J24	LEG	46	FILE A25
438	DELETING REFERENCES TO THE MASCULINE GENDER	1	J24	RA	34	FILE A16
439	PRE-CONSTITUTIONAL CONVENTION COMMITTEES	1	J24	RA	34	FILE A16
440	ELECTION OF JUSTICES AND JUDGES	1	J24	JUD	52	FILE A28
441	BONDS; DEBT LIMITATIONS	1	J24	TAX	66	FILE S04
442	LOCAL GOVERNMENT	1	J24	LGOVT , TAX	42 66	FILE A23 FILE S04
443	COLLECTIVE BARGAINING AND CIVIL SERVICE LAWS	1	J24	PHWLI	36	FILE A18
444	PRE-CONSTITUTIONAL CONVENTION COMMITTEES	1	J24	RA	34	FILE A16
445	LEGISLATIVE SALARIES	1	J24	LEG	46	FILE A25
446	LEGISLATIVE SALARIES	1	J24	LEG	46	FILE A25
447	ADMINISTRATIVE PROCEDURE	1	J24	RA	34	FILE A16

448	PUBLIC EMPLOYEES RIGHT TO STRIKE	1	J24	PHWLI	36	FILE A18
449	PUBLIC EMPLOYEES RIGHT TO STRIKE	1	J24	PHWLI	36	FILE A18
450	ANNUAL STATE BUDGET	1	J24	TAX	66	FILE S04
451	EDUCATION	1	J24	ED	39	FILE A21
452	QUALIFICATIONS OF JUSTICES AND JUDGES	1	J24	JUD	52	FILE A28
453	ECONOMIC SECURITY OF THE ELDERLY	1	J24	PHWLI	36	FILE A18
454	RIGHTS OF CITIZENS	1	J24	BORSE		FILE S22
455	SINGLE-MEMBER LEGISLATIVE DISTRICTS	1	J24	LEG	46	FILE A25
456	PREAMBLE	1	J24	RA	34	FILE A16
457	LOCAL GOVERNMENT	1	J24	LGOV , TAX	42 66	FILE A23 FILE S04
458	SEARCH AND SEIZURE	1	J24	BORSE	69	FILE S06
459	PASSAGE OF BILLS	1	J24	LEG	46	FILE A25
460	RIGHT OF PRIVACY	1	J24	BORSE	69	FILE S06
461	RIGHTS OF CITIZENS	1	J24	BORSE		FILE S22
462	FISHERIES	1	J24	EACL	77	FILE S12
463	DISCRIMINATION IN CIVIL RIGHTS	1	J24	BORSE		FILE S21
464	CHILD CARE CENTERS	1	J24	PHWLI	36	FILE A18
465	OCEAN RESOURCES	1	J24	EACL	77	FILE S12
466	ELDERLY	1	J25	PHWLI	36	FILE A18
467	MERIT NOMINATION COMMISSION	1	J25	EXEC	51	FILE A28
468	LIEUTENANT GOVERNOR	1	J25	EXEC	32	FILE A15

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
469	LEGISLATIVE APPROPRIATIONS PROCEDURES	1	J25	TAX	66	FILE S04
470	DEBT LIMIT	1	J25	TAX	66	FILE S04
471	CONSTITUTIONAL CONVENTION	1	J25	RA	34	FILE A16
472	APPORTIONMENT AMONG BASIC ISLAND UNITS	1	J25	LEG	46	FILE A25
473	TERMINATION OF APPOINTMENTS	1	J25	EXEC	51	FILE A28
474	TAX LIMITATION	1	J25	TAX	66	FILE S04
475	LOCAL GOVERNMENT	1	J25	LGOVT	42	FILE A23
476	APPOINTMENT OF THE SUPERINTENDENT OF EDUCATION	1	J25	ED	39	FILE A21
477	BOARD OF EDUCATION AND SCHOOL BOARD DISTRICTS	1	J25	ED	39	FILE A21
478	HAWAIIAN HOMES PROGRAM	1	J25	HA	56	FILE A31
479	PUBLIC FUNDED CAMPAIGNS	1	J25	BORSE	72	FILE S07
480	TAX DEDUCTION FOR SCHOOL TUITION	1	J25	TAX, ED	39 66	FILE A21 FILE S04
481	CONSTITUTIONAL CONVENTION	1	J25	RA	34	FILE A16
482	CONSERVATION AND DEVELOPMENT OF RESOURCES	1	J25	EACL, PHWLI	36 77	FILE A18 FILE S12
483	MARINE RESOURCES	1	J25	EACL	77	FILE S12
484	LOCAL GOVERNMENT	1	J25	LGOVT	42	FILE A23

485	LOCAL GOVERNMENT	1	J25	LGOV	42	FILE A23
486	CONSTITUTIONAL REVISION COMMISSION	1	J25	RA	34	FILE A16
487	CONSTITUTIONAL CONVENTION	1	J25	RA	34	FILE A16
488	BOARD OF EDUCATION	1	J25	ED	39	FILE A21
489	CONSERVATION & AGRICULTURAL LANDS, PARKS, & REC AREAS	1	J25	EACL	77	FILE S12
490	PUBLIC LAND BANKING	1	J25	EACL	77	FILE S12
491	RIGHT TO DIE	1	J25	BORSE	69	FILE S06
492	APPLICABILITY OF THE STATE CODE OF ETHICS	1	J25	ETH	26	FILE A11
493	HAWAIIAN KING OR QUEEN	1	J25	HA	57	FILE A31
494	COMMONWEALTH STATUS	1	J25	RA	34	FILE A16
495	RESIDENCY REQUIREMENTS	1	J25	EXEC	51	FILE A28
496	JUDICIARY	1	J25	JUD	52	FILE A28
497	ENERGY RESOURCE AGENCY	1	J25	EACL	77	FILE S12
498	GRAND JURY	1	J25	BORSE	69	FILE S06
499	NATIONAL CONSTITUTIONAL CONVENTION	1	J25	LEG	46	FILE A25
500	CODES OF ETHICS	1	J25	ETH	26	FILE A11
501	REFERENDUM	1	J25	BORSE, EACL	72 77	FILE S07 FILE S12
502	ELECTION OF JUSTICES AND JUDGES	1	J25	JUD	52	FILE A28
503	PRIVILEGES OF MEMBERS OF THE LEGISLATURE	1	J25	LEG	46	FILE A25

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
504	TAXATION	1	J25	TAX	66	FILE S04
505	ASSESSED VALUATIONS	1	J25	TAX	66	FILE S04
506	RIGHTS OF MAN	1	J25	BORSE		FILE S22
507	BOARD OF EDUCATION & ELECTED SCHOOL ADVISORY COUNCILS	1	J25	ED	39	FILE A21
508	PUBLIC EMPLOYEES	1	J25	PHWLI	36	FILE A18
509	POWER OF THE BOARD OF EDUCATION	1	J25	ED	39	FILE A21
510	STATE FISCAL OFFICER	1	J25	EXEC, TAX	51 66	FILE A28 FILE S04
511	COMMISSION ON LEGISLATIVE SALARY	1	J25	LEG	46	FILE A25
512	EMPLOYMENT	1	J25	PHWLI	36	FILE A18
513	OPEN MEETINGS	1	J26	LEG	46	FILE A25
514	LOCAL GOVERNMENT	1	J26	LGOVT, TAX	42 66	FILE A23 FILE S04
515	BILL OF RIGHTS	1	J26	BORSE	69	FILE S06
516	SUNSHINE	1	J26	BORSE	69	FILE S06
517	CITIZEN PARTICIPATION	1	J26	BORSE	69	FILE S06
518	RESOURCES; CONSERVATION, DEVELOPMENT AND USE	1	J26	EACL	77	FILE S12
519	CHANGE IN THE AGE OF MAJORITY	1	J26	BORSE	72	FILE S07

520	RIGHTS OF ACCUSED & TRIAL BY JURY, CIVIL CASES	1	J26	BORSE	69	FILE S06
521	PREAMBLE	1	J26	RA	34	FILE A16
522	BUDGET AND LEGISLATIVE APPROPRIA- TIONS AND PROCEDURES	1	J26	TAX	66	FILE S04
523	CODES OF ETHICS	1	J26	ETH	26	FILE A11
524	WATER REGULATION AND CONTROL	1	J26	EACL	77	FILE S12
525	STATE ACQUISITION OF PRIVATE LAND	1	J26	RA	34	FILE A16
526	ELDERLY	1	J26	BORSE		FILE S22
527	SCHOOL BOARD TERMS OF OFFICE	1	J26	ED	39	FILE A21
528	EDUCATION	1	J26	ED	39	FILE A21
529	PUBLIC MONEYS	1	J26	TAX	66	FILE S04
530	PUBLIC FUNDING FOR POST-SECONDARY PRIVATE EDUCATION	1	J26	TAX, ED	39 66	FILE A21 FILE S04
531	BOUNDARIES	1	J26	RA	30	FILE A14
532	STAGGERED TERMS FOR THE SENATE	1	J26	LEG	46	FILE A25
533	OFFICE OF LIEUTENANT GOVERNOR	1	J26	EXEC, LEG	32 46	FILE A15 FILE A25
534	ENVIRONMENTAL PROTECTION	1	J26	EACL	77	FILE S12
535	POWER OF THE BOARD OF EDUCATION	1	J26	ED	39	FILE A21
536	HEALTHFUL ENVIRONMENT	1	J26	EACL	77	FILE S12
537	LOCAL GOVERNMENT POWERS	1	J26	LGOVT	42	FILE A23
538	ADVSRY BRD OF ED, SCH ADVSRY COUNCILS & SUPERINTENDENT OF ED	1	J26	ED	39	FILE A21

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
539	STATE ETHICS COMMISSION	1	J26	ETH	26	FILE A11
540	REGULATION OF NATURAL RESOURCES	1	J26	EACL	77	FILE S12
541	REGIONAL BOARDS OF EDUCATION	1	J26	ED	39	FILE A21
542	COMMISSION ON LEGISLATIVE SALARIES	1	J26	LEG	46	FILE A25
543	AUDITOR	1	J26	TAX	66	FILE S04
544	HISTORIC PLACES	1	J27	PHWLI	36	FILE A18
545	JUDICIAL COMMISSION	1	J27	JUD	52	FILE A28
546	RIGHTS OF THE ACCUSED	1	J27	BORSE	69	FILE S06
547	TRIAL BY JURY, CIVIL CASES	1	J27	BORSE		FILE S22
548	APPOINTMENT OF JUSTICES AND JUDGES	1	J27	JUD	52	FILE A28
549	EXCESSIVE PUNISHMENT	1	J27	BORSE		FILE S22
550	NATIVE HAWAIIANS	1	J27	HA	57	FILE A31
551	CODES OF ETHICS	1	J27	ETH	26	FILE A11
552	HISTORIC SITES	1	J27	EACL	77	FILE S12
553	PREAMBLE	1	J27	RA	34	FILE A16
554	PREVENTIVE PROGRAMS FOR MENTAL & PHYSICAL HEALTH PROBLEMS	1	J27	PHWLI	36	FILE A18
555	PUBLIC HEALTH	1	J27	PHWLI	36	FILE A18
556	RIGHTS OF HUMANS	1	J27	BORSE	69	FILE S06

557	LIMITATION OF TAXATION	1	J27	TAX	66	FILE S04
558	COMPENSATION FOR LEGISLATORS	1	J27	LEG	46	FILE A25
559	PUBLIC SIGHTLINESS AND GOOD ORDER	1	J27	PHWLI	36	FILE A18
560	OPEN PRIMARY ELECTION	1	J27	BORSE	72	FILE S07
561	POWER OF THE BOARD OF EDUCATION	1	J27	ED	39	FILE A21
562	TERMS OF ELECTED OFFICIALS	1	J27	LEG , EXEC	32 46	FILE A15 FILE A25
563	SECRETARY OF STATE	1	J27	EXEC	32	FILE A15
564	NATURAL RESOURCES	1	J27	EACL	77	FILE S12
565	LEGISLATIVE COMPENSATION	1	J27	LEG	46	FILE A25
566	AUDITORS	1	J27	TAX	66	FILE S04
567	ITEM VETOES	1	J27	EXEC , TAX	51 66	FILE A28 FILE S04
568	FUNDING FOR PRIVATE EDUCATION	1	J27	ED	39	FILE A21
569	RIGHTS OF MENTALLY OR PHYSICALLY HANDICAPPED PERSONS	1	J27	BORSE		FILE S22
570	ENERGY RESOURCES	1	J27	EACL	77	FILE S12
571	TRANSFER OF FUNDS	1	J27	TAX	66	FILE S04
572	ENVIRONMENTAL PROTECTION	1	J27	EACL	77	FILE S12
573	ELECTIONS	1	J27	BORSE	72	FILE S07
574	UNICAMERAL LEGISLATURE	1	J28	LEG	46	FILE A25
575	EXECUTIVE AND ADMINISTRATIVE OFFICES AND DEPARTMENTS	1	J28	EXEC	51	FILE A28

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
576	JUDICIAL SELECTION	1	J28	JUD	52	FILE A28
577	APPOINTED ATTORNEY GENERAL	1	J28	EXEC	32	FILE A15
578	ESTABLISHMENT OF CHARTERED HOME RULE UNITS	1	J28	LGOVT, TAX	42 66	FILE A23 FILE S04
579	COMMUNITY UTILIZATION OF PUBLIC SCHOOL FACILITIES	1	J28	ED	39	FILE A21
580	BOARD OF EDUCATION REPRESENTATION	1	J28	ED	39	FILE A21
581	CONSERVATION LANDS	1	J28	EACL	77	FILE S12
582	AGRICULTURAL LANDS	1	J28	EACL	77	FILE S12
583	AGRICULTURAL LANDS	1	J28	EACL	77	FILE S12
584	CIVIL DEFENSE	1	J28	PHWLI	36	FILE A18
585	AGRICULTURAL LANDS	1	J28	EACL	77	FILE S12
586	WATER POLLUTION	1	J28	EACL	77	FILE S12
587	ENERGY RESOURCES	1	J28	EACL	77	FILE S12
588	STATE LAND USE COMMISSION	1	J28	EACL	77	FILE S12
589	BOARD OF REGENTS OF THE UNIVERSITY OF HAWAII	1	J28	ED	39	FILE A21
590	RIGHT TO WORK	1	J28	PHWLI	36	FILE A18
591	BILL TITLES	1	J28	LEG	46	FILE A25
592	RESIDENTIAL QUALIFICATIONS OF LEGISLATORS	1	J28	LEG	46	FILE A25

593	REAPPORTIONING THE BOARD OF EDUCATION	1	J28	ED	39	FILE A21
594	BOUNDARIES	1	J28	RA	30	FILE A14
595	ZONING CHANGES	1	J28	EACL, BORSE	72 77	FILE S07 FILE S12
596	ELECTED ATTORNEY GENERAL	1	J28	EXEC	32	FILE A15
597	AGE AND MARITAL STATUS DISCRIMINATION	1	J28	BORSE		FILE S22
598	JURY SERVICE	1	J28	BORSE	69	FILE S06
599	USE OF PUBLIC LANDS	1	J28	EACL	77	FILE S12
600	TAXING POWER	1	J28	TAX	66	FILE S04
601	CHILDBEARING DECISIONS	1	J28	BORSE	69	FILE S06
602	RIGHT TO BEAR ARMS	1	J28	BORSE		FILE S22
603	RIGHTS OF ACCUSED	1	J28	BORSE	69	FILE S06
604	CONSTITUTIONAL CONVENTION	1	J28	RA	34	FILE A16
605	PUBLICATION OF TAX COLLECTIONS AND EXPENDITURES	1	J28	TAX	66	FILE S04
606	CREATION OF POLITICAL SUBDIVISIONS	1	J28	LGOVT	42	FILE A23
607	POSITION COUNT INCREASE LIMITATION	1	J28	RA, TAX	34 66	FILE A16 FILE S04
608	BUDGET	1	J28	TAX	66	FILE S04
609	ELECTION PROCESS FOR PUBLIC OFFICE	1	J31	BORSE	72	FILE S07
610	DUE PROCESS AND EQUAL PROTECTION	1	J31	BORSE		FILE S22

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
611	PRIMARY ELECTIONS	1	J31	BORSE	72	FILE S07
612	PUBLIC'S RIGHT TO KNOW	1	J31	BORSE	69	FILE S06
613	LEGISLATIVE & ADMINISTRATIVE ACCOUNT- ABILITY & INCENTIVE	1	J31	TAX	66	FILE S04
614	BUDGET	1	J31	TAX	66	FILE S04
615	HAWAIIAN HOMES	1	J31	HA	56	FILE A31
616	ELECTION OF THE BOARD OF EDUCATION	1	J31	ED	39	FILE A21
617	QUALIFICATIONS FOR ELECTIVE OFFICE	1	J31	BORSE, EXEC	51 72	FILE A28 FILE S07
618	PRESS REGULATION	1	J31	BORSE	69	FILE S06
619	INDIRECT INITIATIVE	1	J31	BORSE, LEG	46 72	FILE A25 FILE S07
620	POWER OF COUNTIES	1	J31	LGOVT, EACL	42 77	FILE A23 FILE S12
621	LEGISLATURE	1	J31	LEG	46	FILE A25
622	LEGISLATURE	1	J31	LEG	46	FILE A25
623	LEGISLATIVE SALARIES AND ALLOWANCES	1	J31	LEG	46	FILE A25
624	LEGISLATURE	1	J31	LEG	46	FILE A25
625	ESTABLISHMENT OF HEALTH CARE SERVICES	1	J31	PHWLI	36	FILE A18
626	POWERS OF THE LEGISLATIVE AUDITOR	1	J31	TAX	66	FILE S04
627	POLITICAL POWER	1	J31	BORSE	69	FILE S06

628	CARE OF HANDICAPPED	I	J3I	PHWLI	36	FILE A18
629	PRICE REGULATION	I	J3I	RA	34	FILE A16
630	TAXES OF PERSONS ON FIXED INCOME	I	J3I	TAX	66	FILE S04
631	DISTRICTING AND APPORTIONMENT	I	J3I	LEG	46	FILE A25
632	RIGHT TO A FAIR HEARING	I	J3I	BORSE	69	FILE S06
633	CARE OF HANDICAPPED	I	J3I	PHWLI	36	FILE A18
634	OWNERSHIP OF PROPERTY BY ALIENS	I	J3I	RA	34	FILE A16
635	RANDOMLY SELECTED ATTORNEY GENERAL	I	J3I	EXEC	32	FILE A15
636	OWNERSHIP OF LAND	I	J3I	EACL	77	FILE S12
637	PUBLIC ASSISTANCE	I	J3I	PHWLI	36	FILE A18
638	PUBLIC HEALTH	I	J3I	PHWLI	36	FILE A18
639	RIGHT TO BEAR ARMS	I	J3I	BORSE		FILE S22
640	NATURAL RESOURCES	I	J3I	EACL	77	FILE S12
641	STATE ETHICS COMMISSION	I	J3I	ETH	26	FILE A11
642	PENSION FUND FOR THE AGED	I	J3I	PHWLI	36	FILE A18
643	OMBUDSMAN	I	J3I	LEG	46	FILE A25
644	KULEANA LANDS	I	J3I	HA, TAX	57 66	FILE A31 FILE S04
645	HAWAIIAN EDUCATION	I	J3I	ED, HA	39 57	FILE A21 FILE A31
646	PUBLIC RIGHTS OF ACCESS	I	J3I	BORSE, EACL	69 77	FILE S06 FILE S12

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
647	PUBLIC FINANCING OF CAMPAIGNS	1	J31	BORSE	72	FILE S07
648	EQUAL EMPLOYMENT	1	J31	RA	34	FILE A16
649	SPECIAL TAX REFUNDS TO STATE INDIVIDUAL INCOME TAXPAYERS	1	J31	TAX	66	FILE S04
650	ACCESS TO THE COURTS	1	J31	BORSE	69	FILE S06
651	ESTABLISHMENT OF A HUMAN ORGAN REGISTRY	1	J31	PHWLI	36	FILE A18
652	DECRIMINALIZATION OF MARIJUANA	1	J31	BORSE		FILE S22
653	LOCAL GOVERNMENT	1	J31	LGOVT	42	FILE A23
654	COUNTY GOVERNMENT	1	J31	LGOVT	42	FILE A23
655	APPORTIONMENT OF STATE REVENUES TO POLITICAL SUBDIVISIONS	1	J31	LGOVT, TAX	42 66	FILE A23 FILE S04
656	DISTRICT SCHOOL ADVISORY COUNCILS	1	J31	ED	39	FILE A21
657	PUBLIC NATURAL RESOURCES	1	J31	EACL	77	FILE S12
658	NATURAL, HISTORICAL, & CULTURAL RESOURCES & POPULATION GROWTH	1	J31	EACL	77	FILE S12
659	EXECUTIVE & ADMINISTRATIVE OFFICES & DEPARTMENTS	1	J31	EXEC	51	FILE A28
660	ELECTIONS	1	J31	BORSE	72	FILE S07
661	STATE BOUNDARIES	1	J31	RA	30	FILE A14
662	SEXUAL ORIENTATION DISCRIMINATION	1	J31	BORSE		FILE S22

663	PUBLIC UTILITIES	1	J31	EACL, PHWLI	77	FILE S12 FILE S22
664	HAWAII	1	J31	HA	57	FILE A31
665	GENERAL PLAN FOR HAWAIIAN HOME LANDS	1	J31	HA	56	FILE A31
666	BONDS AND DEBT LIMITATIONS	1	J31	TAX	66	FILE S04
667	MANDATORY PUBLIC REFERENDA FOR CIPs	1	J31	TAX	66	FILE S04
668	SUPREME COURT'S DECISION DEADLINES	1	J31	JUD	52	FILE A28
669	CIRCUIT COURT DIVISIONS OF APPEALS	1	J31	JUD	52	FILE A28
670	TIME LIMITATIONS ON MATTERS BEFORE THE SUPREME COURT	1	J31	JUD	52	FILE A28
671	DISQUALIFICATIONS FOR VOTING	1	J31	BORSE	72	FILE S07
672	HAWAIIAN LANGUAGE	1	J31	HA	57	FILE A31
673	HAWAIIAN AFFAIRS	1	J31	EACL	77	FILE S12
674	HAWAIIAN AFFAIRS	1	J31	HA	59	FILE A31
675	HAWAIIAN AFFAIRS	1	J31	EACL	77	FILE S12
676	HAWAIIAN AFFAIRS	1	J31	HA	59	FILE A31
677	AGRICULTURAL RESOURCES	1	J31	EACL	77	FILE S12
678	WATER RESOURCES	1	J31	EACL	77	FILE S12
679	WATER RESOURCES	1	J31	EACL	77	FILE S12
680	BOARD OF EDUCATION	1	J31	ED	39	FILE A21
681	RIGHT TO MEDICAL CARE	1	J31	BORSE	69	FILE S06

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
682	PUBLIC LANDS	1	J31	EACL	77	FILE S12
683	RESIDENCY	1	J31	EXEC	51	FILE A28
684	RIGHT OF MINIMUM STANDARD OF LIVING	1	J31	BORSE	69	FILE S06
685	RESOURCES	1	J31	EACL	77	FILE S12
686	PUBLIC PARKLAND	1	J31	EACL	77	FILE S12
687	LOCAL GOVERNMENT	1	J31	LGOVT	42	FILE A23
688	EDUCATION	1	J31	ED	39	FILE A21
689	APPOINTMENT OF JUSTICES AND JUDGES	1	J31	JUD	52	FILE A28
690	MARINE RESOURCES	1	J31	EACL	77	FILE S12
691	RIGHTS AND RESPONSIBILITIES OF THE MEDIA	1	J31	BORSE	69	FILE S06
692	SUFFRAGE	1	J31	LGOVT	42	FILE A23
693	ARTICLE XI HAWAIIAN AFFAIRS	1	J31	HA	56	FILE A31
694	ISSUANCE OF GENERAL OBLIGATION BONDS	1	J31	TAX	66	FILE S04
695	QUALIFICATIONS TO VOTE	1	J31	BORSE	72	FILE S07
696	RIGHT OF THE PEOPLE TO BE GOVERNED	1	J31	BORSE	69	FILE S06
697	LIMITING STATE SPENDING	1	J31	TAX	66	FILE S04
698	CONSERVATION OF WATER	1	J31	EACL	77	FILE S12
699	CONSERVATION OF WATER	1	J31	EACL	77	FILE S12

700	CONSERVATION OF WATER	1	J31	EACL	77	FILE S12
701	CONSERVATION	1	J31	EACL	77	FILE S12
702	PREAMBLE	1	J31	RA	34	FILE A16
703	EXECUTIVE & ADMINISTRATIVE OFFICES & DEPARTMENTS	1	J31	EXEC	51	FILE A28
704	CONSERVATION AND DEVELOPMENT OF RESOURCES	1	J31	PHWLI	36	FILE A18
705	PRIMARY ELECTIONS	1	J31	BORSE	72	FILE S07
706	PUBLIC SIGHTLINESS AND GOOD ORDER	1	J31	EACL, PHWLI	36 77	FILE A18 FILE S12
707	PUBLIC SIGHTLINESS AND GOOD ORDER	1	J31	EACL, PHWLI	36 77	FILE A18 FILE S12
708	OMBUDSMAN	1	J31	EXEC	51	FILE A28
709	POWER OF TAXATION	1	J31	TAX	66	FILE S04
710	BOARDS & COMMISSIONS MEMBERSHIP SELECTION PROCEDURES	1	J31	EXEC	51	FILE A28
711	DURATIONAL RESIDENCY REQUIREMENTS	1	J31	LEG	46	FILE A25
712	PRIMARY ELECTIONS	1	J31	BORSE	72	FILE S07
713	MERIT SELECTION OF THE ATTORNEY GENERAL	1	J31	EXEC	32	FILE A15
714	DUE PROCESS AND EQUAL PROTECTION	1	J31	BORSE		FILE S21
715	LEGISLATIVE PROCEDURE AND PUBLIC HEARINGS	1	J31	LEG	46	FILE A25
716	LEGISLATIVE SALARIES AND BENEFITS	1	J31	LEG	46	FILE A25
717	PUBLIC EDUCATION	1	J31	ED	39	FILE A21

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
718	BOARD OF EDUCATION	1	J31	ED	39	FILE A21
719	POWER OF THE BOARD OF EDUCATION	1	J31	ED	39	FILE A21
720	PASSAGES OF BILLS	1	J31	LEG	46	FILE A25
721	DESIGNATION OF NATURAL RESOURCES AS STATE TREASURES	1	J31	EACL	77	FILE S12
722	CIVIL SERVICE COMMISSION	1	J31	RA	34	FILE A16
723	RESOURCES	1	J31	EACL	77	FILE S12
724	AGRICULTURAL LANDS	1	J31	EACL	77	FILE S12
725	JUDICIAL ADVISORY COMMITTEE	1	J31	JUD	52	FILE A28
726	CARE OF HANDICAPPED	1	J31	PHWLI	36	FILE A18
727	GOVERNMENT ORGANIZATION AND OPERATIONS COMMISSION	1	J31	LGOVT , EXEC	42 51	FILE A23 FILE A28
728	GOVERNMENT SALARIES AND BENEFITS COMMISSION	1	J31	EXEC , LEG , JUD	46 51 52	FILE A25 FILE A28 FILE A28
729	DEVELOPMENTALLY DISABLED, MENTALLY ILL & HANDICAPPED, CARE OF	1	J31	PHWLI	36	FILE A18
730	LEGISLATURE	1	J31	LEG	46	FILE A25
731	RESIDENTIAL LEASES OF REAL PROPERTY	1	J31	EACL	77	FILE S12
732	EXPENDITURE CONTROLS	1	J31	TAX	66	FILE S04
733	PUBLIC SERVICES BY CONTRACT	1	J31	PHWLI	36	FILE A18

734	CODES OF ETHICS	1	J31	ETH	26	FILE A11
735	RIGHT TO SECURITY OF BODY	1	J31	BORSE	69	FILE S06
736	HIGHWAYS	1	J31	RA	34	FILE A16
737	SPECIAL PUBLIC AUTHORITIES	1	J31	LEG, EXEC	46 51	FILE A25 FILE A28
738	ELECTIVE OFFICE	1	J31	RA	34	FILE A16
739	TAXATION AND FINANCE	1	J31	TAX	66	FILE S04
740	NATURAL RESOURCES	1	J31	EACL	77	FILE S12
741	SEARCH AND SEIZURE	1	J31	BORSE	69	FILE S06
742	LIMIT IN THE GROWTH OF APPROPRIATIONS	1	J31	TAX	66	FILE S04
743	PRESERVATION OF NATIVE ECOTYPES	1	J31	EACL	77	FILE S12
744	SMALL BUSINESSES	1	J31	LGOVT	42	FILE A23
745	GROWTH MANAGEMENT	1	J31	EACL	77	FILE S12
746	DEVELOPMENT OF URBAN LANDS	1	J31	EACL	77	FILE S12
747	RECALL OF PUBLIC OFFICIALS	1	J31	BORSE	72	FILE S07
748	LIMITATION ON STATE DEBT	1	J31	TAX	66	FILE S04
749	PUBLIC PURPOSE	1	J31	TAX	66	FILE S04
750	LEGISLATIVE APPROPRIATION PROCEDURES	1	J31	TAX, EXEC	51 66	FILE A28 FILE S04
751	EXPENDITURE CONTROLS	1	J31	TAX, EXEC	51 66	FILE A28 FILE S04
752	BOARD OF EDUCATION	1	J31	ED	39	FILE A21

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
753	BOARD OF REGENTS	1	J31	ED	39	FILE A21
754	BOARD OF EDUCATION	1	J31	ED	39	FILE A21
755	TAXATION AND FINANCE	1	J31	TAX	66	FILE S04
756	COLLECTIVE BARGAINING RIGHTS OF TENANTS	1	J31	PHWLI	36	FILE A18
757	CONSERVATION AND DEVELOPMENT OF RESOURCES	1	J31	EACL	77	FILE S12
758	ENVIRONMENT	1	J31	BORSE, EACL	69 77	FILE S06 FILE S12
759	COMPENSATION OF CONSTITUTIONAL CONVENTION DELEGATES	1	J31	RA	34	FILE A16
760	LEGISLATIVE DISTRICTING AND APPORTIONMENT	1	J31	LEG	46	FILE A25
761	ENVIRONMENT	1	J31	PHWLI	36	FILE A18
762	HAWAIIAN AFFAIRS	1	J31	HA	56	FILE A31
763	PRIVATE PROPERTY	1	J31	BORSE		FILE S22
764	SEPARATE BOARDS OF HIGHER EDUCATION	1	J31	ED	39	FILE A21
765	EXECUTIVE	1	J31	EXEC	32	FILE A15
766	GOVERNOR'S CABINET	1	J31	EXEC	51	FILE A28
767	LIMITING GOVERNMENT SPENDING	1	J31	TAX	66	FILE S04
768	NONRENEWABLE RESOURCES	1	J31	EACL	77	FILE S12

769	EXEMPTIONS FROM THE DEBT LIMIT	1	J31	TAX	66	FILE S04
770	STATE MONEYS; DEPOSIT REQUIREMENTS	1	J31	TAX	66	FILE S04
771	PUBLIC PURPOSE	1	J31	TAX	66	FILE S04
772	DECENT HOUSING	1	J31	PHWLI	36	FILE A18
773	CRIMINAL PROSECUTIONS	1	J31	RA	34	FILE A16
774	MANDATORY SENTENCING OF REPEAT OFFENDERS	1	J31	RA	34	FILE A16
775	GOALS AND PRIORITIES OF PUBLIC EDUCATION	1	J31	ED	39	FILE A21
776	ESTABLISHMENT OF CONSTITUTIONAL REVISION COMMISSION	1	J31	RA	34	FILE A16
777	JUDICIARY	1	J31	JUD	52	FILE A28
778	REVISIONS OR AMENDMENTS OF RIGHTS	1	J31	RA , BORSE	34	FILE A16 FILE S22
779	RIGHTS OF MAN	1	J31	BORSE , HA	57 69	FILE A31 FILE S06
780	TAXATION AND FINANCE	1	J31	TAX, LGOVT	42 66	FILE A23 FILE S04
781	CONSTITUTIONAL CONVENTION	1	J31	RA	34	FILE A16
782	TAXATION AND FINANCE	1	J31	TAX, LGOVT	42 66	FILE A23 FILE S04
783	NATURAL RESOURCES	1	J31	EACL	77	FILE S12
784	AVAILABLE LANDS	1	J31	HA	56	FILE A31
785	AVAILABLE LANDS	1	J31	HA	56	FILE A31

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
786	JUDICIARY	1	J31	JUD	52	FILE A28
787	SELECTION OF PARTY	1	J31	BORSE	72	FILE S07
788	COLLECTION OF STATUTES	1	J31	LEG	46	FILE A25
789	REVENUE ESTIMATES	1	J31	TAX, EXEC	51 66	FILE A28 FILE S04
790	STATE BUDGET	1	J31	TAX	66	FILE S04
791	RESTRICTION OF FUNDS	1	J31	TAX, EXEC	51 66	FILE A28 FILE S04
792	LEGISLATIVE SESSIONS	1	J31	LEG	46	FILE A25
793	BUDGET OF THE BOARD OF EDUCATION	1	J31	TAX	66	FILE S04
794	ROLE OF THE LEGISLATURE IN EDUCATION	1	J31	LEG	46	FILE A25
795	POWERS OF THE BOARD OF EDUCATION	1	J31	ED	39	FILE A21
796	LEGISLATIVE FISCAL MANAGEMENT	1	J31	LEG	46	FILE A25
797	LEGISLATIVE STAFF	1	J31	LEG	46	FILE A25
798	DEBT CEILING	1	J31	TAX	66	FILE S04
799	CAPITAL IMPROVEMENT APPROPRIATIONS	1	J31	TAX	66	FILE A04
800	GRANTS-IN-AID TO THE COUNTIES	1	J31	TAX	66	FILE S04
801	OMBUDSMAN	1	J31	LEG	46	FILE A25
802	CONSTITUTIONAL CONVENTIONS	1	J31	RA	34	FILE A16

803	CIVIL SERVICE HIRING PROCESS	1	J31	RA , PHWLI	34 36	FILE A16 FILE A18
804	HAWAIIAN HOMES LAND	1	J31	HA	56	FILE A31
805	HAWAIIAN HOMES LANDS	1	J31	HA	56	FILE A31
806	HAWAIIAN HOMES LAND	1	J31	TAX, HA	56 66	FILE A31 FILE S04
807	GROWTH MANAGEMENT	1	J31	EACL, PHWLI	77	FILE S12 FILE S22
808	CONSERVATION	1	J31	EACL	77	FILE S12
809	CONSERVATION	1	J31	EACL	77	FILE S12
810	RECALL OF ELECTIVE OFFICERS	1	J31	BORSE	72	FILE S07
811	GROWTH	1	J31	PHWLI	36	FILE A18
812	HEALTH	1	J31	PHWLI	36	FILE A18
813	CONSERVATION	1	J31	EACL	77	FILE S12
814	WELFARE AND UNEMPLOYMENT PAYMENTS	1	J31	PHWLI	36	FILE A18
815	PRICE REGULATION	1	J31	RA	34	FILE A16
816	ADVISORY INITIATIVE	1	J31	BORSE	72	FILE S07
817	PEOPLE OF HAWAII	1	J31	BORSE, RA	34 69	FILE A16 FILE S06
818	ADEQUATE MEDICAL CARE	1	J31	PHWLI	36	FILE A18
819	BILL OF RIGHTS AND PUBLIC ASSISTANCE	1	J31	BORSE	69	FILE S06
820	PUBLIC ASSISTANCE	1	J31	PHWLI	36	FILE A18
821	RIGHT TO A JOB, UNION BENEFITS, SUING FOR LACK OF EMPLOYMENT	1	J31	PHWLI	36	FILE A18

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
822	LEGALIZED GAMBLING	1	J31	BORSE		FILE S22
823	STANDARDS OF ETHICAL CONDUCT	1	J31	ETH	26	FILE A11
824	HOUSING	1	J31	PHWLI	36	FILE A18
825	PUBLIC HEALTH AND WELFARE	1	J31	PHWLI	36	FILE A18
826	GROWTH	1	J31	EACL	77	FILE S12
827	INDIRECT INITIATIVE AND OPTIONAL REFERENDUM	1	J31	BORSE	72	FILE S07
828	INITIATIVE	1	J31	BORSE	72	FILE S07
829	DOUBLE TAXATION OF CORPORATE DIVIDENDS	1	J31	TAX	66	FILE S04
830	UNIFICATION OF THE EXECUTIVE AND LEGISLATIVE FUNCTIONS	1	J31	LEG, EXEC	46 51	FILE A25 FILE A28
831	LAND RESOURCES	1	J31	EACL	77	FILE S12
832	NUCLEAR POWER	1	J31	EACL	77	FILE S12
833	REGISTRATION, VOTING	1	J31	BORSE	72	FILE S07
834	INITIATIVE AND REFERENDUM	1	J31	BORSE	72	FILE S07
835	PUBLIC LIBRARIES	1	J31	ED	39	FILE A21

COMMITTEE PROPOSALS

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
1	CODES OF ETHICS (SEE ST COMM REPT 26) RD1 S1		A09			
		1	All	COMM WHLE	CWR1	
		2	A16*	STYLE	43	
		3	A23* S19	STYLE FINAL READING	104	
2	STATE BOUNDARIES AND MOTTO (SEE ST COMM REPT 30) S1		All			
		1	A14	COMM WHLE	CWR2	
		2	A16	STYLE	44	
		3	A23* S19	STYLE FINAL READING	104	
3	EXECUTIVE (SEE ST COMM REPT 32) (SEE MINORITY REPT 1 & 2) S1		A12			
		1	A15	COMM WHLE	CWR3	
		2	A24	STYLE	61	
		3	S01* S19	STYLE FINAL READING	104	
4	PREAMBLE, GENERAL MISC PROVISIONS, REVISION AND AMENDMENT (SEE ST COMM REPT 34) RD2 S1		A14			
		1	A16	COMM WHLE	CWR4	
		2	A21*	STYLE	48	

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
		3	A28* S19	STYLE FINAL READING	104	
5	PUBLIC HEALTH AND WELFARE (SEE ST COMM REPT 36) (SEE MINORITY REPT 3 & 4) RD2 S1		A16			
		1	A18	COMM WHLE	CWR5	
		2	A24*	STYLE	62	
		3	S01* S19	STYLE FINAL READING	104	
6	EDUCATION (SEE ST COMM REPT 39) (SEE MINORITY REPT 5) RD1 S1		A18			
		1	A21	COMM WHLE	CWR6	
		2	A28*	STYLE	67	
		3	S05* S19	STYLE FINAL READING	104	
7	LOCAL GOVERNMENT (SEE ST COMM REPT 42) RD2		A21			
		1	A23	COMM WHLE	CWR7	
		2	S01*	STYLE	76	
		3	S18 S19	STYLE FINAL READING	104	
8	LEGISLATURE (SEE ST COMM REPT 46) (SEE MINORITY REPT 6, 7, & 8) RD1 S1		A23			
		1	A25	COMM WHLE	CWR8	
		2	S04*	STYLE	81	
		3	S18* S19	STYLE FINAL READING	104	

9	EXECUTIVE (SEE ST COMM REPT 51) S1		A25		
		1	A28	COMM WHLE	CWR9
		2	A30	STYLE	73
		3	S08*	STYLE	104
			S19	FINAL READING	
10	JUDICIARY (SEE ST COMM REPT 52) (SEE MINORITY REPT 9 & 10) RD2 S1		A25		
		1	A28	COMM WHLE	CWR10
		2	S08*	STYLE	84
		3	S18*	STYLE	104
			S19	FINAL READING	
11	HAWAIIAN AFFAIRS (SEE ST COMM REPT 56) S1		A29		
		1	A31	COMM WHLE	CWR11
		2	S07	STYLE	85
		3	S18*	STYLE	104
			S19	FINAL READING	
12	HAWAIIAN EDUCATION (SEE ST COMM REPT 57) RD1 S1		A29		
		1	A31	COMM WHLE	CWR12
		2	S07*	STYLE	86
		3	S18*	STYLE	104
			S19	FINAL READING	
13	HAWAIIAN AFFAIRS (SEE ST COMM REPT 59) RD2 S1		A29		
		1	A31	COMM WHLE	CWR13
		2	S07*	STYLE	87
		3	S18*	STYLE	104
			S19	FINAL READING	
14	TAXATION AND FINANCE (SEE ST COMM REPT 66) (SEE MINORITY REPT 11 & 12) RD2 S1		S01		
		1	S04	COMM WHLE	CWR14
		2	S12*	STYLE	93

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
		3	S18* S19	STYLE FINAL READING	104	
15	BILL OF RIGHTS (SEE ST COMM REPT 69) RD2 S1		S02			
		1	S06	COMM WHLE	CWR15	
		2	S15*	STYLE	96	
		3	S18* S19	STYLE FINAL READING	104	
16	SUFFRAGE AND ELECTIONS (SEE ST COMM REPT 72) (SEE MINORITY REPT 13, 14, & 15) RD2 S1		S05			
		1	S07	COMM WHLE	CWR16	
		2	S16*	STYLE	98	
		3	S18* S19	STYLE FINAL READING	104	
17	CONSERVATION & DEVELOPMENT OF RESOURCES (SEE ST COMM REPT 77) RD2 S1		S07			
		1	S12	COMM WHLE	CWR18	
		2	S17*	STYLE	100	
		3	S18* S19	STYLE FINAL READING	104	
18	USE OF NONDISCRIMINATORY TERMS IN THE CONSTITUTION (SEE ST COMM REPT 78) RD2 S1		S07			
		1	S08	COMM WHLE	CWR17	
		2	S15*	STYLE	94	
		3	S18* S19	STYLE FINAL READING	104	

RESOLUTIONS

Number	Subject	Day (Amended*)	Committees	Committee Reports	Disposition
1	CON CON 1978, ADOPT RULES	J05			ADOPT J05
2	DELEGATE TERUO IHARA, CONGRATU- LATIONS & THANKS	J05			ADOPT J05
3	WORDING OF OUR STATE CONSTITUTION	J13	STYLE	17	ADOPT J25
4	REAFFIRMING SUPPORT OF THE EQUAL RIGHTS AMENDMENT	J14	BORSE		
5 RD3	PROPOSALS	J14	RULES	11	ADOPT J19
6	RETENTN OF ARTICLE I, SECTION 8, RELATING TO GRAND JURY	J17	BORSE		
7 RD1	BICAMERAL LEGISLATURE	J17	LEG	28	ADOPT All
8 RD1	BUDGET	J27	BAP	24	ADOPT A09
9	CONFLICTS OF INTEREST CONCERNING PUBLIC EMPLOYEES	A09	ETH		
10	FINANCL DISCLOSRE, BY CERTN NEWS- PAPER EDITORS & PUBLISHERS	All	ETH		
11	AMEND CON CON RULES TO PROCEDURES	A14	RULES		TABLE S20

Number	Subject	Day (Amended*)	Committees	Committee Reports	Disposition
12	SCHEDULING CONVENTION MEETINGS ON SUNDAYS	A16	RULES		
13 RD1	NON-DISCRIMINATORY NOUNS, PRONOUNS & ADJECTIVES	A18	STYLE	49	ADOPT A25
14 RD1	PUB LIBRARIES AS PART OF DOE, LEGIS TO REVIEW & REDRESS	A24	ED	64	ADOPT S01
15	AMEND CONVENTION RULE 15	A28		54	ADOPT A29
16	DEATH WITH DIGNITY	A28	BORSE	106	ADOPT S19
17	RETURN OF KAHO'OLAWA TO STATE, USE AS CULTURAL SANCTUARY	A29		58	ADOPT S07
18	LEGISLATURE AMEND RETIREMENT SYSTEM LAW	A31	RA		
19	LEGISLATN APPLICABLE ONLY TO CERTAIN COUNTIES, REFRAIN	A31	LEG		
20	AMEND CONVENTION STANDING RULES 24 & 32	S02	RULES		
21	AMEND CONVENTION STANDING RULE 61	S06	RULES		
22	ALL PORTIONS OF CONSTITUTION, CONSIDER PHRASEOLOGY	S08			ADOPT S11
23	CODIFICATION OF GOVRNMNTL SUN- SHINE & ACCESS PRINCIPLES	S09	LEG		
24	WRONGS AGAINST HAWNS, EXTENT & REDRES, STUDY COMMISSION FOR	S11	HA	89	ADOPT S13

25 RD1	REVIEW OF THE "INSANITY" DEFENSE	S12	BORSE		ADOPT S21
26 RD1	CARE AND MAINTENANCE OF STATE MONEYS	S14	TAX	102	ADOPT S19
27	NATIONAL CONSTITUTIONAL CONVENTION	S16	RA		
28 RD1	RISING HEALTH CARE COSTS, ESTAB LEGISLATN TO REDUCE	S16	PHWLI	105	ADOPT S20
29	REVISOR, EFFECT CHANGES IN CONSTI- TUTION AFTER NOV ELECTIONS	S18	STYLE	103	ADOPT S19
30 RD2	CON CON PROPOSALS SUBMISSION TO PEOPLE	S18		99	(RD1) ADOPT S20 (RD2) ADOPT S21
31	AMEND CONVENTION RULE 37	S18	RULES		
32	SUBMISSION AND INFORMATION	S18	SI	109	FILE S21
33	MULTI-LINGUAL EXEMPTION (TITLE III, VOTING RGHTS ACT)	S19	BORSE	108	ADOPT S21
34	PAGES LT GOV OFF, BOY SCOUTS, GIRL SCOUTS, CAMP FIRE	S19			ADOPT S19
35	REGULATION & CONTROL OF RADIO- ACTIVE WASTE MATERIALS	S19	EACL		
36	CENTRAL SERVICES & PUBLIC WORKS DIVISIONS OF DAGS	S21			ADOPT S21
37	PRESS, WIRE SERVICES, RADIO & TV, APPRECIATION	S21			ADOPT S21
38	PRESIDENT OF SENATE, SPEAKER OF HOUSE, APPRECIATION	S21			ADOPT S21
39	DEPARTMENT OF ATTORNEY GENERAL, APPRECIATION	S21			ADOPT S21

Number	Subject	Reading	Day (Amended*)	Committees	Committee Reports	Disposition
40	DEPARTMENT OF TRANSPORTATION, APPRECIATION		S21			ADOPT S21
41	CON CON STAFF, APPRECIATION		S21			ADOPT S21
42	KA PO'E PROJECT, LEAGUE OF WOMEN VOTERS, COMMEND		S21			ADOPT S21
43	HAWAIIAN TELEPHONE, APPRECIATION		S21			ADOPT S21
44	KAPIOLANI COMM COLL, ED MEDIA CNTR DIRECTR, APPRECIATN		S21			ADOPT S21
45	LEGISLATIVE REFERENCE BUREAU, APPRECIATION		S21			ADOPT S21
46	CON CON PAGES, APPRECIATION		S21			ADOPT S21
47	OFFICE OF LIEUTENANT GOVERNOR, APPRECIATION		S21			ADOPT S21
48	CERTAIN RELIGIOUS ORGANIZATIONS, APPRECIATION		S21			ADOPT S21
49	D. HEBDEN PORTEUS, TADAO BEPPU, APPRECIATION		S21			ADOPT S21
50	FOUNDATN ON CULTURE & ARTS, PREIS & YAMAKAWA, APPRECIATN		S21			ADOPT S21
51	FREEDOM OF THE PRESS		S21			ADOPT S21
52	UNIVERSITY OF HAWAII, APPRECIATION		S21			ADOPT S21
53	PUB BLDGS SVC OF GEN SVC ADMIN, R. NEE, H. LEE; APPRECIATN		S21			ADOPT S21

Sections of the Constitution Affected

ARTICLE I. BILL OF RIGHTS

Section No. and Title	Proposal No.	Comm. Proposal No.	Stand. Comm. Rep. No.	Comm. Whole Rep. No.
1. Political Power	19			
	44			
	402			
	417			
	516			
	627			
	817			
2. Rights of Man	76	CP 18	SCR 94	CWR 17
	151			RD 1
	294			RD 2
	301			
	601			
	684			
	758			
	779			
3. Freedom of Religion, Speech, Press, Assembly and Petition	400			
	691			
4. Due Process and Equal Protection	164	CP 15	SCR 96	CWR 15
	220			RD 1
	255			RD 2
	272	CP 18	SCR 94	CWR 17
	463			RD 1
	569			
	597			
	610			
662				
5. Searches, Seizures and Invasion of Privacy	169			
	458			
	741			
6. Rights of Citizens	454			
	461			
7. Enlistment, Segregation	254			
8. Indictment, Double Jeopardy, Self-Incrimination	85	CP 18	SCR 94	CWR 17
	111			RD 1
	140			RD 2
	142			
	168			
	253			
	427			
	498			
9. Bail, Excessive Punishment	166			
	170			
	376			
	549			
10. Trial by Jury, Civil Cases	166	CP 15	SCR 96	CWR 15
	170			RD 1
	376			RD 2
	549			
11. Rights of Accused	380	CP 15	SCR 96	CWR 15
	397			RD 1
	546			RD 2
	604	CP 18	SCR 94	CWR 17
				RD 1

Section No. and Title	Proposal No.	Comm. Proposal No.	Stand.Comm.Rep. No.	Comm.Whole Rep.No.
12. Jury Service	378 598	CP 15	SCR 96	CWR 15 RD 1 RD 2
13. Habeas Corpus and Suspension of Laws	435			
14. Supremacy of Civil Power	none			
15. Right to Bear Arms	78 602 639			
18. Eminent Domain	763			
New Section	12 13 64 73 77 81 99 100 117 167 207 247 276 295 324 333 360 361 371 387 400 402 436 460 491 506 515 517 526 556 590 610 632 646 650 652 681 691 731 735 756 772 819 821 822	CP 12 CP 15	SCR 86 SCR 96	CWR 12 RD 1 CWR 12 RD 1 RD 2
ARTICLE II. SUFFRAGE AND ELECTIONS				
1. Qualifications	519			

Section No. and Title	Proposal No.	Comm. Proposal No.	Stand.Comm.Rep.No.	Comm.Whole Rep.No.
2. Disqualifications	671	CP 18		RD 2
3. Residence	none	CP 18	SCR 94	CWR 17 RD 1 RD 2
4. Registration, Voting	4 92 97 163 357 403 415 430 560 609 705 787 833	CP 16	SCR 98	CWR 16 RD 1 RD 2
5. General and Special Elections	39 46 63 86 163 413 609 611	CP 16	SCR 98	CWR 16 RD 1 RD 2
6. Presidential Preference Primary	11 87 356			
7. Contested Elections	none			
New Section	40 95 96 120 122 123 137 138 149 176 242 248 261 262 274 281 326 327 339 342 351 377 388 398 420 426 479 573 609 617	CP 16	SCR 98	CWR 16 RD 1 RD 2

Section No. and Title	Proposal No.	Comm. Proposal No.	Stand. Comm. Rep. No.	Comm. Whole Rep. No.
	619			
	647			
	660			
	747			
	810			
	816			
	827			
	828			
	834			
ARTICLE III. THE LEGISLATURE				
1. Legislative Power	138 193			
2. Senate; Composition	373 455	CP 8	SCR 46	CWR 8 RD 1
3. House of Representatives; Composition	455	CP 8	SCR 46	CWR 8 RD 1
4. Reapportionment/Reapportionment Years	27 28 60 70 91 190 267 275 280 305 373 408 437 455 472 532 631			
5. Election of Members; Term	42 60 79 196 562			
6. Vacancies	340			
7. Qualification of Members	263 592	CP 18	SCR 94	CWR 17 RD 1 RD 2
8. Privileges of Members	503	CP 18	SCR 94	CWR 17 RD 1 RD 2
9. Disqualification of Members	292 323	CP 18	SCR 94	CWR 17 RD 1 RD 2
10. Salary; Allowances; Com- mission on Legislative Salary	147 243 271 288 323 346	CP 8	SCR 46	CWR 8 RD 1

Section No. and Title	Proposal No.	Comm. Proposal No.	Stand. Comm. Rep. No.	Comm. Whole Rep. No.
	382			
	445			
	446			
	511			
	542			
	558			
	565			
	623			
11. Sessions	25	CP 8	SCR 46	CWR 8 RD 1
	68			
	146			
	186			
	195			
	212			
	226			
	252			
	306			
	321			
	323			
	350			
	396			
	792			
12. Adjournment	none			
13. Organization; Discipline; Rules; Procedure	186	CP 8	SCR 46	CWR 8 RD 1
	195			
	212			
	236			
	266			
	285			
	297			
	322			
	390			
	417			
	513			
	624			
14. Quorum; Compulsory Attendance	none			
15. Bill; Enactment	none			
16. Passage of Bills	22	CP 8	SCR 46	CWR 8 RD 1
	146			
	321			
	417			
	459			
	591			
	622			
17. Approval or Veto	67	CP 18	SCR 94	CWR 17 RD 1 RD 2
	69			
	567			
18. Procedures Upon Veto	none			
19. Punishment of Nonmembers	none	CP 18	SCR 94	CWR 17 RD 1 RD 2
20. Impeachment	none			
New Section	71	CP 8	SCR 46	CWR 8 RD 1
	95			
	96			

Section No. and Title	Proposal No.	Comm. Proposal No.	Stand. Comm. Rep. No.	Comm. Whole Rep. No.
	122			
	123			
	130			
	149			
	158			
	161			
	177			
	181			
	206			
	242			
	248			
	326			
	327			
	395			
	398			
	406			
	412			
	426			
	499			
	619			
	621			
	643			
	730			
	788			
	789			
	794			
	796			
	797			
	801			
	816			
	827			
	828			
	834			
ARTICLE IV. THE EXECUTIVE				
1. Establishment of the Executive	41	CP 3	SCR 32	CWR 3
	42			
	104			
	115			
	119			
	235			
	238			
	562			
	683			
	765			
	830			
2. Lieutenant Governor	42	CP 3	SCR 32	CWR 3
	54			
	65			
	115			
	157			
	223			
	238			
	241			
	249			
	319			
	345			
	374			
	419			
	468			
	533			
	765			

Section No. and Title	Proposal No.	Comm. Proposal No.	Stand. Comm. Rep. No.	Comm. Whole Rep. No.
3. Compensation; Governor, Lieutenant Governor	223 563	CP 18	SCR 94	CWR 17 RD 1 RD 2
4. Succession to Governorship; Absence or Disability of Governor	223 319 533 563	CP 18	SCR 94	CWR 17 RD 1 RD 2
5. Executive Powers	241	CP 18	SCR 94	CWR 17 RD 1 RD 2
6. Executive and Administrative Offices and Departments	26 114 165 192 389 391 428 473 495 575 659 710 830	CP 9	SCR 51	CWR 9
New Section	26 56 62 114 127 154 317 467 510 577 596 635 708 713 737 766			
ARTICLE V. THE JUDICIARY				
1. Judiciary Power	83 105 126 143 289 496 777	CP 10	SCR 52	CWR 10 RD 1 RD 2
2. Supreme Court	286 668	CP 10	SCR 52	CWR 10 RD 1 RD 2
3. Appointment of Justices and Judges	57 80 101 128 129 139 159 239	CP 10	SCR 52	CWR 10 RD 1 RD 2

Section No. and Title	Proposal No.	Comm. Proposal No.	Stand.Comm.Rep.No.	Comm. Whole Rep. No.
	240			
	268			
	290			
	348			
	425			
	440			
	452			
	502			
	548			
	576			
	689			
	725			
	786			
4. Retirement for Incapacity and Removal	74 98	CP 10	SCR 52	CWR 10 RD 1 RD 2
5. Administration	none	CP 18	SCR 94	CWR 17 RD 1 RD 2
6. Rules	none			
New Section	66 98 125 128 129 139 141 229 234 424 545 669 670	CP 10	SCR 52	CWR 10 RD 1 RD 2
ARTICLE VI. TAXATION AND FINANCE				
1. Taxing Power Inalienable	529 600 739			
2. Appropriation for Private Purposes Prohibited	530 749 771	CP 14	SCR 93	CWR 14 RD 1 RD 2
3. Bonds; Debt Limitations	20 43 204 250 312 370 441 470 505 666 748 769 798	CP 14	SCR 93	CWR 14 RD 1 RD 2
4. The Budget	353 394 450 469	CP 14	SCR 93	CWR 14 RD 1 RD 2

Section No. and Title	Proposal No.	Comm. Proposal No.	Stand.Comm.Rep.No.	Comm.Whole Rep.No.
	522			
	608			
	614			
	790			
5. Legislative Appropriations; Procedures	2	CP 14	SCR 93	CWR 14
	21			RD 1
	299			RD 2
	343			
	344			
	353			
	469			
	750			
	767			
6. Expenditure Controls	67	CP 14	SCR 93	CWR 14
	260			RD 1
	316			RD 2
	393			
	394			
	732			
	751			
	791			
7. Auditor	429	CP 14	SCR 93	CWR 14
	543			RD 1
	566			RD 2
	626			
New Section	23	CP 14	SCR 93	CWR 14
	24			RD 1
	74			RD 2
	84			
	178			
	224			
	244			
	259			
	278			
	338			
	354			
	355			
	358			
	364			
	365			
	367			
	368			
	409			
	474			
	480			
	504			
	557			
	566			
	571			
	605			
	613			
	630			
	649			
	667			
	742			
	755			
	770			
	799			
	800			

Section No. and Title	Proposal No.	Comm. Proposal No.	Stand.Comm.Rep.No.	Comm.Whole Rep.No.
ARTICLE VII. LOCAL GOVERNMENT				
1. Political Subdivisions; Creation, Powers	194			
	264			
	293			
	366			
	537			
	578			
	606			
	653			
	654			
	687			
692				
2. Local Self-Government; Charter	246			
	366			
	372			
3. Taxation and Finance	277	CP 7	SCR 42	CWR 7
	293			RD 1
	307			RD 2
	366			
	514			
	655			
	780			
	782			
4. Mandates; Accrued Claims	none			
5. Statewide Laws	366			
	475			
New Section	1	CP 14	SCR 66	CWR 14
	2			RD 1
	17			RD 2
	42	CP 7	SCR 42	CWR 7
	62			RD 1
	115			RD 2
	118			
	124			
	203			
	215			
	352			
	366			
	369			
	379			
	442			
	457			
	484			
	485			
	501			
620				
ARTICLE VIII. PUBLIC HEALTH AND WELFARE				
1. Public Health	15			
	258			
	347			
	554			
	555			
	638			
	761			
	818			

Section No. and Title	Proposal No.	Comm. Proposal No.	Stand.Comm.Rep.No.	Comm.Whole Rep.No.
2. Care of Handicapped	150	CP 5	SCR 36	CWR 5 RD 1 RD 2
	628			
	633			
3. Public Assistance	38	CP 5	SCR 36	CWR 5 RD 1 RD 2
	205			
	637			
	814			
	820			
4. Slum Clearance, Rehabilitation and Housing	213			
5. Public Sightliness and Good Order	7	CP 5	SCR 36	CWR 5 RD 1 RD 2
	82			
	273			
	482			
	544			
	559			
	704			
	707			
	825			
	New Section				33	CP 5	SCR 36	CWR 5 RD 1 RD 2
34				
144				
214				
258				
401				
410				
453				
464				
466				
584				
586				
625				
642				
651				
811				
812				
824				
ARTICLE IX. EDUCATION				
1. Public Education	75	CP 6	SCR 39	CWR 6 RD 1
	134			
	155			
	184			
	188			
	208			
	257			
	284			
	287			
	304			
	332			
	433			
	528			
	530			
	568			
717				
2. Board of Education	32	CP 6	SCR 39	CWR 6 RD 1
	55			
	132			
	153			
	156			

Section No. and Title	Proposal No.	Comm. Proposal No.	Stand. Comm. Rep. No.	Comm. Whole Rep. No.
	162			
	172			
	210			
	217			
	237			
	256			
	265			
	291			
	298			
	311			
	329			
	375			
	386			
	432			
	477			
	488			
	507			
	527			
	538			
	541			
	580			
	594			
	616			
	680			
	752			
3. Power of the Board of Education	3	CP 6	SCR 39	CWR 6 RD 1
	133			
	152			
	219			
	227			
	364			
	431			
	476			
	509			
	535			
	538			
	561			
	754			
	795			
4. University of Hawaii	none			
5. Board of Regents; Powers	3	CP 6	SCR 39	CWR 6 RD 1
	5			
	58			
	135			
	179			
	279			
	589			
	753			
New Section	16	CP 12	SCR 86	CWR 12 RD 1
	18			
	61	CP 6	SCR 39	CWR 6 RD 1
	121			
	200			
	201			
	202			
	231			
	256			
	282			
	296			
	328			
	331			
	451			

Section No. and Title Proposal No. Comm. Proposal No. Stand.Comm.Rep.No. Comm.Whole Rep.No.

476
538
541
579
645
656
764
775
835

ARTICLE X. CONSERVATION AND DEVELOPMENT OF RESOURCES

1. Resources; Conservation, Development of Resources	30 88 89 90 113 182 189 197 230 270 518 721 757 783	CP 17	SCR 100	CWR 18 RD 1 RD 2
2. Natural Resources; Management and Disposition	145 199 335 540 640 673			
3. Sea Fisheries	48 462 465 483	CP 17	SCR 100	CWR 18 RD 1 RD 2
4. General Laws Required; Exceptions	675			
5. Farm and Home Ownership	49 599 682	CP 17 CP 13	SCR 100 SCR 87	CWR 18 RD 1 RD 2 CWR 13 RD 1 RD 2
New Section	14 35 36 37 45 47 50 51 52 53 59 107 148 160 171 189 197	CP 17	SCR 100	CWR 18 RD 1 RD 2

Section No. and Title	Proposal No.	Comm. Proposal No.	Stand. Comm. Rep. No.	Comm. Whole Rep. No.
	198			
	221			
	222			
	228			
	309			
	313			
	315			
	336			
	366			
	381			
	411			
	414			
	416			
	421			
	482			
	490			
	497			
	522			
	524			
	534			
	536			
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	564			
	570			
	581			
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	678			
	679			
	686			
	690			
	699			
	700			
	707			
	724			
	743			
	745			
	746			
	768			
	800			
	807			
	808			
	809			
	813			
	826			
	831			
	832			
ARTICLE XI. HAWAIIAN HOME LANDS				
1. Hawaiian Homes Commission Act	145	CP 11	SCR 56	CWR 11
	308			
	310			
	784			
	785			
	804			

Section No. and Title	Proposal No.	Comm. Proposal No.	Stand.Comm.Rep.No.	Comm.Whole Rep.No.
2. Compact with the United States	308			
3. Amendment and Repeal	none			
New Section	108 209 233 245 283 328 398 405 478 493 665 674 805 806	CP 13	SCR 87	CWR 13 RD 1 RD 2
ARTICLE XII. ORGANIZATION; COLLECTIVE BARGAINING				
1. Private Employees	none			
2. Public Employees	131 191 216 334 384 443 448 449			
New Section	448 512 590			
ARTICLE XIII. STATE BOUNDARIES, CAPITAL, FLAG				
1. Boundaries	8 211 531 594 661	CP 2	SCR 30	CWR 2
2. Capital	none			
3. State Flag	399			
New Section	187 341 422 550 670	CP 12 CP 2	SCR 86 SCR 30	CWR 12 RD 1 CWR 2
ARTICLE XIV. GENERAL AND MISCELLANEOUS PROVISIONS				
1. Civil Services	174 363 648 803			
2. Employees' Retirement System	103 175			

Section No. and Title	Proposal No.	Comm. Proposal No.	Stand. Comm. Rep. No.	Comm. Whole Rep. No.
3. Disqualification from Public Office or Employment	173	CP 4	SCR 34	CWR 4 RD 1 RD 2
4. Oath of Office	none			
5. Code of Ethics	31 94 116 183 318 404 418 492 500 523 539 551 641 734 823	CP 1	SCR 26	CWR 1 RD 1
6. Intergovernmental Relations	300			
7. Federal Lands	none			
8. Compliance with Trust	none			
9. Administration of Undisposed Lands	none			
10. Federal Property; Tax Exemption	none			
11. Hawaii National Park	none			
12. Judicial Rights	none			
13. Titles, Subtitles, Personal Pronouns; Construction	none	CP 18	SCR 94	CWR 17 RD 1 RD 2
14. General Power	none			
15. Provisions Self-Executing	none			
New Section	9 10 93 112 176 218 225 314 337 414 423 447 494 508 525 607 629 634 636 648	CP 4	SCR 34	CWR 4 RD 1 RD 2

Section No. and Title	Proposal No.	Comm. Proposal No.	Stand.Comm.Rep.No.	Comm. Whole Rep.No.
	722			
	733			
	736			
	738			
	744			
	773			
	774			
	803			
	815			
	835			
ARTICLE XV. REVISION AND AMENDMENT				
1. Methods of Proposal	95			
	96			
	122			
	123			
	149			
	242			
	326			
	327			
	398			
	426			
	778			
	816			
	827			
	828			
	834			
2. Constitutional Convention	6	CP 4	SCR 34	CWR 4
	41			RD 1
	94			RD 2
	102			
	106			
	109			
	185			
	251			
	269			
	292			
	325			
	330			
	359			
	362			
	407			
	434			
	439			
	444			
	471			
	481			
	487			
	604			
	759			
	781			
	802			
3. Amendments Proposed by Legislature	none			
4. Veto	none			
5. Conflicting Revisions or Amendments	none			
New Section	383			
	486			
	776			

Section No. and Title	Proposal No.	Comm. Proposal No.	Stand.Comm.Rep.No.	Comm.Whole Rep.No.
ARTICLE XVI. SCHEDULE				
1. Districting and Apportionment	136 631 760			
2. 1968 Senatorial Elections	136			
3. Twenty-Sixth Senator, Allocated to Kauai	136			
4. Effective Date for Apportionment and Districting	136			
5. Reapportionment Commission; Activation	136			
6. Conflicts Between Apportionment Provisions	136			
7. Salaries of Legislators	none			
8. Start of Biennial Budgeting and Appropriations	136	CP 14	SCR 93	CWR 14 RD 1 RD 2
9. Effective Date and Application of Article VII	136			
10. Continuity of Laws	none			
11. Debts	none			
12. Residence, Other Qualifications	none			
13. Condemnation of Fisheries	462 483	CP 17	SCR 100	CWR 18 RD 1 RD 2
New Section		CP 13	SCR 87	CWR 13 RD 1 RD 2
		CP 3	SCR 32	CWR 3

APPENDIX

ACT 17, SESSION LAWS OF HAWAII

SPECIAL SESSION OF 1977

A Bill for an Act Relating to a Constitutional Convention.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Election of delegates. The chief election officer shall issue a proclamation ordering an election which shall be held on May 20, 1978, for the special election of delegates to a constitutional convention, provided that the election day shall not be a holiday, notwithstanding the provisions of section 8-1, Hawaii Revised Statutes, as amended.

Except as otherwise provided by this Act, the candidates for delegates shall be nominated and their filing fees paid, the special election conducted, the returns made and results ascertained, and the certificates of election issued in the same manner as prescribed by chapter 11, Hawaii Revised Statutes, as amended, governing general elections except that there shall be no primary election.

Any person who is registered as a duly qualified elector shall be eligible to vote in these elections, and shall on the day of the election be entitled to absent himself from any service or employment in which he is then engaged or employed, pursuant to the provisions of section 11-95, Hawaii Revised Statutes, as amended. The general county register shall be closed before the election in the manner set forth in section 11-24, Hawaii Revised Statutes, as amended, for special elections.

Each candidate shall be a qualified elector of the constitutional convention district in which he is a candidate for delegate. The name of no candidate shall be printed upon any official ballot to be used at the special election unless at least 30 days prior to the special election, a nomination paper shall have been filed in his behalf as provided in part I of chapter 12, Hawaii Revised Statutes, as amended, except as modified below, signed by not less than fifteen qualified electors of the constitutional convention district in which he is a candidate. There shall be deposited with each nomination paper a fee of \$25 which shall be paid into the treasury of the State. The lieutenant governor shall provide appropriate nomination papers.

No such nomination paper shall contain any reference to or designation of any political party, and the ballots used at the special election shall be nonpartisan and shall not contain any reference to or designation of the political party or affiliation of any candidate. The names of the candidates in each constitutional convention district shall be listed in alphabetical order on the ballot.

Each voter at the special election shall be entitled to receive a ballot notwithstanding section 12-31, Hawaii Revised Statutes, as amended.

The ballots submitted to the voters of each constitutional convention district shall instruct the voters that the number of candidates to be voted for by such voter shall not exceed the number of delegates to which the constitutional convention district is entitled. The candidates receiving the highest number of votes in the election, not to exceed the number of delegates to which the respective district is entitled, shall be elected as delegates to the convention.

The governor shall fill any vacancy by appointing a qualified voter from the constitutional convention district in which the vacancy occurs.

The convention shall consist of 102 delegates apportioned among the existing representative districts of the State as follows:

First representative district. Two delegates at large;

Second representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2, 3, 4, 5, 6 and 12; and two delegates from combined precincts of 7, 8, 9, 10, 11, 13 and 14;

Third representative district. Two delegates at large;

Fourth representative district. Two delegates at large;

Fifth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2, 3, 4, 5, 6, 7 and 8; and two delegates from combined precincts of 9, 10, 11, 12, 13, 14 and 15;

Sixth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2, 3, 4, 5, 6, 10, 11, 12 and 13; and two delegates from combined precincts of 7, 8, 9, 14, 15 and 16;

Seventh representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2, 3 and 4; and two delegates from combined precincts of 5, 6, 7 and 8;

Eighth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2 and 3; and two delegates from combined precincts of 4, 5, 6 and 7;

Ninth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 3, 7 and 8; and two delegates from combined precincts of 2, 4, 5 and 6;

Tenth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2 and 3; and two delegates from combined precincts of 4, 5, 6 and 7;

Eleventh representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2 and 4; and two delegates from combined precincts of 3, 5 and 6;

Twelfth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 3 and 5; and two delegates from combined precincts of 2, 4, 6 and 7;

Thirteenth representative district. Six delegates to be elected. Two delegates from combined precincts of 1, 2 and 3; two delegates from combined precincts of 4, 5 and 9; and two delegates from combined precincts of 6, 7 and 8;

Fourteenth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2, 3 and 6; and two delegates from combined precincts of 4, 5 and 7;

Fifteenth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2, 3 and 4; and two delegates from combined precincts of 5, 6, 7 and 8;

Sixteenth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 6, 7 and 8; and two delegates from combined precincts of 2, 3, 4 and 5;

Seventeenth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2 and 3; and two delegates from combined precincts of 4, 5, 6 and 7;

Eighteenth representative district. Four delegates to be elected. Two delegates

from combined precincts of 1, 2, 3 and 5; and two delegates from combined precincts of 4, 6, 7 and 8;

Nineteenth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2 and 3; and two delegates from combined precincts of 4, 5 and 6;

Twentieth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2, 3 and 4; and two delegates from combined precincts of 5, 6, 7 and 8;

Twenty-first representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2 and 3; and two delegates from combined precincts of 4, 5 and 6;

Twenty-second representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2, 3 and 4; and two delegates from combined precincts of 5, 6, 7 and 8;

Twenty-third representative district. Two delegates at large;

Twenty-fourth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2 and 3; and two delegates from combined precincts of 4, 5 and 6;

Twenty-fifth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2 and 3; and two delegates from combined precincts of 4, 5, 6 and 7;

Twenty-sixth representative district. Two delegates at large;

Twenty-seventh representative district. Six delegates to be elected. Two delegates from combined precincts of 1, 10, 11, 12 and 13; two delegates from combined precincts of 8 and 9; and two delegates from combined precincts of 2, 3, 4, 5, 6 and 7.

SECTION 2. Convening of convention. The delegates to the convention thus selected shall meet at Honolulu on the 5th day of July 1978, at a suitable place designated by the governor, and the delegates shall proceed with the organization of the convention, provided that the legislative offices in the State Capitol Building shall not be used for the purposes of the convention. The delegate with the highest number of votes from the first representative district shall serve as temporary chairman.

SECTION 3. Powers. In addition to its inherent powers under the Constitution, the Convention may exercise the powers of the legislative committees as provided for by chapter 21, Hawaii Revised Statutes, as amended, and may appoint staff members without regard to chapters 76 and 77, Hawaii Revised Statutes, as amended, and contract for the legal and consultative services of qualified persons as it may require.

Officers and employees of the State shall have the same duty to the convention as prescribed by section 21-16, Hawaii Revised Statutes, with respect to legislative committees.

SECTION 4. Immunity. Delegates to the convention shall in all cases, except felony or breach of the peace, be privileged from arrest during attendance at the convention and in going to and returning from the same.

SECTION 5. Salaries and allowances for delegates. Delegates to the convention shall be entitled to a salary of \$1,000 a month, but not more than \$4,000 for the convention, plus allowance of \$10 per diem for Oahu delegates and \$30 per diem for neighbor island delegates.

The salary payments to delegates shall be \$500 semi-monthly, the first payment for the period beginning May 21, 1978. State and county employees who are elected and serve as delegates shall have leave, without pay, from their employment from the day after the election until the convention adjourns, and they shall be entitled to the salaries and allowances for delegates hereunder.

SECTION 6. Ratification election. Unless the convention determines otherwise, any constitutional revision or amendment proposed by the convention shall be submitted to the electorate at the general election of November, 1978.

SECTION 7. Appropriations. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,500,000, or so much thereof as may be necessary, to the office of the governor, or to the officers elected by the delegates if so designated by the governor, for defraying the pre-session, session, and post-session expenses of the constitutional convention, including the payment of compensation to the delegates to the convention, and for such other expenses or purposes pursuant to this Act as may be necessary.

There is appropriated out of the general revenues of the State the sum of \$485,599, or so much thereof as may be necessary, to the office of the lieutenant governor for the purpose of conducting the election of delegates to the constitutional convention.

There is appropriated out of the general revenues of the State the sum of \$8,500, or so much thereof as may be necessary, to the campaign spending commission for the purpose of supervising campaign contributions and expenditures.

There is appropriated out of the general revenues of the State the sum of \$72,000, or so much thereof as may be necessary, to the office of the legislative reference bureau for the expenses of providing the necessary services and assistance for the convention, including the updating of the Hawaii Constitutional Convention Studies.

SECTION 8. If any provisions of this Act, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 9. This Act shall take effect on July 1, 1977. (Approved June 27, 1977.)

ACT 42 OF 1978

SESSION LAWS OF HAWAII

A Bill for an Act Relating to the Constitutional Convention.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Act 17, Session Laws of Hawaii First Special Session of 1977, is amended by amending Section 5 to read as follows:

SECTION 5. Salaries and allowances for delegates. Delegates to the convention shall be entitled to a salary of \$1,000 a month, but not more than \$4,000 for the convention, plus allowance of \$10 per diem for Oahu delegates and \$30 per diem for neighbor island delegates. The salary payments to delegates shall be \$500 semi-monthly, the first payment for the period beginning May 21, 1978.

A State, county or Judiciary employee who is elected and who serves as a delegate, shall be granted a leave of absence without pay, or shall be entitled to take accumulated vacation leave as provided under chapter 79, Hawaii Revised Statutes, in lieu of the delegate's salary, from the day after the election until the convention adjourns. Any State, county or Judiciary employee who elects to take a leave of absence without pay shall be entitled to the delegate's salary provided hereunder, and shall not suffer any loss of seniority.

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This Act shall take effect upon its approval. (Approved May 5, 1978.)

ACT 243 OF 1978
SESSION LAWS OF HAWAII

Item No.	Program	Program ID		APPROPRIATIONS		Total Biennium 1977-79
		Orig.	No.	Fiscal Year 1977-78	Fiscal Year 1978-79	
K. GOVERNMENT-WIDE SUPPORT						
EXEC DIRECTN, COORD, & POLICY DEVELOPMEN						
1.	Office of the Governor		GOV 100		41.00*	41.00*
	Operating		GOV	1,178,363A	2,362,781A+	3,541,144A
	Investment: Capital		GOV	3,000,000C	3,000,000C	6,000,000C

The following proviso was contained in Act 243:

SECTION 70A. Provided, that of the sum appropriated to the Office of the Governor (GOV 100) for defraying the expenses of the 1978 Constitutional Convention, \$240,547 may be contracted to the legislative reference bureau for the following purposes: \$200,000 for a citizen education program and \$40,547 for staff services for the constitutional convention delegates.

(Approved June 20, 1978)

+\$1,000,000 identified in conference committee worksheets as funds for the 1978 Constitutional Convention.

Rules of the Convention

OFFICERS

RULE 1. The officers of the Convention shall be a President, eight Vice-Presidents (one from each of the eight senatorial districts), a Secretary and an Assistant Secretary. The President, Secretary and Assistant Secretary shall be elected from the delegates by the affirmative vote of at least fifty-two delegates, and such election shall be by ballot. Each Vice-President from a senatorial district shall be elected from the delegates who reside within that senatorial district by a majority vote of such delegates.

The election for each of the officers, except the office of each of the Vice-Presidents, shall be as follows:

(a) Nominations shall be made from the floor.

(b) If only one candidate is nominated for an office, it shall be deemed that the candidate received the affirmative vote of at least fifty-two delegates, and the presiding officer shall declare the candidate elected.

(c) If two candidates are nominated for an office, the candidate who receives the affirmative vote of at least fifty-two delegates shall be elected.

(d) If more than two candidates are nominated for an office:
(i) the name of the candidate who receives the least number of votes cast on the first ballot shall be removed from the second ballot; (ii) the name of the candidate who receives the least number of the votes cast on the second ballot and on each subsequent ballot shall be removed from the ballot next succeeding until only the names of two candidates shall remain on the last ballot; and (iii) the candidate who receives the affirmative vote of at least fifty-two delegates on the last ballot shall be elected, provided that any candidate who receives the affirmative vote of at least fifty-two delegates on any ballot shall be elected for that office and further balloting shall be terminated.

(e) The presiding officer shall appoint an election committee to prepare the ballots, inspect the same and count the votes.

EMPLOYEES

RULE 2. The President shall appoint a Chief Clerk, an Assistant Clerk and all other employees subject to the approval of the Convention.

THE PRESIDENT AND VICE-PRESIDENTS

RULE 3. The President shall take the chair each day at the hour to which the Convention shall have adjourned. S/He shall call the Convention to order, and, except in the absence of a quorum, shall proceed to business in the manner prescribed by these rules.

RULE 4. The President shall possess the powers and perform the duties herein prescribed, viz:

(a) S/He shall preserve order and decorum and, in debate, shall

prevent personal reflections and confine members to the question under discussion. When two or more members arise at the same time, s/he shall name the one entitled to the floor.

(b) S/He shall decide all questions of order, subject to appeal to the Convention. On every appeal s/he shall have the right, in his/her place, to assign his/her reason for his/her decision. In case of such appeal no member shall speak more than once.

(c) S/He shall appoint all committees, except where the Convention shall otherwise order.

(d) S/He may substitute any member to perform the duties of the chair while s/he is present but for no longer period than that day, except by special consent of the Convention.

(e) When the Convention shall be ready to go into Committee of the Whole, s/he shall name a chair to preside therein.

(f) When necessary or required, s/he shall, with the Secretary, certify all official acts and all vouchers for payment of expenditures of the Convention.

(g) S/He shall designate and assign to seats or authorize the designation and seating of the persons who shall act as reporters for the public press, television and radio within the Convention hall.

(h) S/He shall be a member ex officio without vote of the several committees to which s/he is not specifically appointed.

(i) S/He shall declare the vote and announce the result according to the fact on all questions and divisions.

(j) S/He shall not engage in any debate, or propose his/her opinion on any question, except the assigning of his/her reasons for his/her decision on appeal therefrom, without first calling some delegate to occupy the chair.

RULE 5. In the event of a vacancy in the office of President by death, resignation or otherwise, the Convention shall, by the affirmative vote of at least fifty-two delegates, elect a President to fill such vacancy.

In the case of the temporary absence of the President, his/her duties shall devolve from day to day upon the Vice-Presidents present in alphabetical rotation.

RULE 6. In the event of a vacancy in the office of a Vice-President by death, resignation or otherwise, s/he shall be replaced as set forth in Rule 1 above.

In the case of the temporary absences of all Vice-Presidents to discharge the duties of their offices, the Convention shall have the power to designate and appoint some other delegate to discharge the duties of the office during such temporary absence.

SECRETARY AND ASSISTANT SECRETARY

RULE 7. The Secretary shall keep a journal of the proceedings of the Convention, and, under the direction of the President, shall prepare and place on the desk of the President each day a calendar of the business of the Convention, as provided by these rules.

RULE 8. The Secretary shall prepare for printing all proposals and other documents which are required to be printed under these rules under the direction of the Committee on Budget, Accounts and Printing and shall see to it that they are properly and correctly printed.

RULE 9. The Secretary shall number consecutively each proposal of subject matter to be incorporated into the Constitution when introduced. When a proposal is introduced by a committee, the Secretary shall number such proposal consecutively in a separate series.

RULE 10. The Secretary shall preserve all proposals, reports of committees and all other records, books, documents and papers of the Convention and after the adjournment of the Convention shall deliver them to the Archives Division, Department of Accounting and General Services, State of Hawaii, or shall make such other disposal of them as the Convention shall direct.

RULE 11. When necessary or required, the Secretary shall, with the President, certify all official acts and all vouchers for payment of expenditures of the Convention, and s/he shall perform such other duties as are required of him/her by these rules and as from time to time shall be required of him/her by the Convention.

RULE 12. One copy of the final draft of any proposal or committee report presented to or prepared by the Convention shall be delivered by the Secretary to the Archives of the State of Hawaii.

RULE 13. S/He may delegate his/her duties to the Assistant Secretary, and other than certification of official acts, documents and vouchers by the Secretary, s/he may also delegate his/her duties to the Chief Clerk.

In the event of a vacancy in the office of Secretary by death, resignation or otherwise, the Convention shall, by the affirmative vote of at least fifty-two delegates, elect a new Secretary.

In the case of the temporary absence of the Secretary to discharge the duties of his/ her office, the Assistant Secretary shall discharge the duties of the office during such temporary absence.

In the case of the temporary absences of the Secretary and Assistant Secretary to discharge the duties of the office, the Convention shall have the power to designate and appoint some other delegate to discharge the duties of the office during such temporary absence.

QUORUM AND MAJORITY

RULE 14. The presence of at least fifty-two delegates shall be necessary to constitute a quorum of the Convention but a lesser number may meet and adjourn the Convention from day to day when necessary and may require the attendance of absent members.

RULE 15. A quorum being present, an affirmative majority vote of delegates present adopts any motion unless it is one of the particular motions that require a larger vote under parliamentary law or the rules of the Convention.

STANDING COMMITTEES

RULE 16. The standing committees of the Convention shall be appointed by the President unless the Convention shall otherwise order.

The person first named shall be the chair, and the next two persons named shall be the vice-chairs of the committee.

RULE 17. The standing committees of the Convention and the number of members thereof, respectively, shall be as follows:

General Standing Committees

1. Committee on Bill of Rights, Suffrage and Elections. Not less than twenty-three members.

2. Committee on Legislature. Not less than twenty-three members.
3. Committee on Executive. Not less than twenty-three members.
4. Committee on Judiciary. Not less than twenty-three members.
5. Committee on Taxation and Finance. Not less than twenty-three members.
6. Committee on Local Government. Not less than twenty-three members.
7. Committee on Public Health and Welfare; Labor and Industry. Not less than twenty-three members.
8. Committee on Education. Not less than twenty-three members.
9. Committee on Environment, Agriculture, Conservation and Land. Not less than twenty-three members.
10. Committee on Hawaiian Affairs. Not less than twenty-three members.
11. Committee on Ethics. Not less than twenty-three members.
12. Committee on Revision, Amendment and Other Provisions. Not less than twenty-three members.
13. Committee on Style. Not less than seventeen members.
14. Committee on Submission and Information. Not less than sixteen members and, in addition, the Vice-Presidents, Secretary, Assistant Secretary and the chairs of the standing committees shall be members ex officio.

Administrative Standing Committees

1. Committee on Budget, Accounts and Printing. Not less than fifteen members.
2. Committee on Rules. Not less than fifteen members.

RULE 18. Functions of standing committees:

(a) It shall be the duty of the standing committees to consider all matters which may be referred to them.

Each standing committee shall submit to the Convention a report or reports, in writing, setting forth the results of its deliberations and its recommendations on all matters referred to it, in the same number and form as prescribed in these rules for proposals.

(b) The Committee on Style shall examine and correct the proposals which are referred to it for the purpose of avoiding inaccuracies, repetitions and inconsistencies and shall arrange the same in the proper order in the Constitution and shall report thereon to the Convention.

The Committee shall have the authority to rephrase but shall have no authority to change the sense or purpose of any proposal referred to it.

Where the proposal referred to the committee appears inconsistent or in conflict with a proposal already acted on favorably by the Convention at Second Reading, the committee shall so notify the Convention and wait upon its instructions.

(c) The Committee on Submission and Information shall consider

and report to the Convention the method and manner of submitting the revised Constitution or proposed amendments to the Constitution to the people; shall prepare and present to the Convention for its approval the plan or method of informing the people of the changes in the Constitution or the proposed amendments to the Constitution; shall prepare and present to the Convention for its approval a report to the people outlining the results of the Convention's work, and shall make such other reports as may be required by law and by the instructions of the Convention.

(d) The Committee on Rules shall consider and report upon such changes in the rules of the Convention and changes in its organization as shall be referred to it by the Convention from time to time.

(e) The Committee on Budget, Accounts and Printing shall be in charge of the business affairs of the Convention and shall supervise all printing for the Convention.

(f) No public hearing shall be had by any standing committee except after notice is given to the Secretary, in writing, who shall give 72 hours' public notice; provided that notice may be waived with the approval of the President upon good cause shown.

(g) All committee meetings shall be open to the public.

RULE 19. All resolutions for the printing of an extra number of documents shall be referred, as of course, to the Committee on Budget, Accounts and Printing for its report thereon before final action by the Convention.

RULE 20. All resolutions authorizing or contemplating the expenditure of money shall be referred, as of course, to the Committee on Budget, Accounts and Printing for its report thereon before final action by the Convention.

RULE 21. No committee shall sit during the sessions of the Convention without special leave.

COMMITTEE OF THE WHOLE

RULE 22. The Convention may upon motion resolve itself into a Committee of the Whole for the consideration of any matter. In forming the Committee of the Whole, the President of the Convention shall appoint a chair to preside.

RULE 23. Upon consideration of the report or proposal of any standing committee by the Committee of the Whole, consideration of all matters on the same subject shall be in order. All amendments made to proposals, reports, resolutions and other matters submitted to the Committee of the Whole shall be noted and reported.

RULE 24. The rules of the Convention shall be observed in the Committee of the Whole so far as they may be applicable except that the Committee of the Whole cannot adjourn the Convention; no question may be laid on the table; the previous question shall not be ordered; and the motion to postpone indefinitely shall not be in order.

RULE 25. Fifty-two delegates shall be a quorum for the Committee of the Whole to do business.

RULE 26. A motion for the rising of the Committee of the Whole shall always be in order unless a member of the committee is speaking or a vote is being taken, and shall be decided without debate.

ORDER OF BUSINESS, MOTIONS, DECORUM AND DEBATE

RULE 27. At meetings of the Convention the order of business shall be as follows (except at times set apart for the consideration of special orders):

1. Calling Convention to order.
2. Invocation.
3. Determination of quorum.
4. Reading of journal.
5. Presentation of petitions, memorials and communications.
6. Reports of standing committees.
7. Reports of select committees.
8. Introduction and first readings of proposals.
9. Reference of proposals.
10. Motions and resolutions.
11. Unfinished business.
12. Special orders of the day.
13. General orders of the day.

RULE 28. Consideration of the general orders of the day shall be in the following order:

1. Consideration by Committee of the Whole.
2. Reports of the Committee of the Whole.
3. Committee reports and proposals reported from committees.
4. Second Reading.
5. Action on reports of the Committee on Style, as to arrangement and phraseology only.
6. Third Reading and agreement.

If the matter is not considered in its order, it shall lose its precedence for the day, but shall appear on the calendar on the following day in its regular order. Any matter may be made a special order of business for any particular day or time by a majority vote of the delegates present.

RULE 29. Any subject matter having been made the special order for a particular day, and not having been reached on that day, shall be upon the order of "Unfinished Business" on the next succeeding Convention day.

RULE 30. Upon calls of the Convention, the names of the delegates shall be called alphabetically.

In the case of the absence of delegates, the delegates present shall take such measures as they shall deem necessary to secure the presence of absentees.

RULE 31. After a question has been stated by the President, and the calling of the roll has begun, the President shall not recognize a delegate for any purpose whatever until the call is completed; but nothing in this rule shall abridge the right of any delegate to change or record his/her vote on any question previous to the announcement of the result.

RULE 32. The vote upon any question shall be taken by the ayes and noes and entered on the journal, on motion made and seconded before the question is put and upon the request of at least ten delegates.

A delegate may pass the first time his/her name is called by the clerk on any vote, but if s/he remains silent on the next call of his/her name, his/her vote shall be recorded as voting with the affirmative.

RULE 33. The rules of parliamentary practice comprised in Robert's Rules of Order Newly Revised shall govern in all cases in which they are not inconsistent with the standing rules and orders of the Convention.

RULE 34. Any rule of the Convention may be suspended by a vote of at least two-thirds of the delegates present or repealed or amended by a vote of at least fifty-two delegates and any repeal or amendment offered shall lay on the table twenty-four hours before being voted upon.

RULE 35. When a motion is made it shall be stated by the President or, being in writing, it shall be read aloud before being debated.

RULE 36. When a question is under consideration by the Convention, a motion to close debate at a specified time is permissible; it is not debatable but is amendable and shall require a two-thirds vote of the delegates present.

The motions to adjourn, to take a recess, and to adjourn for a longer period than one day shall always be in order, and the last motion shall be amendable and debatable.

Calls for information, for reading a paper, for division of a divisible question, for division of the house, for the ayes and noes, and a motion for reconsideration shall always be in order, but shall not be amendable or debatable.

An appeal from the decision of the chair may be taken at any stage of the proceedings.

RULE 37. A motion to reconsider any vote must be made before the end of the second convention day after the day on which the vote proposed to be reconsidered was taken, and by a delegate who voted in the majority and the same majority shall be required to adopt a motion to reconsider as was required to take the action to be reconsidered.

RULE 38. Any delegate may call for the division of a question which is in its nature divisible. A motion to strike out and insert shall be deemed indivisible; but a motion to strike out being lost, shall neither preclude amendment nor a motion to strike out and insert.

RULE 39. No delegate shall speak more than twice on one question, or longer than ten minutes the first, or longer than five minutes the second time, or more than once until other delegates who have not spoken shall speak if they so desire, without first obtaining leave of the Convention; and the mover of the proposition shall have the right to close the debate, provided that the person in charge of a proposal on Third Reading and final agreement shall have the right, if s/he desires, to close the debate and s/he may announce such desire at any time before the taking of the vote on the question.

RULE 40. No delegate rising to speak shall proceed until s/he shall have addressed the President and been recognized by him/her as entitled to the floor.

RULE 41. While the President is putting a question or a count is being had, no delegate shall speak or leave his/her place, and while a member is speaking no delegate shall engage in any private discourse or pass between him/her and the chair.

RULE 42. When a motion to adjourn, or for recess, shall be carried, no delegate or officer shall leave his/her place until the adjournment or recess shall be declared by the President.

RULE 43. A proposal may be recalled from a committee by the affirmative vote of thirty-one delegates, provided that the committee has reported on the subject matter of such proposal for passage on Second Reading.

RULE 44. Any delegate may at any time rise and speak to a question of personal privilege.

PROPOSALS, SUBMISSION AND INFORMATION

RULE 45. Each proposal shall receive three separate readings in the Convention previous to being agreed upon, but no proposal shall be read twice on the same day or be considered on Third Reading until after at least forty-eight hours' notice of the day upon which it is to be so considered has been given by announcement made in open session.

All proposals may be read by their titles but on Third Reading all proposals shall be read throughout. No amendment shall be received to any proposal on its third reading unless by unanimous consent of the delegates present.

All proposals shall, after the first reading, be printed for the use of the members. Printed copies of proposals shall be used on their second and third readings.

RULE 46. The regular order to be taken by proposals shall be as follows:

(a) Introduction, First Reading, and printing of sufficient copies of each proposal.

(b) Reference to a general standing committee by the President.

(c) Report by committee and printing of sufficient copies thereof.

Four Convention days after the printing of said report it shall be placed on the general orders.

(d) Second Reading: Consideration by the Committee of the Whole and by the Convention and action on amendments offered by delegates.

(e) Reference to the Committee on Style for report within five Convention days.

(f) Report of the Committee on Style and printing of sufficient copies, if necessary.

(g) Action on report of Committee on Style: Consideration and action on amendments as to phraseology only; action on the report as amended and printing of sufficient copies, if necessary.

(h) Third Reading and agreement.

(i) Reference to the Committee on Style for arrangement of sections and article or articles and for form.

(j) Report of Committee on Style as to arrangement of sections and article or articles and printing of sufficient copies, if necessary.

RULE 47. Any subject matter to be incorporated in the Constitution shall be by proposal. A proposal shall be introduced by one or more delegates or by a committee.

RULE 48. Each proposal shall be typewritten on white paper which is 8-1/2" wide and 11" long with one original and seven copies thereof, and shall be dated and signed by the introducer or by the chair of the committee introducing it.

RULE 49. The caption of each proposal shall be:

Constitutional Convention of Hawaii

of 1978

PROPOSAL

Introduced by _____
 (Name of delegate or chair
 of committee)

RULE 50. Each proposal shall contain a short title stating concisely the general nature of its subject matter.

RULE 51. Each proposal shall be in the form of a resolution as follows:

Resolved, That the following be agreed upon as (amending Article(s) _____ of) (adding a new article to) the State Constitution.

RULE 52. Each proposal shall be delivered to the Secretary for introduction. The Secretary shall number and list all proposals as presented. At each session of the Convention, the Secretary shall read the number and title of each proposal so delivered to him/her for introduction, which shall be taken as the first reading of the proposal and as the ordering thereof to a second reading, and the President shall thereupon refer it to a general standing committee.

RULE 53. The President shall refer each proposal introduced to the appropriate committee. Where a proposal embraces subject matter which falls within the proper consideration of several committees, the President, where practicable, shall divide the proposal and refer the parts to the appropriate committees; but if it is not subject to such division, the President shall refer it to an appropriate committee with instructions to consult with other committees on related matters.

Any proposal which does not comply with the provisions of these rules as to form shall be referred to the appropriate committee as a petition.

RULE 54. A copy of each proposal introduced shall be delivered by the Secretary to the Committee on Budget, Accounts and Printing. The original shall be retained by the Secretary and one copy shall be delivered to the chair of the committee to which the proposal has been referred.

Each successive reprint of a proposal differing from the previous print or reprint of the same proposal, which is presented to the Convention for consideration, shall bear a consecutive redraft number on the top of the first or title page thereof, as follows:

"Redraft No. 1," or "RD. 1"
"Redraft No. 2," or "RD. 2," etc.

RULE 55. The Convention may set a date after which no proposal shall be introduced, except by a committee.

RULE 56. Each general standing committee may originate and report without specific reference any committee proposal, the subject matter of which properly falls within the consideration of such committee under these rules.

RULE 57. Each committee report recommending any matter for incorporation in the Constitution shall be accompanied by a committee proposal containing a complete article or other appropriate subdivision or group of articles or subdivisions of the Constitution. Such committee proposal need not be referred to the committee introducing the same.

RULE 58. Each amendment offered to a proposal shall be in writing and delivered to the Secretary and shall be entered on the journal. A copy of such amendment shall be delivered by the Secretary to the Committee on Budget, Accounts and Printing. The original shall be retained by the Secretary. One copy shall be delivered to the chair of the committee to which the proposal concerned has been referred.

RULE 59. Any proposal which has passed its second reading shall be referred to the Committee on Style for consideration as provided by these rules and when reported by said committee shall be subject to consideration and amendment as to arrangement and phraseology only and, if any such amendment be adopted, shall be again referred to the Committee on Style for similar consideration and report thereof, and, if said committee's report shall be adopted, it shall be ordered to be printed and to Third Reading.

RULE 60. Proposals which have passed two readings shall be prepared by the Secretary in proper form for printing for Third Reading and when the Secretary receives

from the Committee on Budget, Accounts and Printing any proposal ordered to a third reading and the same shall be found correct, s/he shall affix his/her signature to each page of the copy to be used as the official copy.

RULE 61. On the question of the agreement upon any proposal on Third Reading, the vote shall be taken by ayes and noes and entered on the journal, and no proposal shall be declared adopted unless at least fifty-two delegates to the Convention shall have voted in favor of the adoption of the same.

RULE 62. After the revised Constitution or proposed amendments to the Constitution have been framed and before final agreement thereon, the Convention shall refer the same to the Committee on Style for proper form and, if necessary, for arrangement in proper order in the Constitution and report thereon, and, upon receipt of the report, the Convention shall by the affirmative vote of at least fifty-two delegates agree upon the final form of the Constitution or proposed amendments to the Constitution.

RULE 63. The final form of the revised Constitution or proposed amendments to the Constitution as agreed upon by the Convention shall be referred to the Committee on Submission and Information. Such committee shall consider and report to the Convention recommending the method and manner of submitting them to the people in accordance with law, and shall give such notices and make such reports as may be required by law and the instructions of the Convention. The manner of submission to the people of the final form of the revised Constitution or proposed amendments to the Constitution shall be agreed upon by resolution of the Convention by the affirmative vote of at least fifty-two delegates.

RULE 64. When the Convention shall have agreed upon the final form of the revised Constitution or proposed amendments to the Constitution and the manner of submission to the people according to law, the original thereof shall be prepared and signed by the President and Secretary and by the concurring delegates desiring to do so. Photostatic copies thereof (white prints) shall be prepared and then be certified by the President and Secretary of the Convention and delivered to the Governor, each delegate, each house of the legislature and to any other officers designated by law or the instructions of the Convention.

State Constitution

As amended and in force January 1, 1979

REVISION NOTE

On November 7, 1978, amendments to the Constitution proposed by the Constitutional Convention of 1978 were presented to the electorate for its approval. The Lieutenant Governor's computer report showed that all of the proposed amendments passed by the necessary constitutional margin. However, the Supreme Court of Hawaii in *Kahalekai v. Doi*, 60 H. 324, 590 P.2d 543 (1979), held that a number of the proposed amendments were not validly ratified. The revisor has deleted from the Constitution these invalid amendments and added explanatory notes to the sections concerned. This deletion has been done under the authority of Resolution No. 29 of the 1978 Constitutional Convention authorizing the revisor "to effect such necessary rearrangement, renumbering and technical changes of the sections within the articles of the State Constitution, as may be affected for proper form and arrangement and proper order in the State Constitution in the event that any or some of the amendments to the State Constitution proposed by the Constitutional Convention of Hawaii of 1978 are not ratified by the electorate."

In addition to the abovementioned amendments, removed from the text of the Constitution, there appear to be other proposed amendments that may have failed of ratification. A number of unspecified amendments, involving technical, stylistic, and incidental changes, were submitted for approval by the electorate under Question 34. As to these, the court stated:

The question of whether any amendment submitted for approval by Question No. 34 was in fact approved... depends on its effect upon substantive law. If the amendment is purely stylistic and technical in nature, and does not alter the sense, meaning or effect of any provision of the Constitution, it was approved by the electorate and has become a part of the revised Constitution. On the other hand, if the amendment alters the sense, meaning or effect of any provision of the Constitution, it was not ratified and is not effective to change the language of the Constitution. Obviously, we are not now in a position to make these line by line determinations.

The revisor does not consider that the authority granted him under Resolution 29 embraces the elimination of proposed amendments as having failed of ratification where the issue has not been adjudicated. Thus the text of the Constitution includes all the proposed amendments submitted for ratification under Question 34. As an aid to the readers, however, an attempt has been made to identify all such amendments--except those obviously purely technical and stylistic and clearly nonsubstantive (which have been ratified)--and explanatory notes have been appended thereto.

PREAMBLE

We, the people of Hawaii, grateful for Divine Guidance, and mindful of our Hawaiian heritage and uniqueness as an island State, dedicate our efforts to fulfill the philosophy decreed by the Hawaii State motto, "Ua mau ke ea o ka aina i ka pono."

We reserve the right to control our destiny, to nurture the integrity of our people and culture, and to preserve the quality of life that we desire.

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

FEDERAL CONSTITUTION ADOPTED

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

ARTICLE I BILL OF RIGHTS

POLITICAL POWER

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

RIGHTS OF INDIVIDUALS

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

EQUALITY OF RIGHTS

Section 3. Equality of rights under the law shall not be denied or abridged by the State on account of sex. The legislature shall have the power to enforce, by appropriate legislation, the provisions of this section.

FREEDOM OF RELIGION, SPEECH, PRESS, ASSEMBLY AND PETITION

Section 4. No law shall be enacted respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press or the right of the people peaceably to assemble and to petition the government for a redress of grievances.

DUE PROCESS AND EQUAL PROTECTION

Section 5. No person shall be deprived of life, liberty or property without due process of law, nor be denied the equal protection of the laws, nor be denied the enjoyment of the person's civil rights or be discriminated against in the exercise thereof because of race, religion, sex or ancestry.

RIGHT TO PRIVACY

Section 6. The right of the people to privacy is recognized and shall not be infringed without the showing of a compelling state interest. The legislature shall take affirmative steps to implement this right.

SEARCHES, SEIZURES AND INVASION OF PRIVACY

Section 7. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches, seizures and invasions of privacy shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized or the communications sought to be intercepted.

RIGHTS OF CITIZENS

Section 8. No citizen shall be disfranchised, or deprived of any of the rights or privileges secured to other citizens, unless by the law of the land.

ENLISTMENT; SEGREGATION

Section 9. No citizen shall be denied enlistment in any military organization of this State nor be segregated therein because of race, religious principles or ancestry.

INDICTMENT; DOUBLE JEOPARDY; SELF-INCRIMINATION

Section 10. No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the armed forces when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy; nor shall any person be compelled in any criminal case to be a witness against oneself.

GRAND JURY COUNSEL

Section 11. Whenever a grand jury is impaneled, there shall be an independent counsel appointed as provided by law to advise the members of the grand jury regarding matters brought before it. Independent counsel shall be selected from among those persons licensed to practice law by the supreme court of the State and shall not be a public employee. The term and compensation for independent counsel shall be as provided by law.

BAIL; EXCESSIVE PUNISHMENT

Section 12. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted. The court may dispense with bail if reasonably satisfied that the defendant or witness will appear when directed, except for a defendant charged with an offense punishable by life imprisonment.

Validity of amendment. A proposal of the 1978 Constitutional Convention deleted the former section 12, which read: "No person shall be disqualified to serve as a juror because of sex." This deletion appears to be one of the unspecified changes submitted for ratification under Question 34. On whether any of the changes submitted under Question 34 was in fact approved by the electorate, see *Kahalekai v. Doi* 60 H. 324 (1979) excerpted in the note preceding the Preamble to the Constitution.

TRIAL BY JURY, CIVIL CASES

Section 13. In suits at common law where the value in controversy shall exceed one thousand dollars, the right of trial by jury shall be preserved. The legislature may provide for a verdict by not less than three-fourths of the members of the jury.

RIGHTS OF ACCUSED

Section 14. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the district wherein the crime shall have been committed, which district shall have been previously ascertained by law, or of such other district to which the prosecution may be removed with the consent of the accused; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against the accused; to have compulsory process for obtaining witnesses in the accused's favor; and to have the assistance of counsel for the accused's defense. Juries, where the crime charged is serious, shall consist of twelve persons. The State shall provide counsel for an indigent defendant charged with an offense punishable by imprisonment.

HABEAS CORPUS AND SUSPENSION OF LAWS

Section 15. The privilege of the writ of habeas corpus shall not be suspended unless, when in cases of rebellion or invasion, the public safety may require it.

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

SUPREMACY OF CIVIL POWER

Section 16. The military shall be held in strict subordination to the civil power.

RIGHT TO BEAR ARMS

Section 17. A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

QUARTERING OF SOLDIERS

Section 18. No soldier or member of the militia shall, in time of peace, be quartered in any house, without the consent of the owner or occupant, nor in time of war, except in a manner provided by law.

IMPRISONMENT FOR DEBT

Section 19. There shall be no imprisonment for debt.

EMINENT DOMAIN

Section 20. Private property shall not be taken or damaged for public use without just compensation.

LIMITATIONS OF SPECIAL PRIVILEGES

Section 21. The power of the State to act in the general welfare shall never be impaired by the making of any irrevocable grant of special privileges or immunities.

CONSTRUCTION

Section 22. The enumeration of rights and privileges shall not be construed to impair or deny others retained by the people.

ARTICLE II
SUFFRAGE AND ELECTIONS

QUALIFICATIONS

Section 1. Every citizen of the United States who shall have attained the age of eighteen years, have been a resident of this State not less than one year next preceding the election and be a voter registered as provided by law, shall be qualified to vote in any state or local election.

DISQUALIFICATION

Section 2. No person who is non compos mentis shall be qualified to vote. No person convicted of a felony shall be qualified to vote except upon the person's final discharge or earlier as provided by law.

RESIDENCE

Section 3. No person shall be deemed to have gained or lost residence simply because of the person's presence or absence while employed in the service of the United States, or while engaged in navigation or while a student at any institution of learning.

REGISTRATION; VOTING

Section 4. The legislature shall provide for the registration of voters and for absentee voting and shall prescribe the method of voting at all elections; provided that no person shall be required to declare a party preference or nonpartisanship as a condition of voting in any primary or special primary election. Secrecy of voting and choice of political party affiliation or nonpartisanship shall be preserved.

CAMPAIGN FUND, SPENDING LIMIT

Section 5. The legislature shall establish a campaign fund to be used for partial public financing of campaigns for public offices of the State and its political subdivisions, as provided by law. The legislature shall provide a limit on the campaign spending of candidates.

CAMPAIGN CONTRIBUTIONS LIMITS

Section 6. Limitations on campaign contributions to any political candidate, or authorized political campaign organization for such candidate, for any elective office within the State shall be provided by law.

RESIGNATION FROM PUBLIC OFFICE

Section 7. Any elected public officer shall resign from that office before being eligible as a candidate for another public office, if the term of the office sought begins before the end of the term of the office held.

GENERAL, SPECIAL AND PRIMARY ELECTIONS

Section 8. General elections shall be held on the first Tuesday after the first Monday in November in all even-numbered years. Special and primary elections may be held as provided by law; provided that in no case shall any primary election precede a general election by less than forty-five days.

PRESIDENTIAL PREFERENCE PRIMARY

Section 9. A presidential preference primary may be held as provided by law.

CONTESTED ELECTIONS

Section 10. Contested elections shall be determined by a court of competent jurisdiction in such manner as shall be provided by law.

ARTICLE III THE LEGISLATURE

LEGISLATIVE POWER

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

COMPOSITION OF SENATE

Section 2. The senate shall be composed of twenty-five members, who shall be elected by the qualified voters of the respective senatorial districts. Until the next reapportionment, the senatorial districts and the number of senators to be elected from each shall be as set forth in the Schedule.

Validity of amendment. A proposal of the 1978 Constitutional Convention rewriting this section was not validly ratified. *Kahalekai v. Doi*, 60 H. 324 (1979). The revisor has deleted the textual changes under the authority of Resolution No. 29 of the 1978 Constitutional Convention.

COMPOSITION OF HOUSE OF REPRESENTATIVES

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

Validity of amendment. A proposal of the 1978 Constitutional Convention rewriting this section was not validly ratified. *Kahalekai v. Doi*, 60 H. 324 (1979). The revisor has deleted the textual changes under the authority of Resolution No. 29 of the 1978 Constitutional Convention.

ELECTION OF MEMBERS; TERM

Section 4. The members of the legislature shall be elected at general elections. The term of office of members of the house of representatives shall be two years beginning with their election and ending on the day of the next general election, and the term of office of members of the senate shall be four years beginning with their election and ending on the day of the second general election after their election.

VACANCIES

Section 5. Any vacancy in the legislature shall be filled for the unexpired term in such manner as may be provided by law, or, if no provision be made by law, by appointment by the governor for the unexpired term.

QUALIFICATIONS OF MEMBERS

Section 6. No person shall be eligible to serve as a member of the senate unless the person shall have been a resident of the State for not less than three years, have attained the age of majority and be a qualified voter of the senatorial district from which the person seeks to be elected. No person shall be eligible to serve as a member of the house of representatives unless the person shall have been a resident of the State for not less than three years, have attained the age of majority and be a qualified voter of the representative district from which the person seeks to be elected.

PRIVILEGES OF MEMBERS

Section 7. No member of the legislature shall be held to answer before any other tribunal for any statement made or action taken in the exercise of the member's legislative functions; and members of the legislature shall, in all cases except felony or breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to and returning from the same.

DISQUALIFICATIONS OF MEMBERS

Section 8. No member of the legislature shall hold any other public office under the State, nor shall the member, during the term for which the member is elected or appointed, be elected or appointed to any public office or employment which shall have been created, or the emoluments whereof shall have been increased, by legislative act during such term. The term "public office," for the purposes of this section, shall not include notaries public, reserve police officers or officers of emergency organizations for civilian defense or disaster relief. The legislature may prescribe further disqualifications.

SALARY; ALLOWANCES; COMMISSION ON
LEGISLATIVE SALARY

Section 9. The members of the legislature shall receive allowances reasonably related to expenses as provided by law, and a salary prescribed pursuant to this section.

There shall be a commission on legislative salary, which shall be appointed by the governor on or before November 30, 1978, and every eight years thereafter. Not later than the fortieth legislative day of the 1979 regular legislative session and every eight years thereafter, the commission shall submit to the legislature and the governor recommendations for a salary plan for members of the legislature, and then dissolve. The salary plan submitted shall become effective as provided in the plan unless the legislature disapproves the plan by adoption of a concurrent resolution prior to adjournment sine die of the legislative session in which the plan is submitted or the governor disapproves the plan by a message of disapproval transmitted to the legislature prior to such adjournment. Any change in salary which becomes effective shall not apply to the legislature to which the recommendation for the change in salary was submitted.

SESSIONS

Section 10. The legislature shall convene annually in regular session at 10:00 o'clock a.m. on the third Wednesday in January.

At the written request of two-thirds of the members to which each house is entitled, the presiding officers of both houses shall convene the legislature in special session. The governor may convene both houses or the senate alone in special session.

Regular sessions shall be limited to a period of sixty days, and special sessions shall be limited to a period of thirty days. Any session may be extended a total of not more than fifteen days. Such extension shall be granted by the presiding officers of both houses at the written request of two-thirds of the members to which each house is entitled or may be granted by the governor.

Each regular session shall be recessed for not less than five days at some period between the twentieth and fortieth days of the regular session. The legislature shall determine the dates of the mandatory recess by concurrent resolution. Any session may be recessed by concurrent resolution adopted by a majority of the members to which each house is entitled. Saturdays, Sundays, holidays, the days in mandatory recess and any days in recess pursuant to a concurrent resolution shall be excluded in computing the number of days of any session.

All sessions shall be held in the capital of the State. In case the capital shall be unsafe, the governor may direct that any session be held at some other place.

ADJOURNMENT

Section 11. Neither house shall adjourn during any session of the legislature for more than three days, or sine die, without the consent of the other.

ORGANIZATION; DISCIPLINE; RULES; PROCEDURE

Section 12. Each house shall be the judge of the elections, returns and qualifications of its own members and shall have, for misconduct, disorderly behavior or neglect of duty of any member, power to punish such member by censure or, upon a two-thirds vote of all the members to which such house is entitled, by suspension or expulsion of such member. Each house shall choose its own officers, determine the rules of its proceedings and keep a journal. The ayes and noes of the members on any question shall, at the desire of one-fifth of the members present, be entered upon the journal.

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

Every meeting of a committee in either house or of a committee comprised of a member or members from both houses held for the purpose of making decision on matters referred to the committee shall be open to the public.

By rule of its proceedings, applicable to both houses, each house shall provide for the date by which all bills to be considered in a regular session shall be introduced. This date shall be after the nineteenth day of the session and shall precede the commencement of the mandatory recess of not less than five days as provided in section 10 of this article.

QUORUM; COMPULSORY ATTENDANCE

Section 13. A majority of the number of members to which each house is entitled shall constitute a quorum of such house for the conduct of ordinary business, of which quorum a majority vote shall suffice; but the final passage of a bill in each house shall require the vote of a majority of all the members to which such house is entitled, taken by ayes and noes and entered upon its journal. A smaller number than a quorum may adjourn from day to day and may compel the attendance of absent members in such manner and under such penalties as each house may provide.

BILLS; ENACTMENT

Section 14. No law shall be passed except by bill. Each law shall embrace but one subject, which shall be expressed in its title. The enacting clause of each law shall be, "Be it enacted by the legislature of the State of Hawaii."

PASSAGE OF BILLS

Section 15. No bill shall become law unless it shall pass three readings in each house on separate days. No bill shall pass third or final reading in either house unless printed copies of the bill in the form to be passed shall have been made available to the members of that house for at least forty-eight hours.

Every bill when passed by the house in which it originated, or in which amendments thereto shall have originated, shall immediately be certified by the presiding officer and clerk and sent to the other house for consideration.

Any bill pending at the final adjournment of a regular session in an odd-numbered year shall carry over with the same status to the next regular session. Before the carried-over bill is enacted, it shall pass at least one reading in the house in which the bill originated.

APPROVAL OR VETO

Section 16. Every bill which shall have passed the legislature shall be certified by the presiding officers and clerks of both houses and shall thereupon be presented to the governor. If the governor approves it, the governor shall sign it and it shall become law. If the governor does not approve such bill, the governor may return it, with the governor's objections to the legislature. Except for items appropriated to be expended by the judicial and legislative branches, the governor may veto any specific item or items in any bill which appropriates money for specific purposes by striking out or reducing the same; but the governor shall veto other bills, if at all, only as a whole.

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

RECONSIDERATION AFTER ADJOURNMENT

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

In computing the number of days designated in this section, the following days shall be excluded: Saturdays, Sundays, holidays and any days in which the legislature is in recess prior to its adjournment as provided in section 10 of this article.

PROCEDURES UPON VETO

Section 17. Upon the receipt of a veto message from the governor, each house shall enter the same at large upon its journal and proceed to reconsider the vetoed bill, or the item or items vetoed, and again vote upon such bill, or such item or items, by ayes and noes, which shall be entered upon its journal. If after such reconsideration such bill, or such item or items, shall be approved by a two-thirds vote of all members to which each house is entitled, the same shall become law.

PUNISHMENT OF NONMEMBERS

Section 18. Each house may punish by fine, or by imprisonment not exceeding thirty days, any person not a member of either house who shall be guilty of disrespect of such house by any disorderly or contemptuous behavior in its presence or that of any

committee thereof; or who shall, on account of the exercise of any legislative function, threaten harm to the body or estate of any of the members of such house; or who shall assault, arrest or detain any witness or other person ordered to attend such house, on the witness' or other person's way going to or returning therefrom; or who shall rescue any person arrested by order of such house.

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

IMPEACHMENT

Section 19. The governor and lieutenant governor, and any appointive officer for whose removal the consent of the senate is required, may be removed from office upon conviction of impeachment for such causes as may be provided by law.

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

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

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

ARTICLE IV REAPPORTIONMENT

REAPPORTIONMENT YEARS

Section 1. The year 1973, the year 1981, and every tenth year thereafter shall be reapportionment years.

REAPPORTIONMENT COMMISSION

Section 2. A reapportionment commission shall be constituted on or before March 1 of each reapportionment year and whenever reapportionment is required by court order. The commission shall consist of nine members. The president of the senate and the speaker of the house of representatives shall each select two members. Members of each house belonging to the party or parties different from that of the president or the speaker shall designate one of their number for each house and the two so designated shall each select two members of the commission. The eight members so selected shall, promptly after selection, be certified by the selecting authorities to the chief election officer and shall within thirty days thereafter select, by a vote of six members, and promptly certify to the chief election officer the ninth member who shall serve as chairperson of the commission.

Each of the four officials designated above as selecting authorities for the eight members of the commission shall, at the time of the commission selections, also select one person from each basic island unit to serve on an apportionment advisory council for that island unit. The councils shall remain in existence during the life of the commission and each shall serve in an advisory capacity to the commission for matters affecting its island unit.

A vacancy in the commission or a council shall be filled by the initial selecting authority within fifteen days after the vacancy occurs. Commission and council positions and vacancies not filled within the times specified shall be filled promptly thereafter by the supreme court.

The commission shall act by majority vote of its membership and shall establish its own procedures, except as may be provided by law.

Not more than one hundred fifty days from the date on which its members are certified, the commission shall file with the chief election officer a reapportionment plan for the state legislature and a reapportionment plan for the United States congressional districts which shall become law after publication as provided by law. Members of the commission shall hold office until each reapportionment plan becomes effective or until such time as may be provided by law.

No member of the reapportionment commission or an apportionment advisory council shall be eligible to become a candidate for election to either house of the legislature or to the United States House of Representatives in either of the first two elections under any such reapportionment plan.

Commission and apportionment advisory council members shall be compensated and reimbursed for their necessary expenses as provided by law.

The chief election officer shall be secretary of the commission without vote and, under the direction of the commission, shall furnish all necessary technical services. The legislature shall appropriate funds to enable the commission to carry out its duties.

CHIEF ELECTION OFFICER

Section 3. The legislature shall provide for a chief election officer of the State, whose responsibilities shall be as provided by law and shall include the supervision of state elections, the maximization of registration of eligible voters throughout the State and the maintenance of data concerning registered voters, elections, apportionment and districting.

APPORTIONMENT AMONG BASIC ISLAND UNITS

Section 4. The commission shall allocate the total number of members of each house of the state legislature being reapportioned among the four basic island units, namely: (1) the island of Hawaii, (2) the islands of Maui, Lanai, Molokai and Kahoolawe, (3) the island of Oahu and all other islands not specifically enumerated, and (4) the islands of Kauai and Niihau, on the basis of the number of voters registered in the last preceding general election in each of the basic island units and computed by the method known as the method of equal proportions; except that no basic island unit shall receive less than one member in each house.

MINIMUM REPRESENTATION FOR BASIC ISLAND UNITS

Section 5. The representation of any basic island unit initially allocated less than a minimum of two senators and three representatives shall be augmented by allocating thereto the number of senators or representatives necessary to attain such minimums which number, notwithstanding the provisions of Sections 2 and 3 of Article III shall be added to the membership of the appropriate body until the next reapportionment. The senators or representatives of any basic island unit so augmented shall exercise a fractional vote wherein the numerator is the number initially allocated and the denominator is the minimum above specified.

Validity of amendment. A proposal of the 1978 Constitutional Convention deleting this provision from the Constitution was not validly ratified, *Kahalekai v. Doi*, 60 H. 324 (1979). In view of the holding, the revisor has restored this provision (formerly a part of section 4 of the old article III), with a necessary change in reference, and renumbered it as section 5 under the authority of Resolution No. 29 of the 1978 Constitutional Convention.

APPORTIONMENT WITHIN BASIC ISLAND UNITS

Section 6. Upon the determination of the total number of members of each house of the state legislature to which each basic island unit is entitled, the commission shall apportion the members among the districts therein and shall redraw district lines where necessary in such manner that for each house the average number of registered voters per member in each district is as nearly equal to the average for the basic island unit as practicable.

In effecting such redistricting, the commission shall be guided by the following criteria:

1. No district shall extend beyond the boundaries of any basic island unit.
2. No district shall be so drawn as to unduly favor a person or political faction.
3. Except in the case of districts encompassing more than one island, districts shall be contiguous.
4. Insofar as practicable, districts shall be compact.
5. Where possible, district lines shall follow permanent and easily recognized features, such as streets, streams and clear geographical features, and, when practicable, shall coincide with census tract boundaries.
6. Where practicable, representative districts shall be wholly included within senatorial districts.
7. Not more than four members shall be elected from any district.
8. Where practicable, submergence of an area in a larger district wherein substantially different socio-economic interests predominate shall be avoided.

Validity of amendment. A proposal of the 1978 Constitutional Convention adding to the second paragraph an item 9 reading: "9. No consideration shall be given to holdover senators in effecting redistricting." was not validly ratified. *Kahalekai v. Doi*, 60 H. 324 (1979). In view of the holding, the revisor has deleted the provision under the authority of Resolution No. 29 of the 1978 Constitutional Convention.

PLACEMENT OF HOLDOVER SENATORS

Section 7. If a senator is serving a term which will extend past the general election at which an apportionment plan becomes effective, the reapportionment commission shall designate in the plan the senatorial district the senator shall represent for the remaining period of the senator's term. In making such designation, the senator need not live in the senatorial district which the senator is designated as representing during the remainder of the term which extends past the general election for which the reapportionment plan becomes effective; provided the reapportionment commission shall consider the following criteria:

1. The senatorial district from which the senator was elected.
2. The senatorial district in which the senator will reside under the reapportionment plan.
3. The requirement of continuing the staggered terms of senators in each district as established by Section 2 of Article XVIII, the next section in this article and the number of senators in a senatorial district under the reapportionment plan of the commission.

RETENTION OF STAGGERED TERMS FOR THE SENATE

Section 8. The senate shall be composed of senators who serve staggered terms of office as follows: senatorial districts with one member, the term of office shall end as provided by the constitution; senatorial districts with two members, each member shall serve a term ending on the date of a different general election; senatorial districts with three members, (A) two members shall serve a term ending on the date of the same general election and (B) one member shall serve a term ending on the date of a general election different than the other two members; senatorial districts with four members, (A) two members shall serve a term ending on the date of the same general election and (B) two members shall serve a term ending on the date of a general election different than the other two members.

If, in the first or second general election in which senators are elected after a reapportionment, the number of senators in a senatorial district whose terms would end on a date of a general election will be more than that set forth in the above paragraph, then at such general election the members of the senate shall be divided into two classes. The members of the first class shall hold office for a term of four years beginning with their election and ending on the day of the second general election held thereafter. The first

class shall consist of that number of persons with the highest number of votes necessary to fulfill item (B) in the above paragraph for senatorial districts with three or four members or one person in senatorial districts with two members. The remaining persons shall constitute the second class and shall hold office for a term of two years beginning with their election and ending on the day of the next general election held thereafter.

CONGRESSIONAL REDISTRICTING FOR UNITED STATES HOUSE OF REPRESENTATIVES

Section 9. The commission shall, at such time as may be required by this article and as may be required by law of the United States, redraw congressional district lines for the districts from which the members of the United States House of Representatives allocated to this State by Congress are elected.

MANDAMUS AND JUDICIAL REVIEW

Section 10. Original jurisdiction is vested in the supreme court of the State to be exercised on the petition of any registered voter whereby it may compel, by mandamus or otherwise, the appropriate person or persons to perform their duty or to correct any error made in a reapportionment plan, or it may take such other action to effectuate the purposes of this section as it may deem appropriate. Any such petition shall be filed within forty-five days of the date specified for any duty or within forty-five days after the filing of a reapportionment plan.

ARTICLE V THE EXECUTIVE

ESTABLISHMENT OF THE EXECUTIVE

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

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

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

No person shall be elected to the office of governor for more than two consecutive full terms.

No person shall be eligible for the office of governor unless the person shall be a qualified voter, have attained the age of thirty years and have been a resident of this State for five years immediately preceding the person's election.

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

LIEUTENANT GOVERNOR

Section 2. There shall be a lieutenant governor who shall have the same qualifications as the governor. The lieutenant governor shall be elected at the same time, for the same term and in the same manner as the governor; provided that the votes cast in the general election for the nominee for governor shall be deemed cast for the nominee for lieutenant governor of the same political party. No person shall be elected to the office of lieutenant governor for more than two consecutive full terms. The lieutenant governor shall perform such duties as may be provided by law.

COMPENSATION: GOVERNOR, LIEUTENANT GOVERNOR

Section 3. The compensation of the governor and of the lieutenant governor shall be as provided by law, but shall not be less than thirty-three thousand five hundred dollars, and twenty-seven thousand five hundred dollars, respectively, a year. Such compensation shall not be increased or decreased for their respective terms, unless by general

law applying to all salaried officers of the State. When the lieutenant governor succeeds to the office of the governor, the lieutenant governor shall receive the compensation for that office.

SUCCESSION TO GOVERNORSHIP; ABSENCE OR DISABILITY OF GOVERNOR

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

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

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

EXECUTIVE POWERS

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

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

The governor shall appoint an administrative director to serve at the governor's pleasure.

EXECUTIVE AND ADMINISTRATIVE OFFICES AND DEPARTMENTS

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

Each principal department shall be under the supervision of the governor and, unless otherwise provided in this constitution or by law, shall be headed by a single executive. Such single executive shall be nominated and, by and with the advice and consent of the senate, appointed by the governor. That person shall hold office for a term to expire at the end of the term for which the governor was elected, unless sooner removed by the governor; except that the removal of the chief legal officer of the State shall be subject to the advice and consent of the senate.

Except as otherwise provided in this constitution, whenever a board, commission or other body shall be the head of a principal department of the state government, the members thereof shall be nominated and, by and with the advice and consent of the senate, appointed by the governor. The term of office and removal of such members shall be as provided by law. Such board, commission or other body may appoint a principal executive officer who, when authorized by law, may be an ex officio, voting member

thereof, and who may be removed by a majority vote of the members appointed by the governor.

The governor shall nominate and, by and with the advice and consent of the senate, appoint all officers for whose election or appointment provision is not otherwise provided for by this constitution or by law. If the manner of removal of an officer is not prescribed in this constitution, removal shall be as provided by law.

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

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

Every officer appointed under the provisions of this section shall be a citizen of the United States and shall have been a resident of this State for at least one year immediately preceding that person's appointment, except that this residency requirement shall not apply to the president of the University of Hawaii.

ARTICLE VI THE JUDICIARY

JUDICIAL POWER

Section 1. The judicial power of the State shall be vested in one supreme court, one intermediate appellate court, circuit courts, district courts and in such other courts as the legislature may from time to time establish. The several courts shall have original and appellate jurisdiction as provided by law and shall establish time limits for disposition of cases in accordance with their rules.

SUPREME COURT; INTERMEDIATE APPELLATE COURT; CIRCUIT COURTS

Section 2. The supreme court shall consist of a chief justice and four associate justices. The chief justice may assign a judge or judges of the intermediate appellate court or a circuit court to serve temporarily on the supreme court, a judge of the circuit court to serve temporarily on the intermediate appellate court and a judge of the district court to serve temporarily on the circuit court. As provided by law, retired justices of the supreme court also may serve temporarily on the supreme court at the request of the chief justice. In case of a vacancy in the office of chief justice, or if the chief justice is ill, absent or otherwise unable to serve, an associate justice designated in accordance with the rules of the supreme court shall serve temporarily in place of the chief justice.

APPOINTMENT OF JUSTICES AND JUDGES

Section 3. The governor shall, with the consent of the senate, fill a vacancy in the office of the chief justice, supreme court, intermediate appellate court and circuit courts, by appointing a person from a list of not less than six nominees for the vacancy, presented to the governor by the judicial selection commission.

If the governor fails to make any appointment within thirty days of presentation, or within ten days of the senate's rejection of any previous appointment, the appointment shall be made by the judicial selection commission from the list with the consent of the senate. If the senate fails to reject any appointment within thirty days thereof, it shall be deemed to have given its consent to such appointment. If the senate shall reject any appointment, the governor shall make another appointment from the list within ten days thereof. The same appointment and consent procedure shall be followed until a valid appointment has been made, or failing this, the commission shall make the appointment from the list, without senate consent.

The chief justice shall fill a vacancy in the district courts by appointing a person

from a list of not less than six nominees for the vacancy presented by the judicial commission. If the chief justice fails to make the appointment within thirty days of presentation, the appointment shall be made by the judicial selection commission from the list. The chief justice shall appoint per diem district court judges as provided by law.

QUALIFICATIONS FOR APPOINTMENT

Justices and judges shall be residents and citizens of the State and of the United States, and licensed to practice law by the supreme court. A justice of the supreme court, a judge of the intermediate appellate court and a judge of the circuit court shall have been so licensed for a period of not less than ten years preceding nomination. A judge of the district court shall have been so licensed for a period of not less than five years preceding nomination.

No justice or judge shall, during the term of office, engage in the practice of law, or run for or hold any other office or position of profit under the United States, the State or its political subdivisions.

TENURE; COMPENSATION; RETIREMENT

The term of office of justices and judges of the supreme court, intermediate appellate court and circuit courts shall be ten years. Judges of district courts shall hold office for the periods as provided by law. At least six months prior to the expiration of a justice's or judge's term of office, every justice and judge shall petition the judicial selection commission to be retained in office or shall inform the commission of an intention to retire. If the judicial selection commission determines that the justice or judge should be retained in office, the commission shall renew the term of office of such justice or judge for the period provided by this section or by law.

There shall be a salary commission to review and recommend salaries for justices and judges of all state courts. Justices and judges shall have salaries as provided by law. Their compensation shall not be decreased during their respective terms of office, unless by general law applying to all salaried officers of the State. They shall be retired upon attaining the age of seventy years. They shall be included in any retirement law of the State.

JUDICIAL SELECTION COMMISSION

Section 4. There shall be a judicial selection commission that shall consist of nine members. The governor shall appoint three members to the commission. No more than one of the three members shall be a licensed attorney. The president of the senate and the speaker of the house of representatives shall each respectively appoint one member to the commission. The chief justice of the supreme court shall appoint two members to the commission. No more than one of the two members shall be a licensed attorney. Members in good standing of the bar of the State shall elect two of their number to the commission in an election conducted by the supreme court or its delegate. No more than four members of the commission shall be licensed attorneys.

The commission shall be selected and shall operate in a wholly nonpartisan manner. After the initial formation of the commission, elections and appointments to the commission shall be for staggered terms of six years each. No member of the commission shall serve for more than one full six-year term on the commission.

Each member of the judicial selection commission shall be a resident of the State and a citizen of the United States. No member shall run for or hold any other elected office under the United States, the State or its political subdivisions. No member shall take an active part in political management or in political campaigns. No member shall be eligible for appointment to judicial office of the State so long as the person is a member of the judicial commission and for a period of three years thereafter.

No act of the judicial selection commission shall be valid except by concurrence of the majority of its voting members.

The judicial selection commission shall select one of its members to serve as chairperson. The commission shall promulgate rules which shall have the force and effect of law. The deliberations of the commission shall be confidential.

The legislature shall provide for the staff and operating expenses of the judicial selection commission in a separate budget. No member of the judicial selection commission shall receive any compensation for commission services, but shall be allowed necessary expenses for travel, board and lodging incurred in the performance of commission duties.

The judicial selection commission shall be attached to the judiciary branch of the state government for purposes of administration.

RETIREMENT; REMOVAL; DISCIPLINE

Section 5. The supreme court shall have the power to reprimand, discipline, suspend with or without salary, retire or remove from office any justice or judge for misconduct or disability, as provided by rules adopted by the supreme court.

The supreme court shall create a commission on judicial discipline which shall have authority to investigate and conduct hearings concerning allegations of misconduct or disability and to make recommendations to the supreme court concerning reprimand, discipline, suspension, retirement or removal of any justice or judge.

ADMINISTRATION

Section 6. The chief justice of the supreme court shall be the administrative head of the courts. The chief justice may assign judges from one circuit court to another for temporary service. With the approval of the supreme court, the chief justice shall appoint an administrative director to serve at the chief justice's pleasure.

RULES

Section 7. The supreme court shall have power to promulgate rules and regulations in all civil and criminal cases for all courts relating to process, practice, procedure and appeals, which shall have the force and effect of law.

ARTICLE VII TAXATION AND FINANCE

TAXING POWER INALIENABLE

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

INCOME TAXATION

Section 2. In enacting any law imposing a tax on or measured by income, the legislature may define income by reference to provisions of the laws of the United States as they may be or become effective at any time or from time to time, whether retrospective or prospective in their operation. The legislature may provide that amendments to such laws of the United States shall become the law of the State upon their becoming the law of the United States. The legislature shall in any such law set the rate or rates of such tax. The legislature may in so defining income make exceptions, additions or modifications to any provisions of the laws of the United States so referred to and provide for retrospective exceptions or modifications to those provisions which are retrospective.

TAX REVIEW COMMISSION

Section 3. There shall be a tax review commission, which shall be appointed as provided by law on or before July 1, 1980, and every five years thereafter. The commission shall submit to the legislature an evaluation of the State's tax structure, recommend revenue and tax policy and then dissolve.

APPROPRIATIONS FOR PRIVATE PURPOSES PROHIBITED

Section 4. No tax shall be levied or appropriation of public money or property made, nor shall the public credit be used, directly or indirectly, except for a public purpose. No

grant shall be made in violation of Section 4 of Article I of this constitution. No grant of public money or property shall be made except pursuant to standards provided by law.

EXPENDITURE CONTROLS

Section 5. Provision for the control of the rate of expenditures of appropriated state moneys, and for the reduction of such expenditures under prescribed conditions, shall be made by law.

No public money shall be expended except pursuant to appropriations made by law. General fund expenditures for any fiscal year shall not exceed the State's current general fund revenues and unencumbered cash balances, except when the governor publicly declares the public health, safety or welfare is threatened as provided by law.

DISPOSITION OF EXCESS REVENUES

Section 6. Whenever the state general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years, the legislature in the next regular session shall provide for a tax refund or tax credit to the taxpayers of the State, as provided by law.

COUNCIL ON REVENUES

Section 7. There shall be established by law a council on revenues which shall prepare revenue estimates of the state government and shall report the estimates to the governor and the legislature at times provided by law. The estimates shall be considered by the governor in preparing the budget, recommending appropriations and revenues and controlling expenditures. The estimates shall be considered by the legislature in appropriating funds and enacting revenue measures. All revenue estimates submitted by the council to the governor and the legislature shall be made public. If the legislature in appropriating funds or if the governor in preparing the budget or recommending appropriations exceeds estimated revenues due to proposed expenditures, this fact shall be made public including the reasons therefor.

THE BUDGET

Section 8. Within such time prior to the opening of each regular session in an odd-numbered year as may be provided by law, the governor shall submit to the legislature a budget in a form provided by law setting forth a complete plan of proposed expenditures of the executive branch, estimates as provided by law of the aggregate expenditures of the judicial and legislative branches, and anticipated receipts of the State for the ensuing fiscal biennium, together with such other information as the legislature may require. A complete plan of proposed expenditures of the judicial branch for the ensuing fiscal biennium shall be submitted by the chief justice to the legislature in a form and within such time prior to the opening of each regular session in an odd-numbered year as shall be provided by law. The budget prepared by the governor and the plan of proposed expenditures prepared by the chief justice shall also be submitted in bill form. The governor shall also, upon the opening of each such session, submit bills to provide for such proposed expenditures and for any recommended additional revenues or borrowings by which the proposed expenditures are to be met. The proposed general fund expenditures in the plan of proposed expenditures, including estimates of the aggregate expenditures of the judicial and legislative branches, submitted by the governor shall not exceed the general fund expenditure ceiling established by the legislature under section 9 of this article; provided that proposed general fund expenditures in the plan may exceed such ceiling if the governor sets forth the dollar amount and the rate by which the ceiling will be exceeded and the reasons therefor.

LEGISLATIVE APPROPRIATIONS; PROCEDURES; EXPENDITURE CEILING

Section 9. In each regular session in an odd-numbered year, the legislature shall transmit to the governor an appropriation bill or bills providing for the anticipated total expenditures of the State for the ensuing fiscal biennium. In such session, no appropriation bill, except bills recommended by the governor for immediate passage, or to cover the expenses of the legislature, shall be passed on final reading until the bill authorizing

operating expenditures for the ensuing fiscal biennium, to be known as the general appropriations bill, shall have been transmitted to the governor.

In each regular session in an even-numbered year, at such time as may be provided by law, the governor may submit to the legislature a bill to amend any appropriation for operating expenditures of the current fiscal biennium, to be known as the supplemental appropriations bill, and bills to amend any appropriations for capital expenditures of the current fiscal biennium, and at the same time the governor shall submit a bill or bills to provide for any added revenues or borrowings that such amendments may require. In each regular session in an even-numbered year, bills may be introduced in the legislature to amend any appropriation act or bond authorization act of the current fiscal biennium or prior fiscal periods. In any such session in which the legislature submits to the governor a supplemental appropriations bill, no other appropriation bill, except bills recommended by the governor for immediate passage, or to cover the expenses of the legislature, shall be passed on final reading until such supplemental appropriations bill shall have been transmitted to the governor.

GENERAL FUND EXPENDITURE CEILING

Notwithstanding any other provision to the contrary, the legislature shall establish a general fund expenditure ceiling which shall limit the rate of growth of general fund appropriations, excluding federal funds received by the general fund, to the estimated rate of growth of the State's economy as provided by law. No appropriations in excess of such ceiling shall be authorized during any legislative session unless the legislature shall, by a two-thirds vote of the members to which each house of the legislature is entitled, set forth the dollar amount and the rate by which the ceiling will be exceeded and the reasons therefor.

AUDITOR

Section 10. The legislature, by a majority vote of each house in joint session, shall appoint an auditor who shall serve for a period of eight years and thereafter until a successor shall have been appointed. The legislature, by a two-thirds vote of the members in joint session, may remove the auditor from office at any time for cause. It shall be the duty of the auditor to conduct post-audits of the transactions, accounts, programs and performance of all departments, offices and agencies of the State and its political subdivisions, to certify to the accuracy of all financial statements issued by the respective accounting officers and to report the auditor's findings and recommendations to the governor and to the legislature at such times as shall be provided by law. The auditor shall also make such additional reports and conduct such other investigations as may be directed by the legislature.

LAPSING OF APPROPRIATIONS

Section 11. All appropriations for which the source is general obligation bond funds or general funds shall be for specified periods, and no such appropriation shall be made for a period exceeding three years. Any such appropriation or any portion of any such appropriation which is unencumbered at the close of the fiscal period for which the appropriation is made shall lapse; provided that no appropriation for which the source is general obligation bond funds nor any portion of any such appropriation shall lapse if the legislature determines such appropriation or any portion of such appropriation is necessary to qualify for federal aid financing and reimbursement. Where general obligation bonds have been authorized for an appropriation, the amount of the bond authorization shall be reduced in an amount equal to the amount lapsed.

Any appropriation for which the source is general obligation bond funds or general funds or any portion of any such appropriation which is effective on the date of ratification of this amendment and which is unencumbered on June 30, 1980 shall lapse on that date unless earlier lapsed by law; provided that no appropriation for which the source is general obligation bond funds nor any portion of any such appropriation shall lapse if the legislature determines such appropriation or any portion of such appropriation is necessary to qualify for federal aid financing and reimbursement. Where general obligation bonds have been authorized for an appropriation, the amount of the bond authorization shall be reduced in an amount equal to the amount lapsed on June 30, 1980.

DEFINITIONS; ISSUANCE OF INDEBTEDNESS

Section 12. For the purposes of this article:

1. The term "bonds" shall include bonds, notes and other instruments of indebtedness.
2. The term "general obligation bonds" means all bonds for the payment of the principal and interest of which the full faith and credit of the State or a political subdivision are pledged and, unless otherwise indicated, includes reimbursable general obligation bonds.
3. The term "net revenues" or "net user tax receipts" means the revenues or receipts derived from a public undertaking, improvement or system remaining after the costs of operation, maintenance and repair of such public undertaking, improvement or system and the required payments of the principal of and interest on all revenue bonds issued therefor have been made.
4. The term "person" means an individual, firm, partnership, corporation, association, cooperative or other legal entity, governmental body or agency, board, bureau or other instrumentality thereof, or any combination of the foregoing.
5. The term "rates, rentals and charges" means all revenues and other moneys derived from the operation or lease of a public undertaking, improvement or system, or derived from any payments or return on security under a loan program or a loan thereunder.
6. The term "reimbursable general obligation bonds" means general obligation bonds issued for a public undertaking, improvement or system from which revenues, or user taxes, or a combination of both, may be derived for the payment of the principal and interest as reimbursement to the general fund and for which reimbursement is required by law, and, in the case of general obligation bonds issued by the State for a political subdivision, general obligation bonds for which the payment of the principal and interest as reimbursement to the general fund is required by law to be made from the revenue of the political subdivision.
7. The term "revenue bonds" means all bonds payable from the revenues, or user taxes, or any combination of both, of a public undertaking, improvement, system or loan program and any loan made thereunder and secured as may be provided by law.
8. The term "special purpose revenue bonds" means all bonds payable from rental or other payments made to an issuer by a person pursuant to contract and secured as may be provided by law.
9. The term "user tax" means a tax on goods or services or on the consumption thereof, the receipts of which are substantially derived from the consumption, use or sale of goods and services in the utilization of the functions or services furnished by a public undertaking, improvement or system.

The legislature, by a majority vote of the members to which each house is entitled, shall authorize the issuance of all general obligation bonds, bonds issued under special improvement statutes and revenue bonds issued by or on behalf of the State and shall prescribe by general law the manner and procedure for such issuance. The legislature by general law shall authorize political subdivisions to issue general obligation bonds, bonds issued under special improvement statutes and revenue bonds and shall prescribe the manner and procedure for such issuance. All such bonds issued by or on behalf of a political subdivision shall be authorized by the governing body of such political subdivision.

Special purpose revenue bonds shall only be authorized or issued to finance facilities of or for, or to loan the proceeds of such bonds to assist, manufacturing, processing or industrial enterprises, utilities serving the general public, health care facilities provided to the general public by not-for-profit corporations or low and moderate income government housing programs, each of which is hereinafter referred to in this paragraph as a special purpose entity. The legislature, by a two-thirds vote of the members to which each house is entitled, may enact enabling legislation for the issuance of special purpose revenue bonds separately for each special purpose entity, and, by a two-thirds vote of the members to which each house is entitled and by separate legislative bill, may authorize

the State to issue special purpose revenue bonds for each single project or multi-project program of each special purpose entity; provided that the issuance of such special purpose revenue bonds is found to be in the public interest by the legislature. The legislature may enact enabling legislation to authorize political subdivisions to issue special purpose revenue bonds. If so authorized, a political subdivision by a two-thirds vote of the members to which its governing body is entitled and by separate ordinance may authorize the issuance of special purpose revenue bonds for each single project or multi-project program of each special purpose entity; provided that the issuance of such special purpose revenue bonds is found to be in the public interest by the governing body of the political subdivision. No special purpose revenue bonds shall be secured directly or indirectly by the general credit of the issuer or by any revenues or taxes of the issuer other than receipts derived from payments by a person under contract or from any security for such contract or special purpose revenue bonds and no moneys other than such receipts shall be applied to the payment thereof. The governor shall provide the legislature in November of each year with a report on the cumulative amount of all special purpose revenue bonds authorized and issued, and such other information as may be necessary.

DEBT LIMIT; EXCLUSIONS

Section 13. General obligation bonds may be issued by the State; provided that such bonds at the time of issuance would not cause the total amount of principal and interest payable in the current or any future fiscal year, whichever is higher, on such bonds and on all outstanding general obligation bonds to exceed: a sum equal to twenty percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance until June 30, 1982; and thereafter, a sum equal to eighteen and one-half percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance. Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance. Any bond issue by or on behalf of the State may exceed the debt limit if an emergency condition is declared to exist by the governor and concurred to by a two-thirds vote of the members to which each house of the legislature is entitled. For the purpose of this paragraph, general fund revenues of the State shall not include moneys received as grants from the federal government and receipts in reimbursement of any reimbursable general obligation bonds which are excluded as permitted by this section.

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

All general obligation bonds for a term exceeding two years shall be in serial form maturing in substantially equal installments of principal, or maturing in substantially equal installments of both principal and interest. The first installment of principal of general obligation bonds and of reimbursable general obligation bonds shall mature not later than five years from the date of issue of such series. The last installment on general obligation bonds shall mature not later than twenty-five years from the date of such issue and the last installment on general obligation bonds sold to the federal government, on reimbursable general obligation bonds and on bonds constituting instruments of indebtedness under which the State or a political subdivision incurs a contingent liability as a guarantor shall mature not later than thirty-five years from the date of such issue. The interest and principal payments of general obligation bonds shall be a first charge on the general fund of the State or political subdivision, as the case may be.

In determining the power of the State to issue general obligation bonds or the funded debt of any political subdivision under section 12, the following shall be excluded:

1. Bonds that have matured, or that mature in the then current fiscal year, or that have been irrevocably called for redemption and the redemption date has occurred or will occur in the then fiscal year, or for the full payment of which moneys or securities have been irrevocably set aside.
2. Revenue bonds, if the issuer thereof is obligated by law to impose rates, rentals

and charges for the use and services of the public undertaking, improvement or system or the benefits of a loan program or a loan thereunder or to impose a user tax, or to impose a combination of rates, rentals and charges and user tax, as the case may be, sufficient to pay the cost of operation, maintenance and repair, if any, of the public undertaking, improvement or system or the cost of maintaining a loan program or a loan thereunder and the required payments of the principal of and interest on all revenue bonds issued for the public undertaking, improvement or system or loan program, and if the issuer is obligated to deposit such revenues or tax or a combination of both into a special fund and to apply the same to such payments in the amount necessary therefor.

3. Special purpose revenue bonds, if the issuer thereof is required by law to contract with a person obligating such person to make rental or other payments to the issuer in an amount at least sufficient to make the required payment of the principal of and interest on such special purpose revenue bonds.

4. Bonds issued under special improvement statutes when the only security for such bonds is the properties benefited or improved or the assessments thereon.

5. General obligation bonds issued for assessable improvements, but only to the extent that reimbursements to the general fund for the principal and interest on such bonds are in fact made from assessment collections available therefor.

6. Reimbursable general obligation bonds issued for a public undertaking, improvement or system but only to the extent that reimbursements to the general fund are in fact made from the net revenue, or net user tax receipts, or combination of both, as determined for the immediately preceding fiscal year.

7. Reimbursable general obligation bonds issued by the State for any political subdivision, whether issued before or after the effective date of this section, but only for as long as reimbursement by the political subdivision to the State for the payment of principal and interest on such bonds is required by law; provided that in the case of bonds issued after the effective date of this section, the consent of the governing body of the political subdivision has first been obtained; and provided further that during the period that such bonds are excluded by the State, the principal amount then outstanding shall be included within the funded debt of such political subdivision.

8. Bonds constituting instruments of indebtedness under which the State or any political subdivision incurs a contingent liability as a guarantor, but only to the extent the principal amount of such bonds does not exceed seven percent of the principal amount of outstanding general obligation bonds not otherwise excluded under this section; provided that the State or political subdivision shall establish and maintain a reserve in an amount in reasonable proportion to the outstanding loans guaranteed by the State or political subdivision as provided by law.

9. Bonds issued by or on behalf of the State or by any political subdivision to meet appropriations for any fiscal period in anticipation of the collection of revenues for such period or to meet casual deficits or failures of revenue, if required to be paid within one year, and bonds issued by or on behalf of the State to suppress insurrection, to repel invasion, to defend the State in war or to meet emergencies caused by disaster or act of God.

The total outstanding indebtedness of the State or funded debt of any political subdivision and the exclusions therefrom permitted by this section shall be made annually and certified by law or as provided by law. For the purposes of section 12 and this section, amounts received from on-street parking may be considered and treated as revenues of a parking undertaking.

Nothing in section 12 or in this section shall prevent the refunding of any bond at any time.

ARTICLE VIII LOCAL GOVERNMENT

CREATION; POWERS OF POLITICAL SUBDIVISIONS

Section 1. The legislature shall create counties, and may create other political sub-

divisions within the State, and provide for the government thereof. Each political subdivision shall have and exercise such powers as shall be conferred under general laws.

LOCAL SELF-GOVERNMENT; CHARTER

Section 2. Each political subdivision shall have the power to frame and adopt a charter for its own self-government within such limits and under such procedures as may be provided by general law. Such procedures, however, shall not require the approval of a charter by a legislative body.

Charter provisions with respect to a political subdivision's executive, legislative and administrative structure and organization shall be superior to statutory provisions, subject to the authority of the legislature to enact general laws allocating and reallocating powers and functions.

A law may qualify as a general law even though it is inapplicable to one or more counties by reason of the provisions of this section.

TAXATION AND FINANCE

Section 3. The taxing power shall be reserved to the State, except so much thereof as may be delegated by the legislature to the political subdivision, and except that all functions, powers and duties relating to the taxation of real property shall be exercised exclusively by the counties, with the exception of the county of Kalawao. The legislature shall have the power to apportion state revenues among the several political subdivisions.

MANDATES; ACCRUED CLAIMS

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

TRANSFER OF MANDATED PROGRAMS

Section 5. If any new program or increase in the level of service under an existing program shall be mandated to any of the political subdivisions by the legislature, it shall provide that the State share in the cost.

STATEWIDE LAWS

Section 6. This article shall not limit the power of the legislature to enact laws of statewide concern.

ARTICLE IX PUBLIC HEALTH AND WELFARE

PUBLIC HEALTH

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

CARE OF HANDICAPPED PERSONS

Section 2. The State shall have the power to provide for the treatment and rehabilitation of handicapped persons.

PUBLIC ASSISTANCE

Section 3. The State shall have the power to provide financial assistance, medical assistance and social services for persons who are found to be in need of and are eligible for such assistance and services as provided by law.

ECONOMIC SECURITY OF THE ELDERLY

Section 4. The State shall have the power to provide for the security of the elderly by establishing and promoting programs to assure their economic and social well-being.

HOUSING, SLUM CLEARANCE, DEVELOPMENT AND REHABILITATION

Section 5. The State shall have the power to provide for, or assist in, housing, slum clearance and the development or rehabilitation of substandard areas. The exercise of such power is deemed to be for a public use and purpose.

MANAGEMENT OF STATE POPULATION GROWTH

Section 6. The State and its political subdivisions, as provided by general law, shall plan and manage the growth of the population to protect and preserve the public health and welfare; except that each political subdivision, as provided by general law, may plan and manage the growth of its population in a more restrictive manner than the State.

PUBLIC SIGHTLINESS AND GOOD ORDER

Section 7. The State shall have the power to conserve and develop objects and places of historic or cultural interest and provide for public sightliness and physical good order. For these purposes private property shall be subject to reasonable regulation.

PRESERVATION OF A HEALTHFUL ENVIRONMENT

Section 8. The State shall have the power to promote and maintain a healthful environment, including the prevention of any excessive demands upon the environment and the State's resources.

CULTURAL RESOURCES

Section 9. The State shall have the power to preserve and develop the cultural, creative and traditional arts of its various ethnic groups.

PUBLIC SAFETY

Section 10. The law of the splintered paddle, mamala-hoe kanawai, decreed by Kamehameha I - Let every elderly person, woman and child lie by the roadside in safety - shall be a unique and living symbol of the State's concern for public safety.

The State shall have the power to provide for the safety of the people from crimes against persons and property.

ARTICLE X EDUCATION

PUBLIC EDUCATION

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

BOARD OF EDUCATION

Section 2. There shall be a board of education composed of members who shall be elected in a nonpartisan manner by qualified voters, as provided by law, from two at-large school board districts. The first school board district shall be comprised of the island of Oahu and all other islands not specifically enumerated. The second school board district shall be comprised of the islands of Hawaii, Maui, Lanai, Molokai, Kahoolawe, Kauai and Niihau. Each at-large school board district shall be divided into departmental school districts, as may be provided by law. There shall be at least one member residing in each departmental school district.

POWER OF THE BOARD OF EDUCATION

Section 3. The board of education shall have the power, as provided by law, to formulate policy and to exercise control over the public school system through its executive officer, the superintendent of education, who shall be appointed by the board; except that the board shall have jurisdiction over the internal organization and management of the public school system, as provided by law, and shall exercise its jurisdiction in a manner consistent with general laws.

HAWAIIAN EDUCATION PROGRAM

Section 4. The State shall promote the study of Hawaiian culture, history and language.

The State shall provide for a Hawaiian education program consisting of language, culture and history in the public schools. The use of community expertise shall be encouraged as a suitable and essential means in furtherance of the Hawaiian education program.

UNIVERSITY OF HAWAII

Section 5. The University of Hawaii is hereby established as the state university and constituted a body corporate. It shall have title to all the real and personal property now or hereafter set aside or conveyed to it, which shall be held in public trust for its purposes, to be administered and disposed of as provided by law.

BOARD OF REGENTS; POWERS

Section 6. There shall be a board of regents of the University of Hawaii, the members of which shall be nominated and, by and with the advice and consent of the senate, appointed by the governor. At least part of the membership of the board shall represent geographic subdivisions of the State. The board shall have the power, as provided by law, to formulate policy, and to exercise control over the university through its executive officer, the president of the university, who shall be appointed by the board; except that the board shall have exclusive jurisdiction over the internal organization and management of the university. This section shall not limit the power of the legislature to enact laws of statewide concern.

ARTICLE XI CONSERVATION, CONTROL AND DEVELOPMENT OF RESOURCES

CONSERVATION AND DEVELOPMENT OF RESOURCES

Section 1. For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii's natural beauty and all natural resources, including land, water, air, minerals and energy sources, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.

All public natural resources are held in trust by the State for the benefit of the people.

Validity of amendment. A proposal of the 1978 Constitutional Convention deleted the former section 1 of the old article X, which read: "Section 1. The legislature shall promote the conservation, development and utilization of agricultural resources, and fish, mineral, forest, water, land, game and other natural resources." This deletion appears to be one of the unspecified changes submitted for ratification under Question 34. On whether any of the changes submitted under Question 34 was in fact approved by the electorate, see *Kahalekai v. Doi*, 60 H. 324 (1979), excerpted in the note preceding the Preamble to the Constitution.

MANAGEMENT AND DISPOSITION OF NATURAL RESOURCES

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

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

AGRICULTURAL LANDS

Section 3. The State shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands. The legislature shall provide standards and criteria to accomplish the foregoing.

Lands identified by the State as important agricultural lands needed to fulfill the purposes above shall not be reclassified by the State or rezoned by its political subdivisions without meeting the standards and criteria established by the legislature and approved by a two-thirds vote of the body responsible for the reclassification or rezoning action.

PUBLIC LAND BANKING

Section 4. The State shall have the power to acquire interests in real property to control future growth, development and land use within the State. The exercise of such power is deemed to be for a public use and purpose.

GENERAL LAWS REQUIRED; EXCEPTIONS

Section 5. The legislative power over the lands owned by or under the control of the State and its political subdivisions shall be exercised only by general laws, except in respect to transfers to or for the use of the State, or a political subdivision, or any department or agency thereof.

MARINE RESOURCES

Section 6. The State shall have the power to manage and control the marine, seabed and other resources located within the boundaries of the State, including the archipelagic waters of the State, and reserves to itself all such rights outside state boundaries not specifically limited by federal or international law.

All fisheries in the sea waters of the State not included in any fish pond, artificial enclosure or state-licensed mariculture operation shall be free to the public, subject to vested rights and the right of the State to regulate the same; provided that mariculture operations shall be established under guidelines enacted by the legislature, which shall protect the public's use and enjoyment of the reefs. The State may condemn such vested rights for public use.

WATER RESOURCES

Section 7. The State has an obligation to protect, control and regulate the use of Hawaii's water resources for the benefit of its people.

The legislature shall provide for a water resources agency which, as provided by law, shall set overall water conservation, quality and use policies; define beneficial and reasonable uses; protect ground and surface water resources, watersheds and natural stream environments; establish criteria for water use priorities while assuring appurtenant rights and existing correlative and riparian uses and establish procedures for regulating all uses of Hawaii's water resources.

NUCLEAR ENERGY

Section 8. No nuclear fission power plant shall be constructed or radioactive material disposed of in the State without the prior approval by a two-thirds vote in each house of the legislature.

ENVIRONMENTAL RIGHTS

Section 9. Each person has the right to a clean and healthful environment, as defined by laws relating to environmental quality, including control of pollution and con-

servation, protection and enhancement of natural resources. Any person may enforce this right against any party, public or private, through appropriate legal proceedings, subject to reasonable limitations and regulation as provided by law.

FARM AND HOME OWNERSHIP

Section 10. The public lands shall be used for the development of farm and home ownership on as widespread a basis as possible, in accordance with procedures and limitations prescribed by law.

Validity of amendment. This is the former section 5 of the old article X. A proposal of the 1978 Constitutional Convention deleting this provision from the Constitution was not validly ratified. *Kahalekai v. Doi*, 60 H. 324 (1979). In view of the holding, the revisor has restored the provision and designated it as section 10 of this article under the authority of Resolution No. 29 of the 1978 Constitutional Convention.

ARTICLE XII HAWAIIAN AFFAIRS

HAWAIIAN HOMES COMMISSION ACT

Section 1. Anything in this constitution to the contrary notwithstanding, the Hawaiian Homes Commission Act, 1920, enacted by the Congress, as the same has been or may be amended prior to the admission of the State, is hereby adopted as a law of the State, subject to amendment or repeal by the legislature; provided that if and to the extent that the United States shall so require, such law shall be subject to amendment or repeal only with the consent of the United States and in no other manner; provided further that if the United States shall have been provided or shall provide that particular provisions or types of provisions of such Act may be amended in the manner required for ordinary state legislation, such provisions or types of provisions may be so amended. The proceeds and income from Hawaiian home lands shall be used only in accordance with the terms and spirit of such Act. The legislature shall make sufficient sums available for the following purposes: (1) development of home, agriculture, farm and ranch lots; (2) home, agriculture, aquaculture, farm and ranch loans; (3) rehabilitation projects to include, but not limited to, educational, economic, political, social and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved; (4) the administration and operating budget of the department of Hawaiian home lands; in furtherance of (1), (2), (3) and (4) herein, by appropriating the same in the manner provided by law.

Thirty percent of the state receipts derived from the leasing of cultivated sugarcane lands under any provision of law or from water licenses shall be transferred to the native Hawaiian rehabilitation fund, section 213 of the Hawaiian Homes Commission Act, 1920, for the purposes enumerated in that section. Thirty percent of the state receipts derived from the leasing of lands cultivated as sugarcane lands on the effective date of this section shall continue to be so transferred to the native Hawaiian rehabilitation fund whenever such lands are sold, developed, leased, utilized, transferred, set aside or otherwise disposed of for purposes other than the cultivation of sugarcane. There shall be no ceiling established for the aggregate amount transferred into the native Hawaiian rehabilitation fund.

ACCEPTANCE OF COMPACT

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

COMPACT ADOPTION; PROCEDURES AFTER ADOPTION

Section 3. As a compact with the United States relating to the management and dis-

position of the Hawaiian home lands, the Hawaiian Homes Commission Act, 1920, as amended, shall be adopted as a provision of the constitution of this State, as provided in section 7, subsection (b), of the Admission Act, subject to amendment or repeal only with the consent of the United States, and in no other manner; provided that (1) sections 202, 213, 219, 220, 222, 224 and 225 and other provisions relating to administration, and paragraph (2) of section 204, sections 206 and 212 and other provisions relating to the powers and duties of officers other than those charged with the administration of such Act, may be amended in the constitution, or in the manner required for state legislation; but the Hawaiian home-loan fund, the Hawaiian home-operating fund and the Hawaiian home-development fund shall not be reduced or impaired by any such amendment, whether made in the constitution or in the manner required for state legislation, and the encumbrances authorized to be placed on Hawaiian home lands by officers other than those charged with the administration of such Act, shall not be increased, except with the consent of the United States; (2) that any amendment to increase the benefits to lessees of Hawaiian home lands may be made in the constitution, or in the manner required for state legislation, but the qualifications of lessees shall not be changed except with the consent of the United States; and (3) that all proceeds and income from the "available lands," as defined by such Act, shall be used only in carrying out the provisions of such Act.

PUBLIC TRUST

Section 4. The lands granted to the State of Hawaii by Section 5(b) of the Admission Act and pursuant to Article XVI, Section 7, of the State Constitution, excluding therefrom lands defined as "available lands" by Section 203 of the Hawaiian Homes Commission Act, 1920, as amended, shall be held by the State as a public trust for native Hawaiians and the general public.

OFFICE OF HAWAIIAN AFFAIRS; ESTABLISHMENT OF BOARD OF TRUSTEES

Section 5. There is hereby established an Office of Hawaiian Affairs. The Office of Hawaiian Affairs shall hold title to all the real and personal property now or hereafter set aside or conveyed to it which shall be held in trust for native Hawaiians and Hawaiians. There shall be a board of trustees for the Office of Hawaiian Affairs elected by qualified voters who are Hawaiians, as provided by law. The board members shall be Hawaiians. There shall be not less than nine members of the board of trustees; provided that each of the following Islands have one representative: Oahu, Kauai, Maui, Molokai and Hawaii. The board shall select a chairperson from its members.

POWERS OF BOARD OF TRUSTEES

Section 6. The board of trustees of the Office of Hawaiian Affairs shall exercise power as provided by law: to manage and administer the proceeds from the sale or other disposition of the lands, natural resources, minerals and income derived from whatever sources for native Hawaiians and Hawaiians, including all income and proceeds from that pro rata portion of the trust referred to in section 4 of this article for native Hawaiians; to formulate policy relating to affairs of native Hawaiians and Hawaiians; and to exercise control over real and personal property set aside by state, federal or private sources and transferred to the board for native Hawaiians and Hawaiians. The board shall have the power to exercise control over the Office of Hawaiian Affairs through its executive officer, the administrator of the Office of Hawaiian Affairs, who shall be appointed by the board.

TRADITIONAL AND CUSTOMARY RIGHTS

Section 7. The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.

Validity of amendment. A proposal of the 1978 Constitutional Convention adding a section 7 defining the terms "Hawaiian" and "native Hawaiian" was not validly ratified. *Kahalekai v. Doi*, 60 H. 324 (1979). In view of the holding, the revisor has deleted the section and renumbered section 8 as section 7 under the authority of Resolution 29 of the 1978 Constitutional Convention.

ARTICLE XIII ORGANIZATION; COLLECTIVE BARGAINING

PRIVATE EMPLOYEES

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

PUBLIC EMPLOYEES

Section 2. Persons in public employment shall have the right to organize for the purpose of collective bargaining as provided by law.

ARTICLE XIV
CODE OF ETHICS

The people of Hawaii believe that public officers and employees must exhibit the highest standards of ethical conduct and that these standards come from the personal integrity of each individual in government. To keep faith with this belief, the legislature, each political subdivision and the constitutional convention shall adopt a code of ethics which shall apply to appointed and elected officers and employees of the State or the political subdivision, respectively, including members of the boards, commissions and other bodies.

Each code of ethics shall be administered by a separate ethics commission, except the code of ethics adopted by the constitutional convention which shall be administered by the state ethics commission. The members of ethics commissions shall be prohibited from taking an active part in political management or in political campaigns. Ethics commissioners shall be selected in a manner which assures their independence and impartiality.

Each code of ethics shall include, but not be limited to, provisions on gifts, confidential information, use of position, contracts with government agencies, post-employment, financial disclosure and lobbyist registration and restriction. The financial disclosure provisions shall require all elected officers, all candidates for elective office and such appointed officers and employees as provided by law to make public financial disclosures. Other public officials having significant discretionary or fiscal powers as provided by law shall make confidential financial disclosures. All financial disclosure statements shall include, but not be limited to, sources and amounts of income, business ownership, officer and director positions, ownership of real property, debts, creditor interests in insolvent businesses and the names of persons represented before government agencies.

ARTICLE XV
STATE BOUNDARIES; CAPITAL; FLAG; LANGUAGE
AND MOTTO

BOUNDARIES

Section 1. The State of Hawaii shall consist of all the islands, together with their appurtenant reefs and territorial and archipelagic waters, included in the Territory of Hawaii on the date of enactment of the Admission Act, except the atoll known as Palmyra Island, together with its appurtenant reefs and territorial waters; but this State shall not be deemed to include the Midway Islands, Johnston Island, Sand Island (offshore from Johnston Island) or Kingman Reef, together with their appurtenant reefs and territorial waters.

CAPITAL

Section 2. Honolulu, on the island of Oahu, shall be the capital of the State.

STATE FLAG

Section 3. The Hawaiian flag shall be the flag of the State.

OFFICIAL LANGUAGES

Section 4. English and Hawaiian shall be the official languages of Hawaii, except that Hawaiian shall be required for public acts and transactions only as provided by law.

MOTTO

Section 5. The motto of the State shall be, "Ua mau ke ea o ka aina i ka pono."

ARTICLE XVI
GENERAL AND MISCELLANEOUS
PROVISIONS

CIVIL SERVICE

Section 1. The employment of persons in the civil service, as defined by law, of or under the State, shall be governed by the merit principle.

EMPLOYEES' RETIREMENT SYSTEM

Section 2. Membership in any employees' retirement system of the State or any political subdivision thereof shall be a contractual relationship, the accrued benefits of which shall not be diminished or impaired.

DISQUALIFICATIONS FROM PUBLIC OFFICE OR EMPLOYMENT

Section 3. No person shall hold any public office or employment who has been convicted of any act to overthrow, or attempt to overthrow, or conspiracy with any person to overthrow the government of this State or of the United States by force or violence.

OATH OF OFFICE

Section 4. All public officers, before entering upon the duties of their respective offices, shall take and subscribe to the following oath or affirmation: "I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution of the State of Hawaii, and that I will faithfully discharge my duties as . . . to the best of my ability." The legislature may provide further oaths or affirmations.

INTERGOVERNMENTAL RELATIONS

Section 5. The legislature may provide for cooperation on the part of this State and its political subdivisions with the United States, or other states and territories, or their political subdivisions, in matters affecting the public health, safety and general welfare. Funds may be appropriated to effect such cooperation.

FEDERAL LANDS

Section 6. The United States shall be vested with or retain title to or an interest in or shall hold the property in the Territory of Hawaii set aside for the use of the United States and remaining so set aside immediately prior to the admission of this State, in all respects as and to the extent set forth in the act or resolution providing for the admission of this State to the Union.

COMPLIANCE WITH TRUST

Section 7. Any trust provisions which the Congress shall impose, upon the admission of this State, in respect of the lands patented to the State by the United States or the proceeds and income therefrom, shall be complied with by appropriate legislation. Such legislation shall not diminish or limit the benefits of native Hawaiians under Section 4 of Article XII.

Validity of amendment. A proposal of the 1978 Constitutional Convention added the last sentence of the section. This addition appears to be one of the unspecified changes submitted for ratification under Question 34. On whether any of the changes submitted under Question 34 was in fact approved by the electorate, see *Kahalekai v. Doi*, 60 H. 324 (1979), excerpted in the note preceding the Preamble to the Constitution.

ADMINISTRATION OF UNDISPOSED LANDS

Section 8. All provisions of the Act of Congress approved March 18, 1959 reserving

rights or powers to the United States, as well as those prescribing the terms or conditions of the grants of lands or other property therein made to the State of Hawaii are consented to fully by the State and its people.

TAX EXEMPTION OF FEDERAL PROPERTY

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

HAWAII NATIONAL PARK

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

JUDICIAL RIGHTS

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

QUIETING TITLE

Section 12. No person shall be deprived of title to an estate or interest in real property by another person claiming actual, continuous, hostile, exclusive, open and notorious possession of such lands, except to real property of five acres or less. Such claim may be asserted in good faith by any person not more than once in twenty years.

PLAIN LANGUAGE

Section 13. Insofar as practicable, all governmental writing meant for the public, in whatever language, should be plainly worded, avoiding the use of technical terms.

TITLES, SUBTITLES; CONSTRUCTION

Section 14. Titles and subtitles shall not be used for purposes of construing this constitution.

Validity of amendment. A proposal of the 1978 Constitutional Convention deleted a second paragraph which read: "Whenever any personal pronoun appears in this constitution, it shall be construed to mean either sex." This deletion appears to be one of the unspecified changes submitted for ratification under Question 34. On whether any of the changes submitted under Question 34 was in fact approved by the electorate, see *Kahalekai v. Doi*, 60 H. 324 (1979), excerpted in the note preceding the Preamble to the Constitution.

GENERAL POWER

Section 15. The enumeration in this constitution of specified powers shall not be construed as limitations upon the power of the State to provide for the general welfare of the people.

PROVISIONS ARE SELF-EXECUTING

Section 16. The provisions of this constitution shall be self-executing to the fullest extent that their respective natures permit.

ARTICLE XVII REVISION AND AMENDMENT

METHODS OF PROPOSAL

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

CONSTITUTIONAL CONVENTION

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

ELECTION OF DELEGATES

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

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

The legislature shall provide for the number of delegates to the convention, the areas from which they shall be elected and the manner in which the convention shall convene. The legislature shall also provide for the necessary facilities and equipment for the convention. The convention shall have the same powers and privileges, as nearly as practicable, as provided for the convention of 1978.

MEETING

The constitutional convention shall convene not less than five months prior to the next regularly scheduled general election.

ORGANIZATION; PROCEDURE

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

RATIFICATION; APPROPRIATIONS

The convention shall provide for the time and manner in which the proposed constitutional revision or amendments shall be submitted to a vote of the electorate. The revision or amendments shall be effective only if approved at a general election by a majority of all the votes tallied upon the question, this majority constituting at least thirty-five percent of the total vote cast at the election, or at a special election by a majority of all the votes tallied upon the question, this majority constituting at least thirty percent of the total number of registered voters.

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

AMENDMENTS PROPOSED BY LEGISLATURE

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

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

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

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

VETO

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

CONFLICTING REVISIONS OR AMENDMENTS

Section 5. If a revision or amendment proposed by a constitutional convention is in conflict with a revision or amendment proposed by the legislature and both are submitted to the electorate at the same election and both are approved, then the revision or amendment proposed by the convention shall prevail. If conflicting revisions or amendments are proposed by the same body and are submitted to the electorate at the same election and both are approved, then the revision or amendment receiving the highest number of votes shall prevail.

ARTICLE XVIII SCHEDULE

DISTRICTING AND APPORTIONMENT

Section 1. [Omitted as obsolete. For current districts and apportionment, see note appended to HRS Chapter 25.]

Validity of amendment. A proposal of the 1978 Constitutional Convention rewriting this section was not validly ratified. *Kahalekai v. Doi*, 60 H. 324 (1979). In view of the holding, the revisor has restored the former version of the section under the authority of Resolution No. 29 of the 1978 Constitutional Convention.

1978 SENATORIAL ELECTIONS

Section 2. Article III, Section 4, to the contrary notwithstanding, the terms of office of the members of the senate elected in the 1978 general election shall be as follows: members of the senate shall be divided into two classes. The first class shall consist of the following number elected with the highest number of votes from their respective senatorial districts: first district, one; second district, one; third district, one; fourth district, two; fifth district, two; sixth district, two; seventh district, two; eighth district, one. Members of the first class shall hold office for a term of four years beginning with their election and ending on the day of the second general election held thereafter. The remaining members elected shall constitute the second class and shall hold office for a term of two years beginning with their election and ending on the day of the next general election held thereafter.

SALARIES OF LEGISLATORS

Section 3. Until otherwise provided by law in accordance with Section 9 of Article III, the salary of each member of the legislature shall be twelve thousand dollars a year.

EFFECTIVE DATE FOR TERM LIMITATIONS FOR GOVERNOR AND LIEUTENANT GOVERNOR

Section 4. The amendments to Sections 1 and 2 of Article V shall limit the term of any person elected to the office of governor or lieutenant governor in the 1978 general election to two consecutive full terms commencing from noon on the first Monday in December, 1978.

JUDICIARY: TRANSITION; EFFECTIVE DATE

Section 5. The three members initially appointed to the judicial selection commission by the governor shall serve for terms of two, four and six years respectively. The members initially appointed to the commission by the president of the senate and the speaker of the

house of representatives shall serve for two years. The two members initially appointed to the commission by the chief justice of the supreme court shall serve terms of four and six years respectively. The two members initially elected to the commission by the members of the bar of the State shall serve for terms of four and six years respectively. The current terms of justices and judges in office shall terminate as heretofore provided by law, subject to earlier termination and removal as provided in Article VI. The amendments to Article VI shall take effect upon ratification. The judicial selection commission shall be created no later than April 1, 1979.

EFFECTIVE DATE AND APPLICATION OF REAL PROPERTY TAX TRANSFER

Section 6. The amendment to Section 3 of Article VIII shall take effect on the first day of July after two full calendar years have elapsed following the ratification of such amendment; provided that for a period of eleven years following such ratification, the policies and methods of assessing real property taxes shall be uniform throughout the State and shall be established by agreement of a majority of the political subdivisions. Each political subdivision shall enact such uniform policies and methods of assessment by ordinance before the effective date of this amendment, and in the event the political subdivisions fail to enact such ordinances, the uniform policies and methods of assessment shall be established by general law. Any amendments to the uniform policies and methods of assessment established by the political subdivisions may only be made by agreement of a majority of the political subdivisions and enactment thereof by ordinance in each political subdivision.

Real property tax exemptions and dedications of land for specific use for assessment at its value in such use as provided by law and in effect upon ratification of the amendment to Section 3 of Article VIII shall be enacted by ordinance and shall not be eliminated or diminished for a period of eleven years following such ratification; provided that increases in such exemptions, or the additions of new and further exemptions or dedications of lands, may be established or granted only by agreement of a majority of the political subdivisions, and such increases or additions shall be enacted by ordinance in each political subdivision.

1978 BOARD OF EDUCATION ELECTIONS

Section 7. Members elected to the board of education in the 1978 general election shall serve for two-year terms.

EFFECTIVE DATE FOR OFFICE OF HAWAIIAN AFFAIRS

Section 8. The legislature shall provide for the implementation of the amendments to Article XII in Sections 5 and 6 on or before the first general election following ratification of the amendments to Article XII in Sections 5 and 6.

CONTINUITY OF LAWS

Section 9. All laws in force at the time amendments to this constitution take effect that are not inconsistent with the constitution as amended shall remain in force, mutatis mutandis, until they expire by their own limitations or are amended or repealed by the legislature.

Except as otherwise provided by amendments to this constitution, all existing writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles and rights shall continue unaffected notwithstanding the taking effect of the amendments and may be maintained, enforced or prosecuted, as the case may be, before the appropriate or corresponding tribunals or agencies of or under the State or of the United States, in all respects as fully as could have been done prior to the taking effect of the amendments.

DEBTS

Section 10. The debts and liabilities of the Territory shall be assumed and paid by the State, and all debts owed to the Territory shall be collected by the State.

RESIDENCE, OTHER QUALIFICATIONS

Section 11. Requirements as to residence, citizenship or other status or qualifications in or under the State prescribed by this constitution shall be satisfied pro tanto by corresponding residence, citizenship or other status or qualifications in or under the Territory.

EFFECTIVE DATE

This constitution shall take effect and be in full force immediately upon the admission of Hawaii into the Union as a State. Done in Convention, at Iolani Palace, Honolulu, Hawaii, on the twenty-second day of July, in the year one thousand nine hundred fifty and of the Independence of the United States of America the one hundred and seventy-fifth.

Index to the State Constitution

(Reference is to article: section.)

- ACTION OR SUIT**
Criminal prosecutions, requirements relating to, I: 14
Jury trial, when preserved, I: 13
Statehood, effect of, XVIII: 9
Verdict of jury, number concurring in, I: 13
- ADJOURNMENT**
Legislature, III: 11, 13
- ADMINISTRATIVE DIRECTOR OF THE COURTS**
Appointment, VI: 6
- ADMINISTRATIVE DIRECTOR TO GOVERNOR**
Appointment, V: 5
- ADVERSE POSSESSION**
Limitations, XVI: 12
- AGE**
Governor, V: 1
Justices and judges, retirement, VI: 3
Legislators, III: 6
Voters, II: 1
- AGRICULTURE**
Farms, development of public lands for, XI: 10
Lands, reclassification, conservation and development, XI: 3
- ALLOWANCES**
Legislators, III: 9
Wages and salaries (see Wages and salaries)
- AMENDMENT**
Constitution, XVII: 1-4
Hawaiian Homes Commission Act, XII: 1, 3
Ratification by electorate, XVII: 2, 3
- ANCESTRY**
Discrimination or segregation because of, prohibited, I: 5, 9; X: 1
- APPOINTMENT**
Administrative director
courts, VI: 6
governor's office, V: 5
Auditor, legislative, VII: 10
Boards and commissions, executive departments, V: 6
Constitutional convention, vacancy, XVII: 2
Education, superintendent of, X: 3
Executive and administrative officers, V: 6
Judges, VI: 3
Public officers, generally, V: 6
Superintendent of education, X: 3
University regents, X: 6
Vacancy
constitutional convention, XVII: 2
executive and administrative offices and departments, V: 6
- APPROPRIATIONS OF PUBLIC MONEY**
Appropriation bills, passage of, VII: 9
Budget, VII: 8
Constitutional conventions, XVII: 2
General appropriations bill, VII: 9
General fund expenditure ceiling, VII: 9
Intergovernmental cooperation, to effect, XVI: 5
Lapsing, VII: 11
Post-audit, VII: 10
Public purposes, limited to, VII: 4
Rate of expenditure, control of, VII: 5
Sectarian or private educational institutions, support of, prohibited, X: 1
- ARMED FORCES** (see Military)
- ARMS**
Right to bear, I: 17
- ARREST**
Legislators privileged from, III: 7
- ARTS**
Ethnic, development, IX: 9
- ASSEMBLY**
Right of, I: 4
- ATTORNEY**
Assistance of, criminal cases, I: 14
- AUDITOR**
Legislative auditor, VII: 10
- BAIL**
Court may dispense with, I: 12
Excessive, forbidden, I: 12
- BILL OF RIGHTS**
Generally, I: 1-22
- BILLS** (see Legislature)
- BOARDS AND COMMISSIONS**
Generally, V: 6
Allocation among principal departments, V: 6
Education, board of, X: 2, 3
Natural resources management, XI: 2
Temporary agencies, V: 6
University, board of regents, X: 6
- BONDS, PUBLIC**
Authorization, VII: 12
Debt limitation, state and county, VII: 13
Definitions, VII: 12
General obligation bonds
definition, VII: 12
funds, nonlapse of, VII: 11
serial form, VII: 13
Maturity, VII: 13
Net user tax receipts, definition, VII: 12
Refunding bonds, VII: 13
Reimbursable general obligation bonds
definition, VII: 12
limitation, VII: 13
Revenue bonds
definition, VII: 12
special purpose
definition, VII: 12
governor's report, VII: 12
restrictions on use, VII: 12
Revenues, net, definition, VII: 12
Special improvement statutes, issued when, VII: 13
User tax, definition, VII: 12

BOUNDARIES

- Representative districts, XVIII: 1
- Senatorial districts, XVIII: 1
- State, XV: 1

BUDGET

- Council on revenues' estimates, VII: 7
- Formulation and submission, VII: 8
- General fund expenditure ceiling establishment, VII: 9
 - plan not to exceed, VII: 8
- Judicial branch, plan, VII: 8

CAPITAL

- Legislature to convene at, III: 10
- State, XV: 2

CAPITAL CRIME

- Presentment or indictment by grand jury required, exception, I: 10

CIRCUIT COURTS

- Cases, disposition, time limits, VI: 1
- Judges
 - age of retirement, VI: 3
 - appointment, VI: 3
 - candidacy for election, effect of, VI: 3
 - compensation, VI: 3
 - discipline, VI: 5
 - holding other positions, VI: 3
 - practice of law, prohibition, VI: 3
 - qualifications, VI: 3
 - removal, VI: 5
 - retirement, VI: 3
 - retirement for incapacity, VI: 3
 - temporary service
 - other circuits, VI: 6
 - supreme court and intermediate appellate court, VI: 2
 - term of office, VI: 3
- Judicial power, VI: 1
- Jurisdiction, VI: 1

CITIZENS AND CITIZENSHIP

- Military service, discrimination respecting, I: 9
- Privileges, denial of, I: 8
- State citizenship requirement satisfied by corresponding territorial citizenship, XVIII: 11
- State officers, appointive, V: 6
- Voters, II: 1

CIVIL POWER

- Supremacy over the military, I: 16

CIVIL RIGHTS

- Denial of or discrimination concerning, I: 5
- Enumeration, I: 1-22
- Restoration by governor, legislature may authorize, V: 5

CIVIL SERVICE

- Merit principle to govern, XVI: 1

COLLECTIVE BARGAINING

- Private employees, right of, XIII: 1
- Public employees, right of, XIII: 2

COMMUTATIONS (see Pardons, reprieves and commutations)

COMPENSATION (see Wages and salaries)

CONDEMNATION

- Fisheries, sea, XI: 6
- Just compensation, no taking without, I: 20

CONGRESS (see United States)

CONSERVATION

- Historical and cultural objects, IX: 7
- Natural resources, generally, XI: 1-10

CONSTITUTIONAL CONVENTION

- Code of ethics, adoption, Article XIV
- Constitutional amendments, to propose, XVII: 1
- Organization, powers, etc., XVII: 2

CONSTITUTION, STATE

- Amendments
 - generally, XVII: 1-4
 - legislature, XVII: 1, 3
 - no subject to executive veto, XVII: 4
 - proposals by constitutional convention, XVII: 1, 2
- Conflicting revisions or amendments, XVII: 5
- Construction, I: 22; XVI: 14-16
- Effective date (see Effective date, Article XVIII)
- Oath to support and defend, XVI: 4
- Provisions, self-executing, XVI: 16

CONSTITUTION, UNITED STATES

- Adopted (see Federal Constitution adopted, before Article I)
- Oath to support and defend, XVI: 4

CONVICTS (see also Criminal law)

- Civil rights, restoration of, V: 5
- Cruel or unusual punishment prohibited, I: 12
- Felons, conditions for voting, II: 2
- Pardons, reprieves, commutations, V: 5

COUNCIL ON REVENUES

- Establishment, VII: 7

COUNSEL

- Assistance of, criminal cases, I: 14
- Grand jury, I: 11
- State to provide indigents, I: 14

COUNTIES

- Bonds
 - authorization of issuance, VII: 12
 - debt limit, VII: 13
- Charter, VIII: 2
- Claims accrued, mandated payment prohibited, VIII: 4
- Code of ethics, adoption, Article XIV
- Creation, VIII: 1
- Intergovernmental relations, XVI: 5
- Mandated programs, cost sharing, VIII: 5
- Natural resources controlled by counties, management of, XI: 2
- Population growth management, IX: 6
- Real property taxation
 - functions transferred to, VIII: 3
 - transfer, effective date and application, XVIII: 6
- Taxing power, VIII: 3

COURTS

- Generally, VI: 1-7
- Administrative director, VI: 6
- Administrative head, VI: 6
- Circuit courts (see Circuit courts; District courts)
- Establishment by legislature, VI: 1
- Intermediate appellate court (see Intermediate appellate court)
- Judicial power, vesting of, VI: 1
- Jurisdiction as provided by law, VI: 1
- Rules and regulations, VI: 7
- Supreme court (see Supreme court)

CRIMINAL LAW

- Accusation, informing the accused, I: 14
- Bail may be dispensed with, I: 12
- Civil rights, restoration of, V: 5
- Compulsory process for obtaining witnesses, I: 14
- Confrontation of witnesses, I: 14
- Counsel, accused's right to assistance of, I: 14
- Double jeopardy, I: 10
- Excessive bail, fines, forbidden, I: 12
- Felons, conditions for voting, II: 2
- Impartial jury of the district, I: 14

- Legislators, privileged from arrest, III: 7
 Pardons, reprieves, commutations, V: 5
 Presentment or indictment of grand jury, when required, I: 10
 Process, practice and procedure, rules relating to, VI: 7
 Rights of accused, generally, I: 10, 14
 Self-incrimination, I: 10
 Speedy and public trial, I: 14
 Unusual or cruel punishment forbidden, I: 12
- CULTURE**
 Ethnic, development, IX: 9
- DEBT**
 Imprisonment for, prohibited, I: 19
- DEBT LIMITATION**
 State and county, VII: 13
- DEBTS AND LIABILITIES**
 Territory to State, XVIII: 10
- DEFINITIONS**
 Public office, III: 8
 Taxation and finance, VII: 12
- DEPARTMENTS, STATE**
 Allocation, V: 6
 Heads of departments, appointment, term, removal, V: 6
 Principal departments, limited to twenty, V: 6
- DISCRIMINATION**
 Ancestry, on account of, I: 5, 9; X: 1
 Civil rights, I: 5
 Educational institutions, public, X: 1
 Military service, I: 9
 Race, on account of, I: 5, 9; X: 1
 Religion, on account of, I: 5, 9; X: 1
 Sex, on account of, I: 3, 5; X: 1
- DISQUALIFICATION**
 Appointment, interim, V: 6
 Governor, V: 1
 Impeachment, as result of, III: 19
 Judges, VI: 3
 Legislators, III: 8
 Public officer or employee, XVI: 3
 Voters, II: 2
- DISTRICT COURTS**
 Cases, disposition, time limits, VI: 1
 Judges
 appointment, VI: 3
 candidacy for election, effect of, VI: 3
 compensation, VI: 3
 discipline, VI: 5
 holding other positions, VI: 3
 practice of law, prohibition, VI: 3
 qualifications, VI: 3
 removal, VI: 5
 retirement
 imposed, VI: 5
 provision for, VI: 3
 suspension, VI: 5
 temporary service, circuit court, VI: 2
 term of office, VI: 3
 vacancy, filling of, VI: 3
 Judicial power, VI: 1
 Jurisdiction, VI: 1
- DISTRICTS**
 Congressional, reapportionment, IV: 2, 9
 Reapportionment (see Legislature)
 Representative, III: 3; XVIII: 1
 School board, X: 2
 Senatorial, III: 2; XVIII: 1
- DOUBLE JEOPARDY**
 Protection from, I: 10
- DUE PROCESS OF LAW**
 Deprivation of life, liberty or property without, forbidden, I: 5
- EDUCATION**
 Generally, X: 1-6
 Board of
 election
 generally, X: 2
 initial members, XVIII: 7
 powers, X: 3
 Hawaiian education program, X: 4
 Private institutions, public support prohibited, X: 1
 Public education system to be provided, X: 1
 Public libraries, X: 1
 School board districts, X: 2
 Sectarian institution, public support prohibited, X: 1
 Superintendent, X: 3
 University of Hawaii (see University of Hawaii)
- ELDERLY**
 Security for, providing, IX: 4
- ELECTIONS**
 Absentee voting, II: 4
 Age qualification for voting, II: 1
 Campaign contribution limit, establishment, II: 6
 Campaign fund, public, II: 5
 Campaign spending limit, establishment, II: 5
 Candidates, reapportionment commission member, eligibility, IV: 2
 Chief election officer
 providing for, IV: 3
 reapportionment commission secretary, IV: 2
 Citizenship qualifications for voting, II: 1
 Constitutional amendment, XVII: 2, 3
 Constitutional convention delegates, XVII: 2
 Contested, II: 10
 Disfranchisement, I: 8
 Districts, XVIII: 1
 Education, board of, X: 2
 Felons, conditions for voting, II: 2
 General, date of, II: 8
 Governor, V: 1
 Legislature, members of, III: 4
 Lieutenant governor, V: 2
 Method of voting, II: 4
 Non compos mentis disqualified from voting, II: 2
 Presidential preference primary, II: 9
 Primary
 held when, II: 8
 party preference, no requirement, II: 4
 Public officer as candidate, resignation before running, II: 7
 Reapportionment, III: 3
 Registration of voters, II: 4
 Residence qualifications for voting, II: 1
 Secrecy of voting preserved, II: 4
 Special, II: 8
 Voting
 qualifications, II: 1, 2
 secrecy preserved, II: 4
- EMINENT DOMAIN**
 Just compensation required, I: 20
 Sea fisheries, XI: 6
- ENERGY**
 Nuclear, approval and storage, XI: 8
 Resources, conservation and development, XI: 1
- ENGLISH LANGUAGE**
 Official state language, XV: 4
- ENVIRONMENT**
 Environmental rights, XI: 9
 Healthful, preservation, IX: 8
 Natural resources (see Natural resources)
- EQUAL PROTECTION OF LAWS**
 Denial forbidden, I: 5

EQUAL RIGHTS

Denial on account of sex forbidden, I: 3

ETHICS

Code, Article XIV

EXECUTIVE

Agencies

allocation of, V: 6

temporary, V: 6

Departments, principal, V: 6

Governor (see Governor)

Powers, V: 1, 5

Public officers and employees (see Public officers and employees)

FARMS

Development of public lands for, XI: 10

FINANCE (see also Bonds, public; Counties)

Taxation and finance, VII: 1-13

FINES

Excessive, forbidden, I: 12

Imposition by legislature, as punishment of nonmembers, III: 18

FISHERIES

Condemnation, XI: 6

Conservation and development, XI: 1

Sea, public rights to, XI: 6

FLAG

State, XV: 3

FOREST RESOURCES

Conservation and development, XI: 1

FORMER JEOPARDY

Right not to be in jeopardy twice for same offense, I: 10

FREEDOM

Religion, speech, press, assembly, petition, I: 4

GOVERNOR

Absence or disability, V: 4

Administrative director, appointment, V: 5

Appointment and removal power, V: 6

Armed forces, commander in chief of, V: 5

Bonds

exceeding debt limit, determination of emergency, VII: 13

report on amount of special purpose revenue bonds, VII: 12

Budget

council on revenues' estimates, consideration of, VII: 7

formulation and submission, VII: 8

Circuit court judges, appointment, VI: 3

Civil rights, restoration, V: 5

Commission on legislative salary, appointment, III: 9

Compensation, V: 3

Constitutional convention, filling vacancy in, XVII: 2

Election, V: 1, 2

Eligibility to hold other positions, V: 1

Executive powers, V: 1, 5

Heads of principal departments, appointment, removal, V: 6

Impeachment, III: 19; V: 4

Interim appointment of officers, V: 6

Intermediate appellate court judges, appointment, VI: 3

Invasion, repelling, V: 5

Judges, appointment, VI: 3

Judicial selection commission, appointment of members, VI: 4

Lawless violence, prevention of, V: 5

Laws, execution of, V: 5

Legislature

bills

approval or veto, III: 16

submission of, V: 5; VII: 8, 9

message to, V: 5

sessions

extension of, III: 10

special, convening of, III: 10

vacancy, filling of, III: 5

Officers generally, appointment, removal, V: 6

Pardons, reprieves, commutations, V: 5

Qualifications, V: 1

Removal, III: 19

Supreme court justices, appointment, VI: 3

Term of office, V: 1; XVIII: 4

University of Hawaii, board of regents, appointment, X: 6

Vacancy in office, V: 4

GRAND JURY

Counsel, I: 11

Indictment necessary, exceptions, I: 10

HABEAS CORPUS

Suspension of writ, I: 15

HANDICAPPED PERSONS

State care, IX: 2

HAWAIIAN AFFAIRS

Board of trustees

creation, XII: 6

powers, XII: 6

Effective date, XVIII: 8

Funds for, XII: 1

Hawaiian education program, X: 4

Hawaiian Homes Commission Act (see Hawaiian Homes Commission Act)

Office of, establishment, XII: 5

Traditional rights, protection, XII: 7

HAWAIIAN EDUCATION

Program, X: 4

HAWAIIAN FLAG

State flag, designated as, XV: 3

HAWAIIAN HOME LANDS

Funds for, XII: 1

Management and disposition, XII: 1, 2

HAWAIIAN HOMES COMMISSION ACT

Adoption, XII: 3

Amendment of, XII: 1, 2

Compact with United States, subject of, XII: 1, 2

Part of Constitution, XII: 1, 2

Rehabilitation fund, use of state receipts for, XII: 1

State receipts, use of, XII: 1

HAWAIIAN LANGUAGE

Official state language, XV: 4

HEALTH AND WELFARE

Generally, IX: 1-10

Culture, development, IX: 9

Elderly, economic security, IX: 4

Environment, preservation of healthful, IX: 8

Handicapped persons, care, IX: 2

Housing, IX: 5

Intergovernmental cooperation on, XVI: 5

Population growth management, IX: 6

Public assistance, IX: 3

Public safety, IX: 10

Sightliness and physical good order, IX: 7

Slum clearance, IX: 5

HISTORICAL SITES

Conservation and development, IX: 7

HOLIDAYS

Bill signing period, excluded from, III: 16

Days of session, excluded in computing, III: 10

HOME OWNERSHIP
Development of public lands for, XI: 10

HONOLULU
Capital of State, XV: 2

HOUSING
Assistance, providing, IX: 5

IMMUNITIES
Legislature, members of, III: 7
Special, limitations on, I: 21

IMPEACHMENT
Conviction, effect of, III: 19
Governor, III: 19; V: 4
Lieutenant governor, III: 19; V: 4
Officers, appointive, III: 19
Procedure, III: 19

IMPRISONMENT
Debt, imprisonment for, prohibited, I: 19
Legislature may punish nonmembers by, III: 18

INDICTMENT
When necessary, I: 10

INFAMOUS CRIME
Presentment or indictment by grand jury, required, exception, I: 10

INSANE AND INCOMPETENT PERSONS
Non compos mentis, disqualified to vote, II: 2

INSURRECTION
Debts to suppress, VII: 13
Suppression, V: 5

INTERGOVERNMENTAL RELATIONS
Cooperation on public health, safety and general welfare, XVI: 5

INTERMEDIATE APPELLATE COURT
Cases, disposition, time limits, VI: 1
Judges
 appointment, VI: 3
 candidacy for election, effect of, VI: 3
 compensation, VI: 3
 discipline, VI: 5
 holding other positions, VI: 3
 practice of law, prohibition, VI: 3
 qualifications, VI: 3
 removal, VI: 5
 retirement
 imposed, VI: 5
 provision for, VI: 3
 suspension, VI: 5
 term of office, VI: 3
Judicial power, VI: 1
Jurisdiction, VI: 1

INVASION
Armed forces to repel, V: 5
Debts to repel, VII: 13
Suspension of writ of habeas corpus in case of, I: 15

JEOPARDY
Double, I: 10

JOHNSTON ISLAND
Not within State, XV: 1

JUDICIAL DISCIPLINE, COMMISSION ON
Creation, VI: 5

JUDICIAL SALARY COMMISSION
Functions, VI: 3

JUDICIAL SELECTION COMMISSION
Establishment, VI: 4

Judges
 appointment of, VI: 3
 district court, filling vacancy, VI: 3
 list of nominees, VI: 3
 renewal of term by, VI: 3

Members
 initial terms, XVIII: 5
 qualification and selection, VI: 4

JUDICIARY
Generally, VI: 1-7
Administrative director, appointment, VI: 6
Chief justice
 administrative head of courts, VI: 6
 budget plan, submission, VII: 8
Circuit courts (see Circuit courts; Courts;
District courts; Intermediate appellate court)
Judicial power, vesting of, VI: 1
Supreme court (see Supreme court)

JURY
Criminal cases, I: 14
Grand jury
 counsel, I: 11
 requirement of presentment or indictment by, I: 10
Suits at common law, when trial by jury preserved, I: 13
Verdict in civil cases, by less than twelve, I: 13

KALAWAO
Real property taxation, exception, VIII: 3

KINGMAN REEF
Not within State, XV: 1

LABOR RELATIONS
Collective bargaining, XIII: 1, 2
Right to organize, XIII: 1, 2

LANDS
Conditions of grant upon statehood, consented to by State, XVI: 8
Federal, taxation of, XVI: 9
Hawaii National Park, under United States jurisdiction, XVI: 10
Public lands (see Public lands)
Quieting title, XVI: 12
Resources, conservation and development, XI: 1
Title to territorial lands set aside for use of United States, XVI: 6
Trust provisions imposed by Congress, XVI: 7

LANGUAGE
Official state languages, XV: 4
Plain language, use of, XVI: 13

LAWS
Bills (see Legislature)
Continuity of, XVIII: 9
Due process of, I: 5
Equal protection, I: 5
Respecting freedom of religion, speech, press, assembly, petition, I: 4
Statewide, power to enact, VIII: 6
Suspension of, I: 15

LEGISLATIVE SALARY, COMMISSION ON
Appointment, duties, III: 9

LEGISLATURE
Generally, III: 1-19
Absentee voting, providing for, II: 4
Adjournment, III: 11, 13
Appointive officers, impeachment of, III: 19
Appropriations
 controls over, VII: 5
 passage of measure relating to, VII: 9
Auditor, appointment, removal, duties, VII: 10
Ayes and noes, when entered in journal, III: 10, 12, 13, 17; XVII: 3
Bills

- amendment, III: 15
- amendment after veto, III: 16
- appropriation
 - items subject to veto and reduction, III: 16
 - procedure, VII: 9
 - supplemental, VII: 9
- carried over between sessions, III: 15
- certification, III: 15, 16
- dates for introduction, rules for, III: 12
- enacting clause, III: 14
- enactment of laws, only by bill, III: 14
- final passage, vote required for, III: 13
- final reading, III: 15
- governor
 - approval or veto, III: 16, 17
 - submission by, V: 5; VII: 8
- readings, III: 15
- recall from committee of, III: 12
- subject, restricted to one, III: 14
- title, III: 14
- transmittal to governor, III: 16
- veto
 - procedures upon, III: 16, 17
 - reconsideration by legislature after adjournment, III: 16
- Bonds
 - authorization, VII: 12
 - determination within debt limit, VII: 13
- Budget, governor to prepare and submit, VII: 8
- Campaign contribution limit, providing for, II: 6
- Campaign fund, establishment, II: 5
- Campaign spending limit, establishment, II: 5
- Code of ethics, adoption, Article XIV
- Compensation, III: 9; XVIII: 3
- Constitution, amendments to, XVII: 1-3
- Contempt of, III: 18
- Council on revenues' estimates, consideration of, VII: 7
- Counties, creation of, VIII: 1
- Courts, establishment, VI: 1
- Debt limit, emergency determination of need to exceed, VII: 13
- Funds for Hawaiian affairs, providing of, XII: 1
- General appropriations bill, passage of, VII: 9
- General fund expenditure ceiling, VII: 9
- General obligation bond appropriations, determination of nonlapsing, VII: 11
- Governor
 - impeachment of, III: 19
 - message of, V: 5
 - recommendations of, V: 5
 - submission of bills by, V: 5; VII: 8, 9
- House of representatives
 - apportionment, XVIII: 1
 - members
 - number, III: 3; XVIII: 1
 - qualifications, III: 6
 - terms, III: 4
 - representative districts, XVIII: 1
 - speaker, judicial selection commission, appointment of member, VI: 4
- Impeachment of officers, III: 19
- Income taxation, providing for, VII: 2
- Intergovernmental relations, providing for, XVI: 5
- Journal
 - entry of votes in, III: 10, 12, 13, 17; XVII: 3
 - keeping of, III: 12
- Legislative power, general, III: 1
- Legislative salary commission, III: 9
- Lieutenant governor, impeachment of, III: 19
- Meetings, open to public, III: 12
- Members in general
 - compensation, III: 9; XVIII: 3
 - compulsory attendance, III: 13
 - disqualifications, III: 8
 - election of, III: 4
 - holding other positions, III: 8
 - privileges of, III: 7
 - punishment of, III: 12
 - qualifications, each house judge of, III: 12
 - Minimum representation, IV: 5
 - Nonmembers, punishment of, III: 18
 - Nuclear energy, approval, XI: 8
 - Officers, choosing, III: 12
 - Organization, III: 12
 - Political subdivisions, creation of, VIII: 1
 - Privacy, implement right to, I: 6
 - Quorum, III: 13
 - Reapportionment
 - commission, IV: 2
 - island units
 - among, IV: 4
 - within, IV: 6
 - judicial review, IV: 10
 - minimum representation, IV: 5
 - senators, placement of holdover, IV: 7
 - years, IV: 1
 - Reclassification of agricultural lands, XI: 3
 - Registration of voter, providing for, II: 4
 - Revenues, excess, disposition of, VII: 6
 - Rules of procedure, III: 12
 - Salary plan, submission and effectiveness, III: 9
 - Senate
 - appointment of officers, advice and consent, V: 6
 - apportionment, XVIII: 1
 - board of regents, confirming appointment of, X: 6
 - districts, XVIII: 1
 - judges, confirmation of appointments, VI: 3
 - members
 - number, III: 2; XVIII: 1
 - qualifications, III: 6
 - terms, III: 4; XVIII: 2
 - placement of holdover, upon reapportionment, IV: 7
 - president, judicial selection commission, appointment of member, VI: 4
 - rejection of judicial appointment, VI: 3
 - removal of chief legal officer, advice and consent, V: 6
 - staggered terms, retention, IV: 7
 - Sessions
 - compensation, III: 9; XVIII: 3
 - extension, III: 10
 - length, III: 10
 - mandatory recess, III: 10
 - number of days, computing, III: 10, 16
 - recess, III: 10
 - reconsideration of bills returned after adjournment, III: 16
 - regular, III: 10
 - senate alone, III: 10
 - special, III: 10
 - time and place, III: 10
 - Statewide laws, enactment, VIII: 6
 - Suspension of writ of habeas corpus and laws, I: 15
 - Vacancy, III: 5
 - Verdict in civil cases, may provide for, I: 13
 - Vote, ordinary business, III: 13
 - Voting methods, prescribing, II: 4
 - Water resources agency, establishment, XI: 7

LIBERTY

 - Deprival without due process of law forbidden, I: 5

LIBRARIES

 - Public, establishment, X: 1

LIEUTENANT GOVERNOR

 - Absence or disability, V: 4
 - Compensation, V: 3
 - Constitutional convention, convening of, XVII: 2
 - Duties, to be prescribed by law, V: 2
 - Election, V: 2
 - Impeachment, III: 19; V: 4
 - Qualifications, V: 2
 - Removal, III: 19
 - Succession to governor's office, V: 3, 4
 - Term of office, V: 2; XVIII: 4

- Vacancy in office, V: 4
- LIFE**
Deprivation without due process of law forbidden, I: 5
- LOYALTY**
Oath, public officers, XVI: 4
Requirements for public employment, XVI: 3
- MANDAMUS**
Reapportionment of legislature, to compel, IV: 10
- MARINE RESOURCES**
Management by State, XI: 6
Mariculture, establishment, XI: 6
- MIDWAY ISLANDS**
Not within State, XV: 1
- MILITARY**
Capital crimes arising in armed forces, I: 10
Discrimination in denial of enlistment, prohibited, I: 9
Execution of laws, V: 5
Governor, commander in chief, V: 5
Insurrection, invasion, violence, suppression of, V: 5
Power subordinate to civil power, I: 16
Segregation prohibited, I: 9
Soldiers, quartering of, I: 18
- MINERAL RESOURCES**
Conservation and development, XI: 1
- MOTTO**
State, XV: 5
- NATURAL RESOURCES**
Agricultural lands
conservation and development, XI: 3
reclassification, XI: 3
Conservation and development, XI: 1-10
Environmental rights, XI: 9
Marine resources, XI: 6
Public trust, as, XI: 1
Water resources, protection, XI: 7
Water resources agency, establishment, XI: 7
- NOTARY PUBLIC**
Qualification of legislator for office of, III: 8
- NUCLEAR ENERGY**
Storage and approval, XI: 8
- OATH AND AFFIRMATION**
Public officers, oath of office, XVI: 4
Warrants, searches and seizures, supported by, I: 7
- OFFICERS** (see Public officers and employees)
- PALMYRA**
Excluded from state boundaries, XV: 1
- PARDONS, REPRIEVES AND COMMUTATIONS**
Conviction
by other states, restoration of civil rights lost by, V: 5
pardons before, V: 5
Governor's power, V: 5
Impeachment, pardons for, V: 5
Regulation by law, V: 5
- PARKS**
Generally, IX: 7
National, jurisdiction and control, XVI: 10
- PEOPLE**
Bill of rights, generally, I: 1-22
Enumeration of rights, not to impair others retained, I: 22
Political power inherent in, I: 1
- PETITION**
Right of, I: 4
- POLICE**
Reserve, appointment of legislator in, III: 8
- POLITICAL POWER**
Inherent in people, I: 1
Responsibility for exercise of, I: 1
- POPULATION**
Growth management, IX: 6
- POWER**
Civil over military, I: 16
Political, inherent in people, I: 1
State
enumeration not to limit, XVI: 15
impairment by grant of special privileges prohibited, I: 21
- PRESENTMENT**
When necessary, I: 10
- PRESIDENTIAL PRIMARY**
May be held, II: 9
- PRESS**
Freedom of, I: 4
- PRISONS**
Imprisonment for debt, prohibited, I: 19
- PRIVACY**
Invasion of, I: 7
Right to, I: 6
- PRIVILEGES AND IMMUNITIES**
Legislature, members of, III: 7
Special, irrevocable, prohibited, I: 21
- PROPERTY**
Deprivation without due process of law forbidden, I: 5
Eminent domain, I: 20
Federal, taxation of, XVI: 9
Private
damaging for public use, I: 20
right to acquire and possess, I: 2
subject to regulation for public sightliness, IX: 7
taking for public use, I: 20
Public grants respecting, VII: 4
- PUBLIC ASSISTANCE** (see Health and welfare)
- PUBLIC CREDIT**
Public purposes, limited to, VII: 4
- PUBLIC FUNDS**
Council on revenues, VII: 7
Excess revenues, disposition, VII: 6
Expenditures
control of, VII: 5
limitation, VII: 5
limited to public purposes, VII: 4
Post audit, VII: 10
Sectarian or private educational institutions, support of, prohibited, X: 1
- PUBLIC LANDS**
Acquisition of by State, XI: 4
Farm and home ownership, development for, XI: 10
Land banking, XI: 4
Laws respecting, required to be general, exceptions, XI: 5
Management and disposition of, XI: 2, 5, 10
Public trust as, XII: 4
- PUBLIC OFFICE**
Definition, III: 8

PUBLIC OFFICERS AND EMPLOYEES

Appointive officers generally, V: 6
 Civil service, XVI: 1
 Code of ethics, Article XIV
 Disqualification for employment, XVI: 3
 Elected officer, resignation before running for another office, II: 7
 Head of principal department
 appointment, V: 6
 removal, V: 6
 term, V: 6
 Impeachment, III: 10, 19
 Interim appointments, V: 6
 Legislator, disqualifications of, III: 8
 Merit principle, XVI: 1
 Oath of office, XVI: 4
 Organize for collective bargaining, right to, XIII: 2
 Principal executive officer of board or commission, appointment, V: 6
 Removal, III: 19
 Retirement system, XVI: 2

PUBLIC SAFETY

Providing for, IX: 10

PUNISHMENT

Unusual or cruel, forbidden, I: 12

QUIETING TITLE

Lands, XVI: 12

QUORUM

Legislature, III: 13

RACE

Discrimination, prohibited, I: 5, 9; X: 1

REAL PROPERTY (see Lands)

REAPPORTIONMENT

Generally, IV: 1-10
 Commission, IV: 2
 Congress, IV: 2, 9
 Legislature, IV: 1-10

REBELLION

Armed forces to suppress, use of, V: 5
 Debts to suppress, VII: 13
 Suspension of writ of habeas corpus in case of, I: 15

REFERENDUM

Constitutional amendments, XVII: 2, 3
 Constitutional conventions, convening, XVII: 2

REGISTRATION

Voters, II: 4

RELIGION

Discrimination, prohibited, I: 5, 9; X: 1
 Freedom of, I: 4
 Public grants respecting, VII: 4
 Sectarian educational institutions, public support prohibited, X: 1

REMOVAL FROM OFFICE

Appointive officers, generally, V: 6
 Auditor, legislative, VII: 10
 Chief legal officer, V: 6
 Governor, III: 19
 Heads of principal departments, V: 6
 Impeachment, on conviction of, III: 19
 Judges, VI: 5
 Legislator, III: 12
 Lieutenant governor, III: 19
 Principal executive officer, V: 6

REPRIEVES (see Pardons, reprieves and commutations)

RESIDENCE

Appointive officers, V: 6
 Governor, V: 1
 Persons engaged in navigation, II: 3
 Persons in employ of United States, II: 3
 Representatives, III: 6
 Senators, III: 6
 State, meeting requirements of, XVIII: 11
 Students, II: 3
 Voter, II: 1

RETIREMENT

Employees' Retirement System, XVI: 2
 Judges, VI: 3, 5

REVENUE BONDS

Debt limitation, when not subject to, VII: 13

RIGHTS OF INDIVIDUALS

Bill of rights, generally, I: 1-22
 Civil rights (see Civil rights)

RULES

Constitutional convention, XVII: 2
 Legislature, for proceedings of, III: 12
 Supreme Court, VI: 7

SALARIES (see Wages and salaries)

SAND ISLAND

Not within State, XV: 1

SCHOOLS (see Education)

Public, board of education jurisdiction, X: 3
 University of Hawaii (see University of Hawaii)

SEARCHES AND SEIZURES

Unreasonable, prohibited, I: 7
 Warrants, restrictions, I: 7

SEGREGATION

Military organizations, prohibited, I: 9

SELF-INCRIMINATION

Criminal cases, I: 10

SEX

Discrimination in education, prohibited, X: 1
 Discrimination on account of, forbidden, I: 5
 Equal rights, denial on account of sex forbidden, I: 3

SLUM CLEARANCE

Power in State, IX: 5

SOLDIERS

Quartering of, I: 18

SPEECH

Freedom of, I: 4
 Legislators, privilege of, III: 7

SPLINTERED PADDLE, LAW OF

Adoption, IX: 10

STATE OF HAWAII

Acquisition of land by, XI: 4
 Boundaries, XV: 1
 Capital, XV: 2
 Debt limitation, VII: 13
 Flag, XV: 3
 Intergovernmental cooperation, XVI: 5
 Judicial rights
 preserved for State, accepted, XVI: 11
 reserved to United States, consented to, XVI: 11
 Languages, XV: 4
 Motto, Preamble, XV: 5
 Political power inherent in people, I: 1
 Programs, transferred to counties, cost sharing, VIII: 5
 Receipts, use for Hawaiian affairs, XII: 1
 Representative districts, XVIII: 1

- Residence, citizenship, other qualifications, satisfaction of, XVIII: 11
 Senatorial districts, III: 2; XVIII: 1
 Special privileges, limitation on granting of, I: 21
 Trust provisions concerning lands, compliance with, XVI: 7
- SUFFRAGE** (see Elections)
- SUITS** (see Action or suit)
- SUNDAYS**
 Legislature
 bills, excluded from signing period, III: 16
 days of session, excluded from, III: 10
- SUPERINTENDENT OF EDUCATION**
 Appointment and duties, X: 3
- SUPREME COURT**
 Administrative director, approval of appointment, VI: 6
 Administrative head, chief justice as, VI: 6
 Cases, disposition, time limits, VI: 1
 Chief justice
 administrative director, appointment, VI: 6
 administrative head of courts, VI: 6
 appointment, VI: 3
 circuit court judges, temporary assignment of, VI: 2, 6
 district court, filling vacancy, VI: 3
 impeachment of governor and lieutenant governor, presiding at, III: 19
 judicial selection commission, appointment of members, VI: 4
 vacancy or absence, VI: 2
 Circuit court judges, temporary service by, VI: 2
 Commission on judicial discipline, creation, VI: 5
 Constituted how, VI: 2
 Intermediate appellate court judges, temporary service by or for, VI: 2
 Judicial power vested in, VI: 1
 Jurisdiction, VI: 1
 Justices
 age of retirement, VI: 3
 appointment, VI: 3
 candidacy for election, forfeiture of office for, VI: 3
 compensation, VI: 3
 discipline, VI: 5
 eligibility to hold other positions, VI: 3
 practice of law, prohibition, VI: 3
 qualification, VI: 3
 removal, VI: 5
 retirement, VI: 3
 retirement for incapacity, VI: 5
 term, VI: 3
 Reapportionment of legislature, jurisdiction concerning, IV: 10
 Rules and regulations for courts, VI: 7
- TAXATION** (see Counties)
 Federal lands and property, XVI: 9
 Income taxation, providing for, VII: 2
 Net user tax receipts, definition, VII: 12
 Public purposes, limited to, VII: 4
 Real property
 county power, VIII: 3
 effective date and application of transfer, XVIII: 6
 Taxing power
 inalienable, VII: 1
 reserved to State, exception, VIII: 3
 Tax review commission, VII: 3
 United States' laws, adoption of, VII: 2
 User tax, definition, VII: 12
- TERRITORY OF HAWAII**
 Debts and liabilities assumed, XVIII: 10
- UNITED STATES**
 Congressional districts, reapportionment, IV: 2, 9
 Constitution, adopted (see Federal Constitution adopted, before Article I)
 Hawaiian Homes Commission Act, compact with State respecting, XII: 1, 2
 Hawaii National Park, jurisdiction and control, XVI: 10
 House of representatives, reapportionment, IV: 2, 9
 Laws relating to lands, continued, XVIII: 9
 Property, taxation by State, XVI: 9
 Reservation of judicial rights, consented to by State, XVI: 11
 Rights reserved to United States, consented to by State, XVI: 8
 Title to territorial lands set aside for use of, XVI: 6
 Trust provisions concerning land, State to comply, XVI: 7
- UNITED STATES CONSTITUTION**
 Adoption before Article I
- UNIVERSITY OF HAWAII**
 Board of regents, appointment, powers, X: 6
 Established, X: 5
 President, V: 6; X: 6
- VACANCIES**
 Appointive officers, generally, V: 6
 Chief justice, VI: 2
 Constitutional convention, XVII: 2
 Courts, VI: 2, 3
 Governor, V: 4
 Interim appointment to fill, V: 6
 Legislature, III: 5
 Lieutenant governor, V: 4
- VERDICT**
 Civil cases, may be by less than twelve, I: 13
- VETO**
 Appropriation bills, item veto, III: 16
 Bills, generally, III: 16, 17
 Overriding, III: 16, 17
 Proposed constitutional amendment, not subject to veto, XVII: 4
- VOTING** (see Elections)
- WAGES AND SALARIES**
 Governor, V: 3
 Judges, VI: 3
 Judges, salary commission, VI: 3
 Legislators, III: 9; XVIII: 3
 Lieutenant governor, V: 3
- WAR**
 Bonds to defend State, VII: 13
 Crimes in time of, trial for, I: 10
- WARRANTS**
 Searches and seizures, I: 7
- WATER RESOURCES**
 Agency, establishment, XI: 7
 Conservation and development, XI: 1
 Protection, XI: 7
- WELFARE**
 Grant of special privileges not to impair, I: 21
 Health and welfare (see Health and welfare)
- WITNESSES**
 Confrontation, criminal cases, I: 14
 Process for obtaining, criminal cases, I: 14
 Self-incrimination, I: 10
- ZONING**
 Agricultural lands, reclassification, XI: 3

EXPENSES OF THE CONVENTION

Delegates' Salary	\$	404,956.51
Delegates' Per Diem		144,110.00
Employees' Salary		647,541.73
Other Services		9,425.04
Employees' Per Diem		1,470.00

Other Expenditures:

Stationery and Office Supplies		36,185.69
Postage and Freight		1,360.68
Telephone		25,176.80
Travel		15,561.98
Employees' Auto Allowance		58.84
Printing-Service		450.00
Printing and Binding-Journal		151,001.92
Submission and Information		183,038.43
Rental-Office Space		138,371.07
Rental-Office Equipment		146,231.72
Rental-Sound Equipment		28,822.56
Repair and Maintenance-Building		41,581.67
Contract Payments		50,025.21
Payroll Taxes		5,733.11
Miscellaneous		1,298.08

Total Expenditures	\$	2,032,401.04
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Balance		467,598.96
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\$ 2,500,000.00

Appropriations:

Act 17, First Special Session 1977	\$	1,500,000.00
Act 243, SLH 1978		1,000,000.00

\$ 2,500,000.00

DELEGATES' PER DIEM

	Days	Rate	Amount
Alcon, Emilo S.	90	\$10.00	
	3	30.00	\$ 990.00
Anae, Famika	92	10.00	
	2	30.00	980.00
Andrews, Mark J.	87	30.00	2,610.00
Barnard, Mary Ann	125	10.00	
	4	30.00	1,370.00
Barnes, Bruce E.	92	10.00	
	1	30.00	950.00
Barr, Allen W.	92	30.00	2,760.00
Blake, Hartwell K.	6	10.00	
	95	30.00	2,910.00
Blean, David W.	85	30.00	2,550.00
Burgess, H. William	97	10.00	
	1	30.00	1,000.00
Cabral, Walter K.	91	10.00	
	2	30.00	970.00
Campbell, Naomi S.	91	10.00	
	1	30.00	940.00
Chang, Anthony K.U.	92	10.00	
	5	30.00	1,070.00
Ching, Calvin C.	92	10.00	
	3	30.00	1,010.00
Ching, Donald D.H.	87	10.00	
	1	30.00	900.00
Ching, Laura M.	92	10.00	
	4	30.00	1,040.00
Ching, M. Haunani	93	10.00	
	4	30.00	1,050.00
Chong, Jacqueline T.	95	10.00	
	2	30.00	1,010.00
Chu, Rai Saint	94	10.00	
	1	30.00	970.00
Chun, Dennis, K.S.	91	10.00	
	1	30.00	940.00
Chung, Kayo R.	92	10.00	
	2	30.00	980.00
Crozier, Michael L.	96	10.00	
	2	30.00	1,020.00
de Costa, Frank	3	10.00	
	92	30.00	2,790.00
De Soto, Adelaide C.	90	10.00	
	4	30.00	1,020.00
DiBianco, Paul E.	93	10.00	930.00
Dyer, Masu K.	99	10.00	
	2	30.00	1,050.00
Eastvold, Donald W., Jr.	84	10.00	840.00
Ellis, Robert F.	87	10.00	
	2	30.00	930.00
Fujimoto, Richard I.	96	10.00	960.00
Fukunaga, Carol A.	94	10.00	
	3	30.00	1,030.00
Funakoshi, Elayne M.	96	10.00	
	1	30.00	990.00
Fushikoshi, Lester T.	96	30.00	2,880.00
Goodenow, H. Jean	95	10.00	
	1	30.00	980.00
Hagino, Gerald T.	97	10.00	
	3	30.00	1,060.00
Hale, Helene H.	95	30.00	2,850.00
Hamilton, Thomas H.	89	10.00	890.00
Hanaike, Dona L.	88	10.00	880.00
Harris, Joseph J., Jr.	93	30.00	2,790.00

DELEGATES' PER DIEM (Continued)

	Days	Rate	Amount
Hashimoto, Clarice Y.	94	10.00	
	3	30.00	1,030.00
Hayashida, Franklin I.	93	10.00	930.00
Hino, Akira	94	10.00	
	1	30.00	970.00
Hirata, Milton Y.	90	10.00	
	4	30.00	1,020.00
Hironaka, Masami	95	30.00	2,850.00
Hoe, Charlene R.	95	10.00	
	3	30.00	1,040.00
Hokama, Riki G.	95	30.00	2,850.00
Hornick, Leslee G.	91	10.00	
	2	30.00	970.00
Ihara, Dennis T.	95	10.00	
	1	30.00	980.00
Ihara, Les S., Jr.	98	10.00	
	1	30.00	1,010.00
Ihara, Teruo	93	10.00	
	5	30.00	1,080.00
Ikeda, Walter H.	93	10.00	
	3	30.00	1,020.00
Ishikawa, John M.	92	10.00	
	1	30.00	950.00
Iwamoto, Karen H.	108	10.00	
	5	30.00	1,230.00
Izu, Yvonne Y.	21	10.00	
	87	30.00	2,820.00
Kaapu, Kekoa D.	91	10.00	
	1	30.00	940.00
Kaito, Kay K.	98	10.00	980.00
Kimball, Alan W.	98	10.00	980.00
Kojima, Yoshio	5	10.00	
	94	30.00	2,870.00
Kono, Lawrence H.	21	10.00	
	88	30.00	2,850.00
Lacy, Paul L.	89	10.00	
	1	30.00	920.00
Ledward, Masako H.	95	10.00	
	2	30.00	1,010.00
Lee, Marion	90	10.00	
	1	30.00	930.00
Lee, Rachel K.	93	10.00	
	1	30.00	960.00
Lewis, Peter C.	103	10.00	
	4	30.00	1,150.00
Liu, Michael M.F.	94	10.00	
	1	30.00	970.00
Marumoto, Barbara C.	96	10.00	
	1	30.00	990.00
McCall, Bruce C.	94	30.00	2,820.00
Miller, Georgia E.	82	10.00	
	1	30.00	850.00
Nakamura, Craig G.	89	10.00	
	5	30.00	1,040.00
Nishimoto, Melvin Y.	96	10.00	
	4	30.00	1,080.00
Nozaki, Patricia H.N.	93	10.00	
	1	30.00	960.00
Odanaka, Donna J.	92	10.00	
	2	10.00	980.00
Okamura, Thomas T.	96	10.00	
	1	30.00	990.00
Ontai, Calvin W.	79	10.00	

DELEGATES' PER DIEM (Continued)

	Days	Rate	Amount
	1	30.00	820.00
O'Toole, Stephen M.	89	10.00	
	2	30.00	950.00
Paty, William W., Jr.	88	10.00	
	4	30.00	1,000.00
Penebacker, John R.	93	10.00	
	1	30.00	960.00
Peterson, C. Randall	94	10.00	
	1	30.00	970.00
Pulham, Floyd W.	94	30.00	2,820.00
Sakima, Akira	88	10.00	
	3	30.00	970.00
Salling, Lehua Fernandes	89	30.00	2,670.00
Sasaki, Richard Y.	102	10.00	
	2	30.00	1,080.00
Shinno, James M.	3	10.00	
	95	30.00	2,880.00
Shon, James T.	96	10.00	960.00
Silva, Gillie C., Jr.	94	30.00	2,820.00
Souki, Joseph M.	94	30.00	2,820.00
Stegmaier, David D.	95	10.00	950.00
Sterling, Leon K., Jr.	88	30.00	2,640.00
Stone, John J.	95	10.00	
	1	30.00	980.00
Sutton, Warner C.	90	10.00	
	1	30.00	930.00
Taira, Robert S.	94	10.00	
Takahashi, Wayne	89	10.00	
	3	30.00	980.00
Takehara, Alice T.	92	10.00	
	1	30.00	950.00
Takemoto, Anne H.	96	10.00	960.00
Takitani, Anthony P.	93	30.00	2,790.00
Tam, John E.	93	30.00	2,790.00
Tamayori, Dean T.	95	10.00	
	1	30.00	980.00
Uyehara, Lawrence S.	97	10.00	
	1	30.00	1,000.00
Villaverde, Marcelliano K.	11	10.00	
	94	30.00	2,930.00
Waihee, John D. III	100	10.00	
	1	30.00	1,030.00
Weatherwax, Wallace W.	91	10.00	
	5	30.00	1,060.00
Wurdeman, Ginger W.K.	85	10.00	850.00
Yamashita, Bruce I.	93	10.00	
	1	30.00	960.00
Yoshimura, Philip I.	92	30.00	2,760.00
			<u>2,760.00</u>
			\$ 144,110.00

EMPLOYEES' SALARY

Amimoto, George M. Chief Clerk	\$	11,250.05
Miyabara, Colin T. Assistant Clerk		9,326.90
Funaki, James T. Chief Attorney		11,250.05
Broder, Sherry - Attorney		6,274.35
Mon Lee, Carol - Attorney		6,276.02
Liu, Frances E. - Attorney		5,971.40
Okabayashi, Neal K. - Attorney		6,276.02
Goo, Benedict S. - Parliamentarian		1,890.00
Sugihara, Masato - Parliamentarian		650.00

EMPLOYEES' SALARY (Continued)

	Amount
Kamita, Daryl H. - Accountant	4,821.45
Apau, Gaylord K. - Sergeant-at-Arms	3,649.00
Moriwake, Alice K. - Assistant Sergeant-at-Arms	2,473.35
Camara, Kathleen K. - Journal Clerk	6,848.21
Onaka, Linda S. - Journal Clerk	4,550.00
Maxey, Mahina T. - Engrosser	3,015.00
Costa, Sylvia A. - Records Clerk	2,781.45
Kiyabu, Leslie S. - Supply Clerk	2,449.00
Lau, Elizabeth A. - Accounting Clerk	5,200.80
Ching, Jacklyne L. - Chief Legal Stenographer	2,646.45
Dunbar, Vickie A. - Legal Stenographer	2,353.35
Nagata, Claire A. - Legal Stenographer	2,353.35
Odachi, Judy A. - Legal Stenographer	2,353.35
Yamaki, Colleen T. - Secretary, Chief Clerk	2,393.35
Ching, Janice L. - Information Clerk	1,794.25
Choy, Toni L. - Information Clerk	1,652.20
Oshiro, Walter N. - Chief Messenger	1,980.00
Casupang, Suzanne L. - Messenger	1,496.15
De Soto, Margit - Messenger	1,431.62
Galicinao, Domingo C. - Messenger	1,496.15
Gibson, Phyllis M. - Messenger	1,496.15
Hamada, Edward K., Jr. - Messenger	1,496.15
Leslie, Alexander K. - Messenger	1,675.64
Smithe, Kathleen H. - Messenger	1,380.00
Taketa, Steven H. - Messenger	322.63
Tamate, Terry M. - Messenger	1,496.15
Uperesa, Robin S. - Messenger	1,496.15
Doctorello, Lorraine U. - Custodian	1,496.15
Fellezes, Edith B. - Custodian	1,496.15
Gasper, Derek K. - Custodian	661.28
French, Christine A. - Parking Attendant	1,215.12
Ogawa, Nora N. - Print Shop Manager	3,723.60
Gregory, Mary S. - Chief Machine Operator	3,271.05
Kato, Alma M. - Machine Operator	2,092.50
Taguma, Herbert K. - Machine Operator	2,264.75
Honda, Laura M. - File Clerk	1,794.25
Kamana, Deidre N. - File Clerk	1,231.08
Kanno, Lorraine F. - File Clerk	1,794.25
Lee Loy, Marylyn - File Clerk	1,794.25
Wong, Aorandi T. - File Clerk	1,794.25
Lee, Thomas - Administrative Assistant, Paty	5,818.74
Omine, Joyce T. - Secretary, Paty	4,890.68
Oshima, Lynn - Secretary, Paty	3,015.00
Matsunami, Alan E. - Staff, Paty	3,000.35
Chong, Tomi - Clerk Typist, Paty	2,441.76
Paty, Susan K. - Clerk, Paty	1,764.25
Alcon, Alicia L. - Secretary, Alcon	735.13
Cadiz, Francis L. - Administrative Assistant, Alcon	2,928.78
Sing, Susan G. L. - Staff, Alcon	459.94
Feinga, Alice A. - Staff, Anae	244.24
Kekuaokalani, Verdetta P. - Staff, Anae	2,394.64
Laimana, Alyson N. - Staff, Anae	866.00
White, Marilyn L. - Staff, Anae	270.00
Fujimoto, Donna T.* - Staff, Andrews	702.45
Ramos, Ellen L.M.* - Staff, Andrews	2,047.08
Scurlock, Victoria A. - Researcher, Andrews	961.91
Asato, Josephine J.T. - Researcher, Barnes	1,068.62
Brown, C. Steven, Jr. - Staff, Barnes	668.32

*Also worked for Souki

EMPLOYEES' SALARY (Continued)

	Amount
Saguilla, May Lynne P. - Staff, Barnes	2,392.76
Nichols, Claudia C. - Clerk/Researcher, Barnard	2,737.20
Castro, Victor V.* - Staff, Barr	1,544.04
Bennet, Joyce L.* - Staff, Barr	1,230.94
Crago, Billiana* - Staff, Barr	1,639.25
Dang, Marvin S.C.* - Staff, Barr	1,066.36
Davis, Lucia H.* - Secretary, Barr	1,184.09
Martin, Judy A.* - Clerk, Barr	834.32
Mau, Mary Ann* - Secretary, Barr	927.27
Neal, Julia Ann* - Staff, Barr	2,207.86
Rast, Charles L.* - Staff, Barr	217.80
Richards, Patricia A.* - Secretary, Barr	1,135.76
Shimoda, Michael S.* - Researcher, Barr	1,155.32
Skillings, Leslie, Jr.* - Staff, Barr	2,759.75
Blake, Hartwell H.K. - Staff, Blake	1,299.50
Blake, Theodore K. - Administrative Aide, Blake	2,354.92
Iha, Byron M. - Administrative Aide, Blake	566.64
Blair, Penelope C. - Aide, Burgess	2,146.99
Burgess, Elizabeth A. - Staff, Burgess	487.50
Burgess, Horace W., Jr. - Staff, Burgess	544.02
Chang, Milton K.Y. - Staff, Cabral	1,731.90
Nishimura, Pearl R. - Staff, Cabral	2,434.05
Billeaud, Lani J. - Research Assistant, Campbell	989.57
Chang, Lana M. - Staff, Campbell	403.70
Fielder, Betty A. - Staff, Campbell	850.10
Hayashi, Amy - Staff, Campbell	83.55
Kuniyoshi, Karen M. - Research Assistant, Campbell	33.34
Pittman, Julie L. - Staff, Campbell	799.10
Anzai, Earl I. - Researcher, Chang	2,690.77
Chu, Celia L.H. - Staff, Chang	885.68
Izumi, Colleen A. - File Clerk, Chang	27.00
Konove, Lisa M. - Receptionist/Secretary, Chang	378.69
Motobu, Weston J. - Staff, Chang	2,434.05
Nakamura, Dayna - File Clerk, Chang	110.45
Nakasone, Julia A. - File Clerk, Chang	27.00
Sadoyama, Sharon N. - File Clerk, Chang	110.45
Shimabukuro, Jill M. - Staff, Chang	110.45
Sonoda, Charlotte M. - Committee Clerk, Chang	2,394.64
Wong, Melissa R. - File Clerk, Chang	27.00
Yokoyama, Vicki N. - File Clerk, Chang	110.45
Naruto, Laurie C. - Staff, C. Ching	588.95
Sasaki, Kathy E. - Researcher, C. Ching	2,690.77
Leach, Patricia A.** - Secretary/Clerk, C. Ching	1,787.50
Yeh, Thomas L.H.** - Staff, C. Ching	362.80
Kuniyoshi, Arlene E. - Secretary, D. Ching	2,692.88
Miyasaki, Amy R. - Researcher, D. Ching	1,471.15
Ching, Charline M. - Staff, L. Ching	185.24
Kam, Michael H.M. - Research Aide, L. Ching	571.50
Mann, Kevin N. - Research Assistant, L. Ching	80.00
Miyasaki, Harriet T. - Staff, L. Ching	2,002.79
Paco, Nathan - Staff, L. Ching	1,556.36
Burns, Lynette E. - Secretary, H. Ching	3,189.55
Shigemura, Neal Y. - Researcher, H. Ching	2,737.20
Ide, Daniel K. - Staff, Chong	1,516.00
Young, Rosemarie L. - Secretary, Chong	2,424.16
Amoy, Calvin K.C. - Staff, Chu	206.45
Day, Terry L. - Staff, Chu	734.61
Fujimoto, Clement T. - Administrative Aide, Chu	1,509.90
Iwanaga, Oren K. - Staff, Chu	106.45

*Also worked for Blean, Eastvold and Harris

**Also worked for L. Ihara

EMPLOYEES' SALARY (Continued)

	Amount
Nishimura, Jan K. - Secretary, Chu	824.46
Slaton, Christa D. - Staff, Chu	704.00
Chang, Catherine O.Y. - Researcher, Chun	580.39
Kumabe, John - Researcher, Chun	2,089.29
Sano, Barbara N. - Secretary, Chun	954.96
Miyasato, Wilma N. - Staff, Chung	2,057.50
Tsukasa, Edward M. - Researcher, Chung	2,093.60
Akiona, Sarah A. - Secretary, Crozier	1,824.75
Chong, Russell J. - Researcher, Crozier	2,351.47
Kunieda, Audrey T. - Secretary, de Costa	1,824.75
Tam, Edwin B.L. - Administrative Asst./Researcher, de Costa	2,069.74
Kuna, Stephen E. - Committee Coordinator, De Soto	3,346.34
Lubin, Helena A. - Staff, De Soto	2,939.55
Wilson, Martin O., Jr. - Committee Aide, De Soto	2,991.12
Kubo, Edith J. - Secretary, DiBianco	2,091.95
Sloat, Kim C.M. - Staff, DiBianco	585.73
Tada, Albert K. - Staff, DiBianco	1,542.33
Hutchings, Beverly Y. - Secretary, Dyer	1,935.50
Okuda, Gary Y. - Staff, Dyer	886.23
Roberts, Peter E. - Staff, Dyer	1,209.58
Wright, James H.* - Staff, Dyer	1,040.50
Costa, Patricia A. - Secretary, Ellis	325.42
Finn, Mark R. - Administrative Aide, Ellis	3,040.35
Anzai, Dean T. - Researcher, Fujimoto	1,978.69
Fujimoto, Anna Marie - Secretary/Researcher, Fujimoto	748.72
Chiogioji, Jean K. - Committee Secretary, Fukunaga	1,976.32
Long, Toni R. - Secretary, Fukunaga	1,194.98
MacKenzie, Melody K. - Committee Clerk, Fukunaga	3,235.40
Nishimura, Lynette C. - Secretary/Clerk, Fukunaga	600.00
Takane, Claire R. - Secretary/Clerk, Fukunaga	1,028.55
Tanji, Henry K.** - Researcher, Fukunaga	1,635.28
Lee, Denis - Researcher/Aide, Funakoshi	1,488.73
Ono, Caryn M. - Secretary/Clerk, Funakoshi	1,693.88
Proctor, Lynn T. - Receptionist/Clerk, Funakoshi	223.59
Villarmia, Norma N. - Clerk, Funakoshi	775.70
Honma, Gayle Y. - Secretary/Aide, Fushikoshi	2,726.08
Sakazaki, Chari Ann - Secretary, Fushikoshi	2,213.25
Yoshida, Michael A. - Staff, Fushikoshi	2,683.18
Beasley, Kim P. - Administrative Assistant, Goodenow	2,320.95
Guille, Katherine N. - Secretary, Goodenow	1,793.80
Miyashiro, Kathleen - Secretary/Researcher, Hagino	2,392.76
Yoshinaga, Leslie - Secretary/Researcher, Hagino	1,824.75
Helliwell, Jane - Clerk/Aide, Hale	873.82
Kalima, Patricia Ann - Aide, Hale	2,778.74
Kiyota, Sharon J. - Clerk, Hale	518.03
Joesting, Edward H. - Staff Aide, Hamilton	1,525.19
Snodgrass, Jean - Secretary, Hamilton	2,600.05
Woods, Claire W. - Staff Assistant, Hamilton	2,646.45
Hanaike, David D. - Clerk/Researcher, Hanaike	1,216.49
Hanaike, Jann K. - Secretary, Hanaike	187.20
Paalani, Joanne M. - Staff, Hanaike	746.85
Pico, Thomas M., Jr. - Administrative Assistant, Hanaike	2,215.49
Matsunaga, Emma S. - Researcher, Hashimoto	2,171.50
Shiigi, Sherlette H. - Secretary, Hashimoto	1,628.55
Nakagawa, Marueen T.*** - Secretary, Hashimoto	1,793.80
Ige, Sandra R. - Staff, Hayashida	523.26
Okumura, Stephen I. - Staff, Hayashida	1,483.34
Sato, Bobbi D.Y. - Staff, Hayashida	1,047.81

*Also worked for Barr, Blean, Eastvold and Harris

**Also worked for Waihee

***Also worked for Sasaki

EMPLOYEES' SALARY (Continued)

	Amount
Hirazumi, Joan E. - Staff, Hino	1,311.92
Kealoha, Christobel K. - Research Assistant, Hino	2,828.30
Imamura, Carolyn K. - Staff, Hirata	2,682.53
Yamasaka, Gail S.O. - Staff, Hirata	1,349.45
Aoyagi, Taryn A. - Reseacher, Hironaka	2,991.12
Tokunaga, Terri M. - Secretary, Hironaka	1,134.08
Fraiola, Gloria J. - Secretary/Clerk, Hoe	2,128.05
Mello, Jacqueline F. - Secretary/Researcher, Hoe	2,094.60
Kaopuiki, Roland A. - Researcher/Aide, Hokama	2,434.05
Kodama, Laureen T. - Secretary, Hokama	1,793.80
Boxold, Gregory M. - Administrative Assistant, Hornick	1,717.57
Miller, Joyce - Administrative Assistant, Hornick	1,148.06
Schultz, Kimberly T. - Staff, Hornick	1,351.46
Kunimoto, Eric K. - Staff, D. Ihara	735.47
Leong, Aileen P.S. - Staff, D. Ihara	184.64
Vallejo, Beverly T. - Staff, D. Ihara	1,442.23
Williams, John H. - Staff, D. Ihara	1,841.89
Oishi, Emi R.* - Staff, L. Ihara	2,334.70
Nakamura, Reid A. - Researcher, L. Ihara	2,534.17
Ibara, May T. - Secretary/Researcher, T. Ihara	2,737.20
Teves, Kay H. - Clerk, T. Ihara	1,471.15
Yanaga, Jean Y. - Secretary, T. Ihara	2,434.05
Taira, Muriel M.** - Staff, T. Ihara	2,533.49
Amerine, Carol A. - Aide/Researcher, Ikeda	2,434.05
Gibson, Diana Y. - Committee Secretary, Ikeda	2,392.76
Kawamoto, Amy Y. - Secretary, Ikeda	1,194.98
Lau, Burt T. - Committee Clerk, Ikeda	3,346.34
Anderson, Signe S.J.*** - Staff, Ishikawa	2,140.74
Arakawa, Charlene S. - Administrative Assistant, Ishikawa	1,046.80
Yee, James N.H. - Staff, Ishikawa	1,322.69
Engle, Andrew T. - Aide, Iwamoto	1,625.00
Van Buren, Mary Jane - Researcher, Iwamoto	2,838.04
Yasutake, Susan S. - Secretary, Iwamoto	568.22
Awana, Henry T. - Committee Researcher, Izu	4,190.34
Namba, Nolan J. - Researcher, Izu	2,633.55
Silva, Lori Ann - Committee Secretary/Clerk, Izu	2,394.64
Kaapu, Carole K. - Aide, Kaapu	1,833.30
Kaapu, Kekoa, Jr. - Research Assistant, Kaapu	2,026.94
Wong, Thomas W. - Administrative Aide, Kaapu	384.62
Higa, Melton Y. - Research Aide, Kaito	2,526.67
Okumura, Grace T. - Staff, Kaito	1,227.27
Billam-Walker, Margo L.M. - Asst. Researcher, Kimball	1,795.20
Goss, Melanie M. - Researcher, Kimball	2,345.84
Kishaba, Avis F. - Secretary, Kojima	1,170.00
Yamamura, Paul T. - Staff, Kojima	2,352.16
Nakamura, Karen K.**** - Secretary, Kojima	1,580.76
Kimura, Wayne H. - Staff, Kono	2,146.99
Simson, Rebecca L. - Secretary, Kono	1,795.20
Kusunoki, Karen K. - Secretary, Lacy	1,762.85
Warner, John H.***** - Aide, Lacy	2,351.47
Takemoto, Melvin M. - Research Assistant, Ledward	3,040.35
Yoshimura, Jan M.L. - Secretary, Ledward	2,434.05
Yamauchi, Hazel H.***** - Secretary/Clerk, Ledward	2,216.35
Jim On, Shelton G.W. - Researcher, M. Lee	1,096.91
Shoji, Kay H. - Secretary, M. Lee	1,734.00

*Also worked for Nakamura

**Also worked for Hirata

***Also worked for Fushikoshi

****Also worked for Fujimoto

*****Also worked for Iwamoto

EMPLOYEES' SALARY (Continued)

	Amount
Sako, Susan E. - Staff, R. Lee	2,737.20
Kawabata, Linda - Committee Secretary, Lewis	2,434.05
Miyahira, Neal H. - Committee Researcher, Lewis	2,507.19
Saruwatari, Lois R. - Staff, Lewis	2,721.99
Kaneshige, Carol S.* - Secretary, Lewis	1,640.40
Tamashiro, Carol L. - Secretary, Liu	1,944.32
Uy, Lillian R. - Researcher, Liu	2,206.65
Boyle, Nancy A. - Staff, Marumoto	2,091.95
Hayashi, Amy C. - Staff, Marumoto	1,205.29
Rigler, Linda - Research Assistant, Marumoto	265.91
Shaw, Ardis L. - Staff, Marumoto	638.80
Kubota, Sharon A. - Staff, McCall	3,040.35
Ikezawa, Annelle T.** - Clerk, McCall	1,299.00
Ikezawa, Wendy H.** - Clerk, McCall	1,052.85
Alailima, Cecilia S. - Staff, Miller	817.20
Ansberry, Susan W. - Aide, Miller	243.78
Hall, James V. - Staff, Miller	1,717.88
Smith, Dana W. - Research Attorney, Miller	975.00
Zen, Burke T. - Staff, Miller	172.42
Chikasuye, Aileen T. - Staff, Nakamura	1,764.25
Marciel, Marlene M. - Staff, Nakamura	3,040.35
Brown, Dennis E. - Staff, Nishimoto	2,530.88
Kikuchi, Ken S. - Staff, Nishimoto	217.00
Kishinami, Vernon - Clerk, Nishimoto	2,434.05
Kuba, Lea K. - Staff, Nishimoto	792.45
Takamori, Naomi S. - Secretary, Nishimoto	2,056.90
Maeda, Dani N.*** - Staff, Nishimoto	1,638.49
Asari, Millicent - Staff, Nozaki	586.96
Domen, Jennifer - Staff, Nozaki	1,104.80
Richards, Pauline S. - Staff, Nozaki	1,522.40
Sakai, Eunice M. - Staff Researcher, Nozaki	726.45
Helms, Buford E. - Staff, Odanaka	1,406.36
Huff, Daryl W. - Staff, Odanaka	1,882.36
Soon, Stanley K. - Research Assistant, Odanaka	851.20
Brownell, William A. - Staff, Okamura	2,272.90
Fujimoto, Carlyn T. - Staff, Okamura	2,434.05
Kong, Julianne K. - Staff, Okamura	1,440.00
Matsuda, Leland K. - Staff, Okamura	2,282.31
Mattson, Harry A. - Researcher, Okamura	417.87
Tamura, Jeanne A. - Receptionist/Secretary, Okamura	502.80
Chew, Tylee K.L. - Researcher, Ontai	75.00
Frederick, Katherine P.M. - Staff, Ontai	1,195.92
Iaea, Arnold K. - Staff, Ontai	705.70
Kekaula, Hudson W.A. - Staff, Ontai	822.45
Ramelb, Elisa Mae - Researcher, Ontai	161.59
Wright, Viola K. - Secretary, Ontai	749.24
Byrnes, Norma A. - Secretary, O'Toole	2,128.05
Hemphill, Robert F. - Administrative Aide, O'Toole	2,091.95
Estes, Ernest E. - Research Assistant, Penebacker	2,690.77
Hare, Sherry R. - Secretary, Penebacker	1,521.60
Lloyd, Ted E. - Administrative Assistant, Peterson	1,842.18
Peterson, Sheralyn S. - Administrative Aide, Peterson	1,478.29
O'Connor, Mary T. - Research Assistant, Pulham	1,764.25
Tatum, Bette - Office Manager, Pulham	2,394.64
Ahu, Elwin P. - Researcher, Sakima	1,586.55
Higa, Ellen C. - Secretary, Sakima	2,128.05

*Also worked for Sakima

**Also worked for Shinno

***Also worked for Takahashi

EMPLOYEES' SALARY (Continued)

	Amount
Rodriguez, Roderick - Staff, Sakima	969.12
Tuyay, James C. - Committee Researcher, Sakima	3,040.35
Franz, Peggy Dee - Secretary, Fernandes-Salling	1,950.03
Nunn, Kevin K. - Research Assistant, Fernandes-Salling	1,471.15
Salling, Kelly Jo - Secretary, Fernandes-Salling	487.50
Trapido, Barbara L. - Secretary, Fernandes-Salling	139.29
Hashimoto, Lois K. - Secretary, Sasaki	510.50
Yoshida, Bruce T. - Researcher, Sasaki	2,069.74
Leong, Cenie L.U. - Secretary, Shinno	3,040.35
Arakaki, Claire S. - Researcher, Shon	2,091.95
Kawamoto, Randall K. - Researcher, Shon	2,091.95
Akau, Everett W. - Staff, Silva	477.46
Friel, Paul M. - Researcher, Silva	598.81
Yamane, Cathleen L. - Secretary, Silva	2,137.54
Yates, Jacqueline P. - Receptionist, Silva	784.06
Lelepali, Harilysa J. - Researcher, Silva	226.86
Lee-Gilbert, Jung Ja - Researcher, Souki	2,991.12
Ebesugawa, Michael M. - Staff, Stegmaier	1,650.27
Yamaoka, Sharon S. - Secretary, Stegmaier	1,154.70
de Heer, Gerald - Researcher, Sterling	896.97
Shackley, Willa-Marlene K. - Secretary, Sterling	3,346.34
Hanagami, Shizuko E. - Secretary, Stone	3,292.16
Crain, Cheryl Ann - Sec./Receptionist/Researcher, Sutton	2,759.75
King, Philip H. - Aide, Sutton	1,022.73
McGregor, Robert F. - Aide, Sutton	380.96
Arakaki, Diane R. - Secretary, Taira	1,443.90
Asato, Dwight H. - Researcher, Taira	2,243.76
Watanabe, Reiko J. - Clerk, Taira	232.20
Horiuchi, Susan K. - Staff, Takahashi	2,128.05
Saito, Sherry A. - Secretary, Takahashi	1,732.56
Asato, Nora S. - Secretary/Researcher, Takehara	271.00
Crisafi, Joyce K. - Staff, Takehara	2,293.33
Kinoshita, Lynn Y. - Staff, Takehara	1,550.45
Fishman, Carla D. - Administrative Aide, Takemoto	500.98
Fujiwara, Elizabeth A. - Committee Clerk, Takemoto	495.20
Fujiwara, Ronald T. - Staff, Takemoto	834.98
Lee Loy, Pili aloha - Administrative Assistant, Takemoto	1,965.65
Martin, Robert C. - Aide, Takemoto	612.71
Sato, Lori E. - Clerk, Takemoto	2,053.36
Fujikawa, Jocelyn S. - Researcher, Takitani	358.88
Javinar, Jan M. - Secretary/Researcher, Takitani	1,072.86
Tsuji, Edward M. - Researcher, Takitani	2,434.05
Lau, Gayle J. - Staff, Tam	2,217.50
Tam, Helen M. - Staff, Tam	1,933.28
Gregson, Rochelle L. - Researcher, Tamayori	2,737.20
Oshita, Michele K. - Secretary, Tamayori	1,495.79
Morihara, Dean - Aide Researcher, Uyehara	2,692.88
Shiroma, Sara T. - Secretary, Uyehara	1,108.64
Gray, Mary F. - Secretary, Villaverde	2,512.88
Renfro, Brenda D. - Clerk Typist, Villaverde	1,551.15
Kim, Eric T.W.* - Staff, Waihee	1,764.25
Lai, Joan E. - Secretary, Waihee	1,221.45
Yamashita, Karen T. - Staff, Waihee	1,599.51
Chun, Gordon C.F. - Researcher, Weatherwax	3,289.58
Meeker, Vonne K. - Secretary, Weatherwax	2,434.05
Shimane, Karen K. - Clerk/Sec./Researcher, Weatherwax	2,272.90
Weatherwax, Sandra A. - Staff, Weatherwax	827.27
Yasuda, Mary Ann - Committee Clerk, Weatherwax	417.87
Kinimaka, James A. - Secretary, Wurdeman	448.00

*Also worked for Hayashida

EMPLOYEES' SALARY (Continued)

	Amount
Nakagawa, John K. - Staff, Wurdeman	880.96
Zimmerman, Jovita - Staff, Wurdeman	2,357.18
Gushiken, Baron J. - Researcher, Yamashita	1,578.20
Kato, Carol S. - Secretary, Yamashita	758.00
Kuriyama, Ann A. - Secretary, Yamashita	542.00
Toriki, Elizabeth J. - Researcher, Yamashita	628.80
Wong, Erlene L. - Secretary, Yamashita	464.25
Kitamura, Ellen E. - Researcher, Yoshimura	1,846.12
Shiro, Donna K. - Secretary, Yoshimura	1,588.20
	<u>1,588.20</u>
	\$ 647,541.73

OTHER SERVICES

Omine, Joyce T.	4,928.55
Van Buren, Mary Jane	1,855.10
Warner, John H.	1,250.87
Yamauchi, Hazel H.	1,390.52
	<u>1,390.52</u>
	\$ 9,425.04

EMPLOYEES' PER DIEM

	Days	Rate	Amount
Ahu, Elwin P.	1	\$30.00	\$ 30.00
Amerine Carol A.	3	30.00	90.00
Anderson, Signe S.J.	2	30.00	60.00
Anzai, Earl I.	2	30.00	60.00
Brown, Dennis E.	2	30.00	60.00
Burns, Lynette E.	1	30.00	30.00
Chikasuye, Aileen T.	4	30.00	120.00
Chiogioji, Jean K.	1	30.00	30.00
Gregson, Rochelle	1	30.00	30.00
Horiuchi, Susan K.	1	30.00	30.00
Ibara, May T.	1	30.00	30.00
Kawabata, Linda	1	30.00	30.00
Kishinami, Vernon K.	2	30.00	60.00
Kuna, Stephen E.	4	30.00	120.00
Lau, Burt T.	1	30.00	30.00
MacKenzie, Melody K.	1	30.00	30.00
Matsunami, Alan E.	2	30.00	60.00
Meecker, Vonne K.	2	30.00	60.00
Miyahira, Neal H.	2	30.00	60.00
Motobu, Weston J.	1	30.00	30.00
Shigemura, Neal Y.	3	30.00	90.00
Shimane, Karen K.	1	30.00	30.00
Sonoda, Charlotte M.	1	30.00	30.00
Taira, Muriel M.	1	30.00	30.00
Tuyay, James C.	3	30.00	90.00
Weatherwax, Sandra A.	1	30.00	30.00
Yanaga, Jean Y.	2	30.00	60.00
Yoshida, Michael A.	2	30.00	60.00
			<u>1,470.00</u>
			\$ 1,470.00

OTHER EXPENSES

Stationery and Office Supplies:

	Amount
Bostitch	\$ 16.57
Columbia International Hawaii	1,644.98

OTHER EXPENSES (Continued)

	Amount
Conrad Enterprises	13.60
Fisher Printing Co., Ltd.	7,504.91
HM Associates	261.08
Hawaii Stationery Co., Ltd.	535.90
Hole Enterprises, Inc.	1,943.01
Honolulu Paper Co.	22,643.23
Joyce Omine	136.32
Monroe The Calculator Co.	6.24
Omori Educational Services	71.50
Royal Business Machines	54.08
The Rubber Stamp House	267.20
Toshiba Hawaii Inc.	27.14
University of Hawaii Bookstore	15.98
Xerox Corporation	<u>1,043.95</u>
	\$ 36,185.69
Postage and Freight:	
The Senate	1,292.96
United Airlines	<u>67.72</u>
	\$ 1,360.68
Telephone:	
Hawaiian Telephone Co.	\$ 25,176.80
Travel:	
Budget Rent A Car	1,390.74
Island Holidays	9,032.87
Barnard, Mary Ann	49.00
Barr, Allen W.	107.00
Blake, Hartwell, K.	244.00
Blean, David W.	289.00
Ching, M. Haunani	5.00
de Costa, Frank	173.00
Fernandes-Salling, Lehua	47.00
Fushikoshi, Lester	343.00
Hale, Helene H.	379.00
Harris, Joseph J., Jr.	414.12
Hironaka, Masami	182.00
Hoe, Charlene R.	40.00
Hokama, Riki G.	250.00
Izu, Yvonne Y.	144.00
Kojima, Yoshio	255.25
Kono, Lawrence H.	257.00
McCall, Bruce C.	253.00
Nishimoto, Melvin Y.	5.00
Pulham, Floyd W.	167.00
Shinno, James M.	176.00
Silva, Gillie C., Jr.	277.00
Souki, Joseph M.	54.00
Sterling, Leon K., Jr.	174.00
Takitani, Anthony P.	225.00
Tam, John E.	81.00
Villaverde, Marcelliano K.	215.00
Weatherwax, Wallace W.	6.00
Yoshimura, Philip I.	<u>327.00</u>
	\$ 15,561.98

OTHER EXPENSES (Continued)

	Amount
Employees' Auto Allowance:	
George M. Amimoto	\$ 54.84
Printing-Services:	
The Senate	\$ 450.00
Printing and Binding-Journal:	
George Dean Studio	1,600.00
Fisher Printing Co., Ltd.	50,513.00
Hawaii Newspaper Agency	119.37
Milton Hirata	534.12
Nat's Printing	114.40
Office of the Lieutenant Governor	650.00
George M. Amimoto	29,228.21
Sylvia A. Costa	21,533.24
Elaine F. Ho	33,625.03
Daryl H. Kamita	12,928.55
Alexander K. Leslie	156.00
	<u>151,001.92</u>
	\$ 151,001.92
Submission and Information:	
Aloha Airlines	49.00
Theodore Blake	562.97
Christopher R. Conybeare	425.00
Department of Regulatory Agencies	10,172.15
Fisher Printing Co., Ltd.	7,229.77
Carol A. Fukunaga	42.00
Hawaii Association of Language Teachers	7,009.60
Hawaiiana Advertising	147,835.52
Hirano and Company	7,800.00
Milton Y. Hirata	57.20
Menehune Signs, Inc.	187.20
Julia Neal	700.00
Nicol Printing Corporation	738.58
Videololo	229.44
	<u>183,038.43</u>
	\$ 183,038.43
Rental-Office Space:	
General Services Administration	\$ 138,371.07
Rental-Office Equipment:	
International Business Machines	35,597.46
Luau Supply	62.40
Monroe The Calculator Co.	703.04
Royal Business Machines	1,397.76
Sen Company	5,571.00
Wholesale Office Furniture	91,520.00
Xerox Corporation	11,380.06
	<u>146,231.72</u>
	\$ 146,231.72
Rental-Sound Equipment:	
HM Associates	\$ 28,822.56

OTHER EXPENSES (Continued)

	Amount
Repair and Maintenance-Building:	
Arakaki Electric, Inc.	14,093.67
Hattori Construction Company	17,948.00
Metro Builders	9,460.00
Hiroshi Okada	<u>80.00</u>
	\$ 41,581.67
Contract Payments:	
Legislative Reference Bureau	38,000.00
Okumura Takushi Funaki & Wee	<u>12,025.21</u>
	\$ 50,025.21
Payroll Taxes:	
First Hawaiian Bank	4,478.09
State Employees' Retirement System	<u>1,255.02</u>
	\$ 5,733.11
Miscellaneous:	
Director of Finance	29.00
Honolulu Advertiser	16.20
Honolulu Star-Bulletin	12.55
Kalaheo Nurseries	78.00
Liberty House	50.00
Queen Kapiolani Hotel	72.00
Trophy House	537.68
Other	<u>502.65</u>
	\$ 1,298.08

INDEX

NOTE: This is an index to the materials contained in the Journal and Documents sections of this volume, and has been indexed according to general subject matter. Frequent references are made to committee reports, communications and other documents because much of the substantive discussion of important issues before the Convention is to be found in these materials. The individual delegate proposals have not been included in this index due to the substantive number and duplication of these documents, and resolutions have only been included where pertinent. A complete index of the resolutions and delegate proposals may be found in the Status section of this book.

The following abbreviations are used in the index:

CP	Committee Proposal
CWR	Committee of the Whole Report
DC	Departmental Communication
GM	Governor's Message
MR	Minority Report
Misc	Miscellaneous Communication
P	Petition
R	Resolution
SCR	Standing Committee Report
SpCR	Special Committee Report

The numbers preceding colons indicate the convention days, numbers following are the pages. The letters fn following a page number indicates the reference is in the footnote on the page.

Access (see Bill of rights)

Addresses to the Convention

Ariyoshi, George R., governor of Hawaii: (GM 1) 1:6-8, 1035-1037
Paty, William W., Jr., president of Convention: 1:13-14; 65:518-519
Pulham, Floyd W., temporary chairman of Convention: 1:1-2

Adverse possession (see Quieting title)

Agriculture (see also Public lands, use for farm and home ownership)

preservation and protection of lands for: (SCR 77) 687-688, (CWR 18) 60:435, 439-445, (SCR 100) 61:463, 731-733, (CP 17) 829-830
use of lands for local/export production: (CWR 18) 60:443-445

Apo v. Dillingham Investment Corporation:
(CWR 12) 51:279, 281, 283

Appellate court (see Judiciary)

Apportionment, for board of trustees for Office of Hawaiian Affairs: (SCR 59) 645, (CWR 13) 1017, 1018
(see also Reapportionment)

Appropriations (see Taxation and finance)

Argersinger v. Hamlin: (SCR 69) 672

Ashford, In re: (SCR 84) 61:453

Attorney general (see Executive)

Auditor, legislative: (SCR 66) 660-661, (CP 14) 668, 825

Bill of rights

access

to government information: (R 23) 53:314, 58:355-366, 532-533

to shorelines (see Public lands)

traditional rights of (see Hawaiian affairs, traditional and customary rights)

accused, rights of: (SCR 69, CP 15) 671-676, 825-827, (CWR 15) 1023-1024, (SCR 96) 718-719

due process and equal protection: (SCR 69, CP 15) 671-676, 825-827, (SCR 96) 718-719

elderly, right to economic security (see Elderly)

equal rights amendment: (R 4) 8:46, 520-521

freedom of speech and press: (SCR 69, CP 15) 671-676, 58:354-366, 825-827; (R 51) 64:489, 556

grand jury

independent counsel for: (SCR 69, CP 15) 58:353-354, 671-676, 825-827

retention of: (R 6) 9:56, 521

"insanity" defense: (R 25) 55:320, 63:484-485, 64:491-497, 534

jury service: (SCR 69, CP 15) 671-676, 825-827

marijuana: 58:357-358, 362-366

news sources, protection (shield law): (SCR 69) 676

privacy, right to: (SCR 69, CP 15) 58:354-366, 671-676, 825-827, (CWR 15) 1023-1024

public services, right to continuity of (see Public services)

quieting title (see Quieting title)

right to die: (R 16) 42:215, 529, (SCR 106) 62:466-467, 780-781

sunshine and access principles, codification of: (R 23) 53:314, 58:355-366, 532-533

traditional Hawaiian rights of access (see Hawaiian affairs)

- trial by jury, right of: (SCR 69, CP 15) 671-676, 825-827
voting right, multilingual ballot requirement (see Elections)
- Binding arbitration (see Collective bargaining)
- Bishop v. Mahiko: (CWR 18) 1026
- Bonds (see Taxation and finance)
- Boundaries, state
archipelagic waters, inclusion of: (SCR 30) 571-572, (CWR 2) 32:163-164, (CP 2) 785; (CWR 18) 60:430-432
marine resources within (see Conservation and development of resources)
- Buckley v. Valeo: (SCR 72) 680; (SCR 99, R 30) 63:473
- Campaign expenses (see Elections)
- Collective bargaining, in public employment (see also Public services)
binding arbitration in: (CWR 5) 1004, 1005
negotiators for public employers in: (SCR 36) 585, (CWR 5) 1004, 1005; (MR 3) 978, 980
open negotiations: (SCR 36) 585, (CWR 5) 1004, 1005; (MR 3) 978-980
right to strike: (SCR 36) 585, (CWR 5) 1004-1005
- Conflicts of interest, public employee delegates (see Constitutional Convention)
- Conservation and development of resources (see also Agriculture; Cultural resources; Environment)
energy resources, natural (see Energy) fisheries
for public use: (SCR 77) 686-687, (CWR 18) 60:428-430, 433, (CP 17) 829
mariculture operations, state guidelines for: (CWR 18) 60:428-430, 433, (SCR 100) 731-733, (CP 17) 829 (see also Hawaiian education and cultural provisions)
historic sites, preservation (see Historic preservation)
land banking (see Public lands)
marine and ocean resources, management and control: (SCR 77) 686-687, (CWR 18) 60:428-430, 432-433, (CP 17) 829
shorelines, public access to: (CWR 18) 60:436-439
water resources management (see Water resources)
- Constitutional Convention
addresses (see Addresses to the Convention)
appropriations for
convention expenses: (GM 2) 6:35, 1037-1038
media coverage: (GM 1) 1:7, 1036; (GM 3) 9:54, 1038
budget: 6:36, (SCR 9) 10:64-67, 559-560, (Misc 2) 11:75, 1043; (R 8) 17:103, 522, (SCR 24) 25:137, 26:140, 563-564; 64:505-506
committee assignments: 1:15-20
conflicts of interest by public employee delegates: (R 9) 26:139-140, 522-523
delegates
credentials: (SpCR 1) 1:2-5, 1028-1030
oath of office: 1:6
ethics code for
administration: (SCR 26) 565-567, (SCR 43) 597-598, (CP 1) 784-785
adoption: (SpCR 2) 7:39, 8:48-52, 1031-1034
facilities and equipment: (SCR 34) 578, (CWR 4) 1002, (SCR 48) 610-611, (CP 4) 788; (R 2) 1:8, 520
future conventions
convening not less than 5 months prior to next general election: (SCR 34) 578, (CWR 4) 1002, (CP 4) 788
election of delegates, legislative mandates: (SCR 34) 577-579, (CWR 4) 1002, (SCR 48) 42:216, 610-611, (CP 4) 788
submission of question to electorate: (SCR 34) 576-579, (CWR 4) 1002, (SCR 48) 610-611, (CP 4) 788
officers and employees: 1:9-15
pre-convention meetings, organization: 1:1-2, 64:500
rules of Convention
adoption of: (R 1) 1:8, 520
amendments and clarifications of: 29:155-156, (R 11) 30:158, 62:467, 63:468-469, 485, 64:490, 523-527; 36:181-185, (SCR 54, R 15) 42:215, 43:220-222, 529, 627-628; (R 21) 50:267; (R 31) 61:450-451, 546-547
scheduling of Sunday meetings: (R 12) 32:161, 40:211, 41:214, 43:221, 61:460, 527
signing ceremony: 65:519
submission of amendments to electorate (see Constitution, State)
"sunshine" policy, request for: (P 1) 30:157-158, 1044-1045
- Constitutional convention, national: 48:260-262; (R 27) 59:370, 535-536
- Constitutional revision commission: (SCR 34) 579, (CWR 4) 1002
- Constitution, State
amendments and revisions
as proposed by Convention
delegate proposals, deadline for: (R 5) 8:46, 521, (SCR 11) 10:59-61, 11:72-75, 560-561; (DC 1) 8:52-53, 9:58, 1039
for submission to electorate: (SCR 99, R 30) 63:469-482, 64:490-491, 497-499, 65:518-519, 537-546, 720-731 (see also Elections)
technical changes as necessary after elections: (R 29) 61:450, 536-537, (SCR 103) 62:465, 735-736
to document, provisions for: (SCR 34, CP 4) 30:158, 32:161, 34:168, 576-579, 787-789, (CWR 4) 36:172-181, 1001-1002, (SCR 48) 39:190, 42:215-216, 610-611; (SCR 104) 62:465-466, 736-779
nondiscriminatory terms in: (R 13) 34:167, (SCR 49) 39:190, 40:212-213, 527-528, 611-613; (SCR 78, CP 18) 52:289, 55:320, (CWR 17) 58:367, (SCR 94) 61:460, 717-718, 831-837
phraseology, consideration by style committee: (R 22) 52:288, 54:316-317, 532

- plain language in: (R 3) 7:41, 520,
(SCR 17) 15:92, 562; (CWR 4) 1001-1002,
36:178-181, (CP 4) 787-789
- Contracting for public services (see Public services)
- Council on revenues (see Taxation and finance)
- Counties (see Local government)
- County of Hawaii v. Sotomura: (SCR 84) 61:453
- Cultural resources, preservation and development: (SCR 36) 584, (CWR 5) 1004, 39:203-206, (SCR 62) 650, (CP 5) 789-790
- Damon v. Hawaii: (SCR 57) 639
- Death with dignity (see Bill of rights, right to die)
- Debt limitations (see Taxation and finance)
- Disqualification for conviction of conspiracy (see Public officers and employees)
- District courts (see Judiciary)
- Education (see also University of Hawaii)
board of
apportionment: (SCR 39) 588-589, 591, (CWR 6) 42:217, 218, (SCR 67) 669-670, (CP 6) 791-792
district residency requirement: (SCR 39) 588-589, (CWR 6) 42:217, 218, (SCR 67) 669-670, (CP 6) 791-792
local boards of education (two-tiered board): (SCR 39) 589, (CWR 6) 1006, 42:218, (MR 5) 981-983
nonpartisan election: (SCR 39) 588, 591, (SCR 67) 669-670, (CP 6) 791-792
powers, overriding of gubernatorial veto: (SCR 39) 589, 591, (CWR 6) 1006-1007, 42:217, (SCR 67) 669-670, (CP 6) 791-792
terms; limits: (SCR 39) 588-589, 591, (CWR 6) 1005-1006, (SCR 67) 669-670, (CP 6) 791-792
discrimination, based on sex, prohibition: (SCR 39) 587, 591, (CWR 6) 42:218, (CP 6) 791
Hawaiian education program: (SCR 39) 590-592, (CWR 6) 42:218, (CP 6) 791-792; (SCR 57, CP 12) 637-638, 811-812, (CWR 12) 1016, 51:273-274, (SCR 86) 708
libraries, public: (R 14) 39:190, 528-529; (SCR 64) 45:226, 46:232, 65:1-652; (SCR 39) 587-588, (CWR 6) 1007, 42:218
private education, funding: (SCR 39) 588
- Eisenstadt v. Baird: (CWR 15) 1024
- Elderly
domiciliary care, provision and payment by state: (SCR 36) 581, (CWR 5) 39:197-200
economic security, right to: (SCR 36) 584, (CWR 5) 1004, (CP 5) 790
- Elections
ballots
for constitutional amendments proposed by Convention: (SCR 99, R 30) 63:469-478, 483, 64:497-499, 65:518-519, 537-546, 720-724
for initiative proposals (see Initiative)
multilingual requirements: (R 33) 62:467, 547-548, (SCR 108) 64:486-487, 781-783
"none of the above" option on: (CWR 16) 59:409-414, 1024-1025, (SCR 98) 61:462, (CP 16) 827-828
campaigns
contribution limitations: (SCR 72) 678-681, (SCR 98) 720, 63:473-474, (CP 16) 827-828
public financing: (SCR 72) 678-681, (SCR 98) 719-720, 63:473, (CP 16) 827-828
spending limits: (SCR 72) 678-681, (SCR 98) 63:473, (CP 16) 827-828
limitations on terms of office (see Education, board of; Executive)
nonpartisan, for board of education (see Education)
primary
blanket: (SCR 72) 681; (MR 13) 996
open: (SCR 72) 681, (CWR 16) 1025, (CP 16) 827, 828; (MR 13) 996
when held: (SCR 72) 677-678, (CP 16) 827-828
reapportionment (see Reapportionment)
resignation of elected officers before running for another office: (SCR 72) 678, (CP 16) 827
voter education and information
on constitutional amendments proposed by Convention: (SCR 99, R 30) 63:469-470, 479-482, 64:490-491, 497, 65:518, 537-546, 720-731; (R 32) 61:464, 63:480, 64:489-490, 547, (SCR 109) 64:499-500, 783
on initiative proposals (see Initiative)
- Employees' retirement system (see Public officers and employees)
- Energy
nuclear power, restrictions on
construction of nuclear fission power plants: (CWR 18) 60:417-420, 426-427, 1025-1027, (SCR 100) 61:463, 731-733, (CP 17) 831
radioactive waste, storage, disposal and handling of: (CWR 18) 60:418, 420-425, 426-427, 1025-1027, (SCR 100) 61:463, 731-733, (CP 17) 831; (R 35) 62:467, 549
through referendum: (CWR 18) 60:417-420
resources
development of renewable: (SCR 77) 685-690, 60:426, (SCR 100) 731-733, (CP 17) 828-829
natural, conservation and protection of: (SCR 77) 685-690, (SCR 100) 731-733, (CP 17) 828-829
- Environment
environmental rights: (SCR 77) 689-690, (SCR 100) 733, (CP 17) 830
healthful environment
preservation of: (SCR 36) 582-583, (CWR 5) 1003, (CP 5) 789-790
right to sue: (SCR 77) 690, (SCR 100) 733
- Equal rights amendment, support of: (R 4) 8:46, 520-521

- Ethics, code of
 for constitutional convention (see
 Constitutional Convention)
 for public officers and employees
 administration through commissions:
 (SCR 26) 564-568, (CWR 1) 1000,
 (SCR 43) 597-598, (CP 1) 784
 guidelines: (SCR 26) 565-568,
 (CWR 1) 1000, 32:162-163, (SCR 43)
 597-599, (CP 1) 784-785
 judicial exemption: (SCR 26) 566-567,
 (CWR 1) 1000, 32:162, 52:309-310, 311
 news media, financial disclosures by:
 (R 10) 28:143, 523
- Executive
 attorney general
 appointment of: (SCR 32) 575, 576,
 (CWR 3)
 election: (SCR 32) 575-576, (CWR 3)
 39:190-193; (MR 2) 975-977
 merit selection by commission:
 (SCR 32) 575, (CWR 3) 36:172, 39:193-
 39:193-195
 executive and administrative offices and
 departments
 grouping according to common purposes
 and functions: (SCR 51) 613-616,
 (CP 9) 801-802
 principal departments, maximum
 number: (SCR 51) 614-616, (CP 9)
 801-802
 governor
 appointment powers in
 judicial selections: (SCR 52)
 620-621, (CWR 10) 1012, 1013,
 1015, 52:289-290, (CP 10) 803-804;
 (MR 10) 989-991, 992
 members of judicial selection com-
 mission: (CWR 10) 1013, 52:299-
 304, (SCR 84) 61:454, (CP 10)
 703, 805
 limitation of consecutive terms:
 (SCR 32) 573, (SCR 61) 648-649,
 (CP 3) 786-787
 lieutenant governor
 abolishment of office: (SCR 32) 574,
 (CWR 3) 39:195
 appointment of: (SCR 32) 574
 assignment of executive power and
 functions to: (CRW 3) 39:195
 duties as secretary of state: (MR 1)
 974-975
 election: (SCR 32) 574, (CWR 3)
 39:195
 limitation of consecutive terms:
 (SCR 32) 573-575, (SCR 61) 46:231,
 648-649, (CP 3) 786-787
- Financial assistance, public (see Public
 assistance)
- Fisheries (see Conservation and development
 of resources)
- Governor (see Executive)
- Grand jury (see Bill of rights)
- Griswold v. Connecticut: (CWR 15) 58:359,
 1024
- Growth management (see Population growth,
 state)
- Handicapped, care of (see Public health)
- Hawaiian affairs
 available lands, held as public trust:
 (SCR 59) 643-644, (CWR 13) 51:285,
 1017-1018, (CP 13) 812-813
 Hawaiian Affairs, Office of
 board of trustees, responsibilities:
 (SCR 59) 644-646, (CWR 13) 51:285,
 1017-1018, (SCR 87) 709-710,
 61:458, (CP 13) 813
 establishment of public trust
 entity: (SCR 59) 644-646, (CWR 13)
 51:285, 1017-1019, (SCR 87) 61:458,
 709, (CP 13) 812-813
 "native Hawaiian," definition: (SCR 59,
 CP 13) 643-644, 646-647, (CWR 13)
 1017-1018, 812-814
- Hawaiian artifacts: (SCR 58, R 17)
 51:269-271, 641-643, 529-530
- Hawaiian education and cultural provisions
 Hawaiian as state language: (SCR 57)
 638, (CWR 12) 1016, 51:273-274,
 (SCR 86) 708, (CP 12) 811-812
 (see also Hawaiian language, official)
 Hawaiian education program: (SCR 57)
 637-638, (CWR 12) 1016-1017, 51:273-
 274, (SCR 86) 708, (CP 12) 811-812
 (see also Education)
 traditional and customary rights:
 (SCR 57) 638-640, (CWR 12) 1016,
 51:274-278, 279-281, 283 (SCR 86)
 708-709, (CP 12) 811-812
 konohiki fishing rights: (SCR 57)
 639-640; (CWR 18) 60:428-429, 433
- Hawaiian home lands
 amendments to program: (SCR 56) 628-
 637, (CWR 11) 1015, 51:271-273,
 (SCR 85) 704-708, 61:456-457, (CP 11)
 807-811
 definitions: (SCR 56) 629, 633
 departmental budget: (SCR 56) 630,
 631-632, (CWR 11) 1015
 funding
 through bond sales: (CWR 14)
 55:328, 345, 346-347
 through leasing of lands: (SCR 56)
 628-637, (CWR 11) 1015, 51:272,
 (SCR 85) 704-708, (CP 11) 807-811
 through legislative: (SCR 56)
 629-630
 Hawaiian Homes Commission Act
 amendments to Act: (SCR 56)
 629-630, 633, 634-637, (SCR 85)
 704-711, 61:457, (CP 11) 807-811
 available lands, exchanges for
 private, government lands: (SCR
 56) 631, 633, (CWR 11) 51:272,
 (SCR 85) 706, 707
 legislative funding: (SCR 56) 630,
 (SCR 85) 705, 707
 native Hawaiian lessees, programs:
 (SCR 56) 630, 632, (CWR 11) 51:272-
 273, (SCR 85) 705, 707
 native Hawaiian rehabilitation fund:
 (SCR 56) 633, (CWR 11) 51:272-273,
 (SCR 85) 705, 707
 rehabilitation projects: (SCR 56)
 630, 631, 633
 water control: (SCR 56) 633, (SCR 85)
 707
- Hawaiian language, official: (SCR 57)
 638, (CWR 12) 1016, 51:273-274,
 (SCR 86) 708, (CP 12) 811-812; (SCR 104)
 743-744, 774; (CWR 4) 1002
- Hawaiian Native Claims Settlement Study
 Commission: (R 24) 54:316, 533-534,
 (SCR 89) 56:349, 711-712
- Health (see Public health)
- Healthful environment (see Environment)

- Historic preservation
 artifacts (see Hawaiian artifacts)
 historic places and objects, preservation and development: (SCR 36) 582, 584, (CWR 5) 1004, 39:203-206, (SCR 62) 649-650, (CP 5) 790
 historic sites, destruction by armed forces (see Kahoolawe, return to state)
- Hotel room tax (see Local government)
- Huron Portland Cement Company v. the City of Detroit: (CWR 18) 60:423
- Income tax (see Taxation and finance)
- Information access (see Bill of rights)
- Initiative (see also Elections; Recall; Referendum)
 constitutional: (CWR 16) 59:379
 indirect: (SCR 72) 681-682, (CWR 16) 59:373-403
 financial disclosure: (CWR 16) 59:374, 377, 393
 restrictions: (CWR 16) 59:374, 377, 392-395, 398, 400
 voter education and information: (CWR 16) 59:374, 377, 393-395
- Insanity as a defense (see Bill of rights)
- Intermediate appellate court (see Judiciary)
- Island Airways v. CAB: (CWR 18) 60:431 fn
- Judges and justices (see Judiciary)
- Judiciary
 grand juries (see Bill of rights)
 judicial selection commission
 candidate selection procedures: (SCR 52) 619-620, 627, (CWR 10) 1012, 1013, 52:289-290, (CP 10) 702, 703, 803-804; (MR 10) 989-991, 992, 993
 composition and terms of office: (SCR 52) 624-625, 626, (CWR 10) 1013-1014, 1015, 52:299-304, 312, (SCR 84) 61:453-454, 455, 701, (CP 10) 703, 704, 805-806, 807; (MR 10) 991, 992
 disqualification of members: (SCR 52) 625-626, (CWR 10) 1014, 52:304-305, (CP 10) 806; (MR 10) 991, 993
 prohibitions: (SCR 52) 624, 625, 626, (CWR 10) 305-311, (CP 10) 704, 806; (MR 10) 990, 992
 rules and procedures: (SCR 52) 625, 626-627, (CWR 10) 1014-1015, 52:312, (SCR 84) 701, (CP 10) 704, 806-807; (MR 10) 991
- justices and judges
 discipline: (SCR 52) 623-624 (see also supreme court)
 election of: (SCR 52) 621, (CWR 10) 1013
 ethics code for: (SCR 26) 566-567, (CWR 1) 32:162, 52:309-310, 311, 1000; (CWR 10) 1014
 lay justices and judges: (SCR 52) 622, (CWR 10) 52:290-298, (CP 10) 703, 804
 prohibitions: (SCR 52) 622
 qualifications: (SCR 52) 621-622, (CP 10) 702-703, 804
 salary commission: (SCR 52) 622-623, (CWR 10) 1013, (CP 10) 703, 804-805
- terms of office: (SCR 52) 622, 623, 627, (CWR 10) 1013, 1015, (SCR 84) 701, (CP 10) 703, 704, 804, 807
- power
 district courts: (SCR 52) 617, 618-619, 621 (CWR 10) 1012, 1013, (CP 10) 702, 803
 intermediate appellate court: (SCR 52) 617-619, (CWR 10) 1012, (SCR 84) 61:454, 455, 456, (CP 10) 702, 803; (MR 9) 987-989
 time limits on cases, establishment of: (CWR 10) 1012
- supreme court
 chief justice, duties and powers: (SCR 52) 619, 620-621, (CWR 10) 1012, 1013, 1014, 52:303, (SCR 84) 61:454, (CP 10) 702, 703, 803, 804, 805
 disciplinary power: (SCR 52) 623-624, (CWR 10) 1013, (SCR 84) 61:454, 701, (CP 10) 703, 805; (MR 10) 992-993
 organization, panels: (SCR 52) 617-619, (CWR 10) 1012; (MR 9) 987-989
 time limits on cases: (SCR 52) 617-618, (CWR 10) 1012; (MR 9) 988
- Jury service (see Bill of rights)
- Kahoolawe, return to State: (SCR 58, R 17) 51:269-271, 641-643, 529-530
- Kalawao county (see Local government)
- Katz v. United States: (CWR 15) 1024
- Kirby v. Luhrs: (SCR 99, R 30) 63:475
- Land banking (see Public lands)
- Land, foreign investments in: (CWR 18) 60:434-435
- Lands, agricultural (see Agriculture)
- Land title actions: (CWR 12) 1016-1017 (see also Quieting title)
- Land use
 county powers (see Local government)
 Land Use Commission: (CWR 7) 46:235-241; (CWR 18) 60:439-443
- Languages, Hawaiian and English (see Hawaiian language, official)
- Law of the Splintered Paddle: (SCR 36) 583, (SCR 62) 46:232, 650-651, (CP 5) 790
- Legislature
 bicameral, retention of: (R 7) 9:56, 521, (SCR 28) 27:141, 28:144-153, 569-571; (SCR 46) 600-601, (CP 8) 605, 794; (MR 6) 983-985
- bills
 cut-off date for introduction of: (SCR 46) 603, (SCR 81) 698, (CP 8) 607, 796
 3rd reading, 48-hour requirement before: (SCR 46) 603, (CP 8) 607, 796
 fiscal management: (CWR 14) 55:325-344
 open meetings of committees: (SCR 46) 603, (CP 8) 607, 796

- powers
 in appointing members of judicial selection commission: (CWR 10) 1013, 1014, 1015, 52:299-304, (CP 10) 703, 805
 in enacting legislation for counties: (R 19) 45:226, 531; (SCR 42) 593-594, (CWR 7) 46:233
 in issuance of bonds: (CWR 14) 1019, 55:322-325, 347-348, (SCR 93) 61:459
 reapportionment of (see Reapportionment)
 salary
 commission on
 expanded duties: (MC 7) 985-986
 recommendations by: (SCR 46) 602-603, (CWR 8) 48:256-259, (SCR 81) 697, (CP 8) 606, 794-795
 minimum recommended: (CWR 8) 48:255-260
- senate
 elections: (SCR 46) 604-605, (CP 8) 609, 801
 placement of holdover senators: (CWR 8) 1009-1011, (SCR 81) 698-699, (CP 8) 799
 powers of consent in judicial selections: (SCR 52) 619, 620-621, (CWR 10) 1012, 1013, 52:289-290, (CP 10) 702, 803-804; (MR 10) 989-990, 992
 terms, staggered: (SCR 46) 604-605, (CWR 8) 1010-1011, (CP 8) 799-800
- sessions
 biennial: (MR 7) 986
 recess, mandatory: (SCR 46) 603, (CP 8) 606, 795
 unicameral legislature (see bicameral, retention of)
- Libraries (see Education)
- Lieutenant governor (see Executive)
- Local government
 land use, county powers: (SCR 42) 596-597, (CWR 7) 1009, 46:235-241, 248-249, (CP 7) 793; (CWR 16) 59:406-407; (CWR 18) 60:439-443
 mandated programs, transfer: (SCR 66) 659-660, (CWR 14) 1023, (CP 14) 669, 825; (SCR 104) 741, 764
 political subdivisions, powers
 allocation by State: (SCR 42) 593-594, (CWR 7) 46:233; (R 19) 45:226, 531
 County of Kalawao, exception: (SCR 42) 593, (CWR 7) 46:233, 1008
 powers of appointment: (CWR 10) 52:299-303
 state revenue-sharing: (SCR 66) 663, (CWR 14) 1023
 taxation and finance
 excise tax, county authority: (SCR 42) 595-596, (CWR 7) 1008, 46:233-234
 hotel room tax, county powers: (CWR 7) 46:234-235
 issuance of bonds, by county: (SCR 66) 658, (CWR 14) 55:321,322, 347-348, (CP 14) 817-818
 real property tax, county powers: (SCR 42) 594-597, (CWR 7) 1008-1009, 46:241-248, (CP 7) 793-794
- Loving v. Virginia: 58:359
- Marijuana (see Bill of rights)
- Marine resources (see Conservation and development of resources)
- McBryde v. Robinson: (CWR 12) 51:275
- Medical care (see Public health)
- Morton v. Mancari: (CWR 13) 1019
- Motto, state: (SCR 30) 572, (SCR 44) 599, (CP 2) 786; (CWR 4) 1001, (SCR 48) 42:216, 610-611, (CP 4) 787
- Murray v. Waite: (DC 3) 64:498, 1041
- National constitutional convention (see Constitutional convention, national)
- Natural resources (see Conservation and development of resources)
- Newspaper editors and publishers, financial disclosures by (see Ethics, codes of)
- New York Times v. Sullivan: (CWR 15) 58:355
- Nondiscriminatory terms (see Constitution, State)
- "None of the above" option (see Elections)
- Nuclear power (see Energy)
- Ocean and marine resources (see Conservation and development of resources)
- Olmstead v. U.S.: (SCR 69) 58:354, 674
- Open primary (see Elections)
- Palama v. Sheehan: (SCR 84) 61:453
- Plain language requirement
 in Constitution: (R 3) 7:41, 520, (SCR 17) 15:92, 562
 in government writing: (CWR 4) 1002, 36:178-181, (CP 4) 788
- Population growth, state and management of: (SCR 36) 583, (CWR 5) 1003-1004, (CP 5) 790
- Post-audits (see Taxation and finance)
- Preamble: (SCR 34) 577, (CWR 4) 1001, (SCR 48) 42:215-216, 610-611, (CP 4) 787
- Pre-auditor (see Taxation and finance)
- Press, freedom of (see Bill of rights)
- Primary elections (see Elections)
- Privacy, right to (see Bill of rights)
- Proposals, deadline for delegates (see Constitution, State, amendments and revisions)
- Public assistance
 elderly, assistance for (see Elderly)
 financial assistance, state provision for (SCR 36) 581-582, (SCR 62) 649, 650, (CP 5) 789
 medical assistance and social services, eligibility for: (SCR 36) 581-582, (CWR 5) 39:200-203, (SCR 62) 649, 650, (CP 5) 789

- Public health
 definition: (CWR 5) 1003
 protection and promotion of, state duty:
 (SCR 36) 581, (CWR 5) 1003, 39:206-210,
 (CP 5) 789
 state programs and services
 cultural resources: (SCR 36) 584,
 (CWR 5) 1004, 39:203-206, (SCR 62)
 650, (CP 5) 790
 economic security of elderly (see
 Elderly)
 health care costs: (R 28) 59:370,
 536, (SCR 105) 62:466, 63:483-484,
 779-780
 health care services, for handicapped:
 (SCR 36) 581, (CWR 5) 39:196-200,
 (SCR 62) 649, 650, (CP 5) 789
 healthful environment (see Environment)
 population growth, planning and
 management: (SCR 36) 583, (CWR 5)
 1003-1004, (CP 5) 790
 public safety (see Public safety)
 public services, continuity of:
 (SCR 36) 585, (CWR 5) 1004-1005,
 (MR 4) 980-981
 public sightliness and good order
 (see Public sightliness)
- Public lands (see also Hawaiian affairs;
 Hawaiian home lands; Historic preserva-
 tion)
 Kahoolawe, use of (see Kahoolawe,
 return to state)
 land banking: (SCR 77) 689, (CWR 18)
 60:433-436, (SCR 100) 731-733,
 (CP 17) 830
 shorelines, access to: (CWR 18)
 60:436-439
 use for farm and home ownership:
 (SCR 59) 647, (CWR 13) 51:285;
 (CWR 18) 445-446
- Public officers and employees
 code of ethics for (see Ethics, code
 of)
 collective bargaining, for public
 employees (see Collective bargain-
 ing; Public services)
 disqualification for disloyalty
 conviction: (SCR 34) 577, (CWR 4)
 1002, (CP 4) 788
 elected officials
 recall of (see Recall)
 resignation before running for
 another office: (SCR 72) 678,
 (CP 16) 827
 terms of office, limitations (see
 Education, board of; Executive)
 employees' retirement system: (SCR 34)
 577, (CWR 4) 1001, 36:173-178; (R 18)
 45:226, 530-531
- Public safety, policy statement: (SCR 36)
 583, (SCR 62) 650-651, (CP 5) 790
 (see also Law of the Splintered Paddle)
- Public services, right to continuity of:
 (SCR 36) 585, (CWR 5) 1004-1005; (MR 4)
 980-981
- Public sightliness and good order: (SCR
 36) 582, (CWR 5) 39:203-206, (SCR 62)
 649-650, (CP 5) 789-790
- Quieting title: (SCR 57) 640-641, (CWR
 12) 1016-1017, 51:274-284, (SCR 86)
 708-709, (CP 12) 811-812
- Radioactive waste, regulation and control
 (see Energy)
- Real property tax (see Local government)
- Reapportionment (see also Apportionment)
 board of education: (SCR 39) 588-589,
 591, (CWR 6) 42:217, 218, (SCR 67)
 669-670, (CP 6) 791-792
 congressional: (SCR 46) 601, 604,
 (CP 8) 608, 609, 798, 800
 legislative: (SCR 46) 601, 603-605,
 (CWR 8) 1009-1011, (SCR 81) 698-699,
 (CP 8) 607-609, 797-801; (MR 8)
 986-987
- Recall, of elected officials: (SCR 72)
 682-683, (CWR 16) 59:407-408; (MR 14)
 997-998
- Referendum: (SCR 72) 681, 682, (CWR 16)
 59:403-407; (MR 15) 998-999
 for nuclear power plant construction:
 (CWR 18) 60:417-420
 in land use planning by counties:
 (CWR 16) 59:405-407
- Resignation of elected officials (see
 Elections)
- Resources
 cultural (see Cultural resources)
 natural (see Conservation and develop-
 ment of natural resources)
- Retirement, state system (see Public
 officers and employees)
- Revenue bonds (see Taxation and finance)
- Revision and amendment (see Constitution,
 State)
- Reynolds v. Sims: (MR 6) 983
- Roe v. Wade: (CWR 15) 58:359, 1024
- Sanborn, In re: 61:453
- Santa Clara Pueblo, et al. v. Julia
 Martinez, et al.: (CWR 13) 1019
- Schools (see Education)
- Secretary of state (see Executive)
- Senate (see Legislature)
- Social services, assistance (see Public
 assistance)
- Stanley v. Georgia: 58:359
- State ex rel. Amemiya v. Anderson:
 (MR 12) 995
- State government
 electronic communication/information
 network: (R 23) 53:314, 58:355-366,
 532-533
 plain language writing requirement in
 (see Plain language requirement)
- State v. Barber: (DC 3) 64:498, 1041
- State v. Kantner: (SCR 69) 674
- State v. Roy: (SCR 69) 674
- Suffrage (see Elections)
- "Sunshine" provisions (see Bill of rights,
 Constitutional Convention; Legislature,
 open meetings)

Supreme court (see Judiciary)

Taxation and finance

appropriations for private purposes prohibited: (SCR 66) 664, (CP 14) 664, 815
 auditor, legislative: (SCR 66) 660-661, (CP 14) 668, 825
 bonds, debt limitations
 debt limit of state: (SCR 66) 654-656, (CWR 14) 1019-1020, 55:325-344, 346-347, (CP 14) 664-667, 815-818
 definitions, issuance of indebtedness: (SCR 93) 714-715, (CP 14) 816-817
 exclusions: (SCR 66) 656, (CWR 14) 1019-1020, (SCR 93) 715-716, (CP 14) 819-822, 665-667
 formula: (SCR 66) 654-656, (CWR 14) 1019-1020, (CP 14) 815-816
 general obligation bonds
 issuance: (CWR 14) 1019, (SCR 93) 61:459
 term: (CWR 14) 55:345
 special purpose revenue bonds: (SCR 66) 656-658, (CWR 14) 1020-1021, 55:322-325, 348, (SCR 93) 61:459, 715, (CP 14) 666, 818-819; (MR 12) 994-995
 budget, amendments to: (SCR 66) 660, (CP 14) 667, 822-823
 council on revenues, establishment: (SCR 51) 613-615; (SCR 66) 661-662, (SCR 93) 713, (CP 14) 663, 814-815
 excess revenues, disposition: (SCR 66) 663, (CWR 14) 1022, (CP 14) 814
 expenditure ceiling: (SCR 93) 61:459, 716, (CP 14) 667-668, 823-824; (MR 11) 993-994
 income taxation, conforming of state law to federal amendments: (SCR 66) 662-663, (CP 14) 663-664, 815
 lapsing: (SCR 66) 658, (CWR 14) 1021-1022, (SCR 93) 716-717, (CP 14) 667-668, 824-825
 real property tax (see Local government)

state spending limit: (SCR 66) 658-660, (CWR 14) 1022, (CP 14) 668, 825
 tax review commission: (SCR 66) 662, (SCR 93) 714, (CP 14) 663, 815

Time v. Hill: (CWR 15) 58:354

Traditional and customary rights (see Hawaiian education and cultural provisions)

Unicameral legislature (see Legislature, bicameral)

University of Hawaii
 board of regents
 powers: (SCR 39) 586-592, (CWR 6) 1005-1008, 42:217, (SCR 67) 669-670, (CP 6) 792-792
 student and faculty membership: (SCR 39) 590
 (see also Education)

Voting (see Elections)

Water resources (see also Conservation and development of resources)
 agency for: (SCR 77) 688-689, (SCR 100) 732, (CP 17) 830
 as a public trust: (SCR 77) 688-689, (CWR 18) 1026, (CP 17) 830
 conservation, protection and control of: (SCR 77) 685-686, (CWR 18) 1026, (SCR 100) 732-733, (CP 17) 828-829
 on Hawaiian home lands: (SCR 56) 633, (SCR 85) 707

Welfare (see Public assistance)

William v. Florida: (CWR 15) 1023