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APPENDIX “A”

Proceedings of the Constitutional Convention of Hawaii
of 1968
Volume I

Standing Committee Report No. 58
Supplemental Standing Committee Report No. 58

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Proceedings of the
CONSTITUTIONAL CONVENTION
OF HAWAII
Of 1968

Volume I

Proceedings of the
**CONSTITUTIONAL
CONVENTION OF HAWAII**
Of 1968

— VOLUME I —

JOURNAL AND DOCUMENTS

Published under the supervision of the
ADMINISTRATOR OF THE CONVENTION

State of Hawaii

HONOLULU, HAWAII
1973

CERTIFICATE

We hereby certify that the proceedings of the Hawaii State Constitutional Convention of 1968 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:

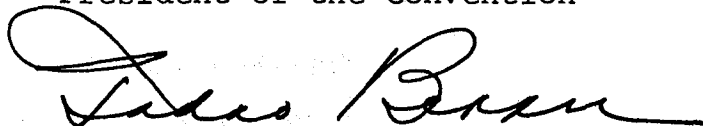
Volume I consisting of the official journal and documents of the Convention;

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 222, Session Laws of Hawaii, 1967.



President of the Convention



Secretary of the Convention

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.

Section 18. Private property shall not be taken or damaged for public use without just compensation.

STANDING COMMITTEE REPORT NO. 56

Your Committee on Accounts and Printing begs leave to report that the Committee has printed and distributed Comm. Wble. Rept. Nos. 3, 4 and 5, and Comm. Wble. Rept. No. 6 and Comm. Prop. No. 2, RD. 1.

Signed by all members of the Committee.

STANDING COMMITTEE REPORT NO. 57

Your Committee on Accounts and Printing begs leave to report that the Committee has printed and distributed Stand. Comm. Rept. No. 55 and Comm. Prop. No. 11.

Signed by all members of the Committee.

STANDING COMMITTEE REPORT NO. 58 (Majority)

Your Committee on Legislative Apportionment and Districting to which were referred several proposals, all relating to apportionment and districting and concerning Sections 2, 3 and 4 of Article III of the Constitution of the State of Hawaii, begs leave to submit herewith Committee Proposal No. 12 attached hereto, the full committee report covering said committee proposal to be submitted forthwith as a supplement to this committee report.

Signed by all members of the Committee. Delegates Kawasaki, Morioka and Pyo did not concur in part.

COMMITTEE PROPOSAL NO. 12

RELATING TO LEGISLATIVE APPORTIONMENT AND DISTRICTING.

Resolved, That the following be agreed upon as amending Sections 2, 3 and 4 of Article III and certain transitional provisions of Article XVI of the State Constitution:

THE LEGISLATURE 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 senatorial districts and the number of senators to be elected from each shall be as set forth in the Schedule.

House of Representatives; Composition

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

Reapportionment

Section 4.1. *Reapportionment Year*. The year 1973 and every sixth year thereafter shall be reapportionment years.

Section 4.2. *Reapportionment Commission*. On or before March 1 of each reapportionment year and whenever reapportionment is required by court order, a legislative reapportionment commission shall be constituted. 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 select one of their number for each house and the two so selected each shall designate two members of the commission. None of the eight members so selected shall be eligible to become a candidate for election to either house of the legislature in either of the first two elections under any such reapportionment plan. 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 appointing authorities for the eight members of the commission shall, at the time of the commission appointments, also appoint one person from each basic island unit to an apportionment advisory council for that island unit. Such council shall remain in existence during the life of the commission and shall serve in an advisory capacity to the commission for matters affecting its island unit.

Any vacancy in the commission or a council shall be filled within fifteen days in the same manner in which such position was originally filled. Council and commission members not appointed within the time specified shall be appointed 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 120 days from the date on which its members are certified, the commission shall file with the chief election officer a final reapportionment plan which shall become law after publication as provided by law.

Members of the commission shall hold office until the reapportionment plan becomes effective or until such time as may be provided by law.

Commission members 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 shall furnish, under the direction of the commission, all necessary technical services. The legislature shall appropriate funds to enable the commission to carry out its duties.

Section 4.3. 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.

Section 4.4. Apportionment among Basic Island Units. The commission shall allocate the total number of members of each house 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 such 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.

Section 4.5. Minimum Representation for Basic Island Units. 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 this article, 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.

Section 4.6. Apportionment within Basic Island Units. Upon the determination of the total number of members of each house to which each basic island unit is entitled, the commission shall apportion the members among the districts therein and shall redraw election district lines where necessary in such manner that the average number of registered voters per member in each district is as nearly equal 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 one person or political faction.

3. Except in the case of districts encompassing more than one island, districts shall be contiguous.

4. Insofar as is practicable, districts shall be compact.

5. Insofar as 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. Representative districts to the extent practicable shall be wholly included within senatorial districts.

7. Multi-member districts in either house shall not elect more than four members.

8. Submergence of an area in a larger district wherein substantially different socio-economic interests predominate shall be avoided insofar as is practicable.

Section 4.7. Continuance in Office of Members of the Senate. As a part of a reapportionment plan the commission shall allocate among the districts the incumbent senators whose terms of office will not expire until the second general election following the taking effect of the plan. Notwithstanding any other provision of this Constitution, incumbent senators shall be allowed to complete their terms as senators of the districts to which they are allocated, irrespective of the districts in which they reside.

Section 4.8. 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.

TRANSITIONAL PROVISIONS

Section 21. Senators elected to four-year terms in the 1968 general election shall in every case continue to serve in the district bearing the same number as that in which they were elected until the expiration of their term.

Section 22. As provided in Section 2 of Article III, until the next reapportionment the senatorial districts and the number of senators to be elected from each shall be as follows:

Districts are as shown on the maps posted in the Legislative Apportionment and Districting room in Convention Hall. Legal description can be found in Exhibit A of Supplementary Standing Committee Report No. 58.

Section 23. As provided in Section 3 of Article III, until the next reapportionment the representative districts and the number of representatives to be elected from each shall be as follows:

Districts are as shown on the maps posted in the Legislative Apportionment and Districting room in Convention Hall. Legal description can be found in Exhibit A of Supplementary Standing Committee Report No. 58.

Section 24. Effective for the first general election following ratification of Section 4.5 of Article III and until the next reapportionment, one senator shall be added to the twenty-five members of the senate as provided and with the effect set out in Section 4.5 of Article III hereof and such senator shall be allocated to the basic island unit of Kauai.

Section 25. The senatorial and representative districts and the numbers to be elected from each as set forth in the schedules shall become effective for the first general election following ratification of the amendment and to Sections 2 and 3 of Article III.

Section 26. The amendments to Article III, Sections 2, 3 and 4, proposed by the Constitutional Convention of 1968, shall upon ratification supersede the provisions of Senate Bill No. 1102 of the Regular Session of 1967 even if the latter shall also be ratified.

SUPPLEMENTARY STANDING COMMITTEE REPORT NO. 58 (Majority)

Your Committee on Legislative Apportionment and Districting has previously submitted its proposal and report and submits herewith a supplementary report explaining in detail its activities and its proposal.

Your Committee has performed two separate functions. First, it has prepared plans for the present apportionment and districting of the State, and has proposed Sections 21, 22, 23 and 25 of Article XVI, and an amendment for Section 2 of Article III of the Constitution. Second, it has provided for periodic future reapportionment and redistricting and has proposed an amended Section 4 of Article III and Sections 24 and 26 of Article XVI of the Constitution.

This report presents an explanation of the Committee's actions in essentially the same order they will be presented to the Convention.

I. PROPOSALS REFERRED TO COMMITTEE

The following proposals, all relating to apportionment and districting and concerning portions of Sections 2 and 3 and all of Section 4 of Article III of the Constitution of the State of Hawaii, were submitted to

the Committee: 38, 78, 102, 157, 164, 165, 167, 175, 180, 186, 187, 201, 215, 218, 225, 233, 243, 248, 251, 254, 257, 262, 268, 274, 278, 299, 305, 310 and 312.

II. PERSONS EXPRESSING VIEWS TO COMMITTEE

All committee meetings were open to the public and during the extensive public hearings conducted, the following persons made known their personal or organization's views:

Dr. Norman Meller, Dr. Stuart Gerry Brown, Mr. Yukio Naito, Mr. James Funaki, Mr. Bert Kanbara, Assistant Attorney General, Mr. Thomas P. Gill, Lieutenant Governor, Mr. Robert Schmitt, State Statistician, Mr. Roy E. King, Chamber of Commerce of Hawaii, Mr. Franklin Y. K. Sunn, Chamber of Commerce of Hawaii, Mr. Ray Girod, Hawaii, Mr. Shoichi Nobohara, Mr. Fred Erskine, Mr. Franklin P. Gomes, Mr. Jack Suwa, Mr. Takeshi Kudo, Mr. S. Nakatani, Mr. James Yamamoto, Mr. Akoni Pule, Mr. Alfred Souza, Maui, Mr. Alvin Amaral, Maui, Mr. Hiroshi Ozaki, Molokai, Mr. William E. Fernandes, Kauai, Mr. Wendell Marumoto, Oahu, Mr. Peter Aduja, Mrs. C. R. Moe, Mr. Moe Kaleo, Mrs. Mabel Silva, Mr. Christian K. Holt, Sr., Mr. Toraki Matsumoto, Mr. Howard Miyake, Mrs. Eureka Forbes, Mr. Edward de Mello, Mr. Sakae Amano, Mr. Tennyson Lum, Mrs. Richard Ike Sutton, Mrs. Richard W. Bond, Jr., Mrs. Joy K. Loveland, Mrs. Iris J. Cullen, Mrs. Georgia Miller, Mr. Bob Freitas, Mr. George Noguchi, Ms. Gerri Madden, Mr. Rick Edwards, Mr. Bill Arballo, Mr. William Willison, Mr. Kengo Nagasako, Mr. Jackson Ah Chen, Ms. Helene Hale, Mr. Robert Yamada, Mr. Lou Pujalet, Rev. Lloyd Evans, Mr. Rex Matsuno, Mr. Richard Penhallen, Mr. Ted Sparrow and Mrs. Beverly Papalimu.

In addition, your Committee has received a written statement from residents of Waianae containing thirty signatures and one from residents of North Kohala containing 413 signatures.

III. PRESENT APPORTIONMENT AND DISTRICTING OF STATE

1. Text of Sections 2 and 3 of Article III with Proposed Changes

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. [The districts, and the number of senators to be elected from each, shall be as follows:

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

Second senatorial district: that portion of the

island of Hawaii known as Kau, Kona and Kohala, two;

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

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

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

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

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.

(The committee proposal has been prepared by the use of the Ramseyer Method which indicates the constitutional material to be deleted in brackets [] and the new material added by underscoring. This method aids the delegates to see the changes with respect to the existing provisions. It is intended that the Committee on Style may exclude the brackets, the bracketed material, or the underscoring.)

2. Size of Legislature

Early in your Committee's deliberations, your Committee decided to recommend that the present size of both the senate (25) and the house (51) be retained. Although numerous proposals were referred to your Committee which proposed either to reduce or increase the size of the houses, your Committee was of the opinion that the evidence presented did not indicate that the change to any other number would produce greater efficiency or better results. Your Committee has concluded that the savings that could be effected by a reduction in size would be minuscule when compared to total state expenditures and would not justify disruption of a system that is already working effectively. Upon consideration of the proposals to increase the size of the body as a means to preserve neighbor island representation in the house, your Committee finds that the house size would have to be increased to between sixty to sixty-five members in order to retain present representation, and by the next reapportionment, the size might well be increased to eighty-five or ninety. Although your Committee feels that it is highly desirable to maintain strong and effective representation of each county in the legislature, it

did not feel that increasing the size of the legislature would be a tenable solution. Instead, your Committee has attempted and it believes that it has provided a solution to the neighbor island dilemma with its proposal for minimum effective representation. A discussion of that concept and its full implications follows in this report.

3. Use of Schedule for Senate District Descriptions

Your Committee also found that the senate districts are permanently fixed and listed under Section 2 of Article III of the Constitution, while the house districts were contained in a Schedule contained in Section 1 of Article XVI. Your Committee has determined that it is more appropriate to delineate both house and senate districts in Article XVI since the senate districts are no longer permanent and immune from change but rather like the house are subject to periodic reapportionment and redistricting. This decision comports with the federal court's decision that the proviso requiring a majority vote in a majority of counties to effect a change in senatorial representation, as contained in the sixth paragraph of Section 2 of Article XV, is invalid and with the decision of your Committee on Revision, Amendment and Other Provisions which eliminated this invalid proviso from the Constitution.

4. Description of Present Apportionment Provisions

Section 2 of the Constitution as presently worded provides for a senate composed of twenty-five members and describes six senatorial districts which elect ten senators from Oahu and fifteen senators from the neighbor islands. The sixth paragraph of Section 2 of Article XIV contains a proviso which requires a majority vote of the electorate in each of a majority of the counties to amend the senatorial apportionment contained in Article III. The federal courts have held the constitutional provisions apportioning the senate and the proviso invalid. The Supreme Court of the United States in *Burns v. Richardson*, 384 U.S. 73 (1966) approved the use of a temporary apportionment plan of the senate which divides the State into eight senatorial districts and provides for nineteen members of the senate to be elected from Oahu, three from Hawaii, two from Maui and one from Kauai, pending the effectuation of a permanent plan of legislative apportionment.

Section 4 of Article III as presently worded provides that the basis of apportionment for members of the house of representatives, among the basic areas, and within the basic areas among representative districts, shall be the number of voters registered in the preceding general election. Apportionment is a two-step process: first, representatives are allocated among the basic areas (the four counties) and then among the representative districts in each of the basic areas, no basic area or representative district to receive

less than one representative. Your Committee has followed this same procedure in effecting its proposed apportionment.

5. Difference between Apportionment and Districting

Apportionment is the process of allocating numbers of representatives or senators to various districts within the State according to an apportionment base (in this case, registered voters). Districting is the process of drawing lines on a map which enclose a geographic area. These geographic areas are called either representative or senatorial districts and the number of legislators allocated to a particular district depends on the number of registered voters the district contains.

6. Apportionment Base: Registered Voters

Your Committee recommends that the legislature continue to be apportioned on the basis of registered voters and has utilized this base for its apportionment. The registered voter basis was adopted because: (1) it produces a distribution of legislators substantially equivalent to that which would result from the use of the constitutionally permissible eligible voter population base; and (2) the superior and ready availability, reliability, applicability and quality of the data on registered voters, under the conditions existing in Hawaii, provide a far more accurate and meaningful reflection of the constitutionally permissible representation sought than that which would result from the use of certain other permissible population bases.

Several possible bases were recommended to your Committee and were thoroughly studied and decided upon by it, as follows:

Total population, as defined by the United States Bureau of the Census, consists of all persons who normally reside in a given geographic area. It includes military personnel attached ashore in the area, ships' crews (both civilian and military) in ports of the area in question on the census date, persons in transient accommodations (hotels, trailers, camps, etc., if they have no regular place of residence or are in the process of changing residence), local residents temporarily out of the State on business or vacation, students from other areas attending a local university, inmates of long-term institutions (mental hospitals, prisons, etc.).

The total population excludes ships' crews that may be home-ported in the area but are temporarily in ports outside of the area, students from the area at schools outside of the area, tourists temporarily visiting the area, and inmates of short-term institutions (general hospitals, etc.) unless they live in the same area. A full statement appears in the *Enumerator's Reference Manual, 1960 Census of Population and Housing*, published by the U.S. Bureau of the Census in 1959.

The difficulties attendant in the use of the total population may be particularly unique to Hawaii because of the large pockets of military and maritime personnel on the island of Oahu, largely confined within a few legislative districts on that island. The military population constitutes a sizeable proportion of the total population within the legislative districts wherein the military installations are situated.¹

Indeed, the district court in *Burns v. Richardson* 384 U.S. 73 (1966) observed that:

"Hawaii has become the United States' military bastion for the entire Pacific and the military population in the State fluctuates violently as the asiatic spots of trouble arise and disappear. If total population were to be the only criteria upon which legislative representation could be based, in Hawaii, grossly absurd and disastrous results would flow..." (238 F. Supp., at 474)

World War II, the Korean conflict, the Viet Nam crisis, and other near-incidents in the far east in the last twenty-five years have prompted sudden troop movements causing sharp increases and reductions of significant proportions in Hawaii. Legislative districts in which Schofield Barracks, Pearl Harbor, Kaneohe Marine Corps Air Station, and other military installations are located have thus been subject to violent population fluctuations during recent years which would produce either extreme over-representation or extreme under-representation if a total population base were used, depending upon the accident of how many military people and dependents were present on the day the count was taken. Further, between apportionments, the transient and fluctuating circumstances of the military personnel would render the concept of "population" rather elusive and distorted in those districts wherein the military are contained. Fluctuation among the military population is independent from and does not appear to have meaningful correlation with changes in civilian population so that distortions in military-heavy districts would not be balanced out by equivalent distortions in other districts. Of course, with the adoption of smaller representative districts by your Committee, these distortions would be even greater than in the past.

Because total population figures constitute a substantially distorted reflection of Hawaii's residents, citizens or eligible voters, your Committee rejected total population as a basis for apportionment.

¹ State statistician Robert C. Schmitt advised your Committee that in 1968 approximately 79% of all military personnel on Oahu lived in the existing 8th, 9th and 10th representative districts, and that approximately 12% of the total population was military and 13% of the population was military dependents in the aggregate of such districts.

The use of the total population suffers in another respect. The official U.S. Census is taken decennially, most recently as of April 1, 1960, which makes present data 8 years out of date. The 1968 estimates are based on inadequate information and are too crude to be used for purposes of apportionment. To use the 1960 census population for the present apportionment would not truly reflect the changing population but would accentuate the likelihood of a further deviation from equality of population among districts.

Permanent population was studied as a possible base inasmuch as this base, by definition, excludes the transient and nonresident elements. This base also proved to be practicably unworkable because data on the place of residence of the military personnel and dependents are not available, and it is difficult to get any meaningful division between the resident and nonresident military. Statisticians need to know not only the number of nonresidents but also in which districts they reside. This type of data is not available. This is true even in a census year, and of course the inaccuracy of estimates would grow with each year by which they are removed from such a year. While limited statistics are available on military personnel who were born and lived here for a year or so, they fall far short of a true picture of the military which can only be had by a complete study of the matter by the armed forces. Such a study is not available, but even if it were, your Committee is advised that the fluctuation and transiency of the military population would render the data obsolete as soon as they are tabulated.

It is also instructive to note that a number of transient civilians come to Hawaii on a short-term basis on job transfers by their employer-company for a period of a year or two, and the automatic inclusion of these transients who have neither the interest nor the intent to be resident voters in the apportionment base would further distort the "resident" population. As this base, like the total population base, fails to give or assure a fair approximation of Hawaii's residents, citizens or eligible voters, your Committee rejected the permanent population as an apportionment base.

Civilian population is total population less all military population. Your Committee rejected civilian population as a base because it removes quite arbitrarily the military personnel from the apportionment base simply because they are military. To so remove the military from the apportionment base is constitutionally impermissible, *Davis v. Mann*, 377 U.S. 678 (1964). Moreover, it is your Committee's intent, as a matter of policy, not to discriminate against a class of individuals merely because of their employment. It should be clearly understood that your Committee's concern over the military has nothing to do with their status but rests entirely upon their transient and fluctuating circumstances.

These disturb population figures and estimates so that they do not truly reflect a fair estimate of residents, citizens or eligible voters in Hawaii and particularly within the legislative districts of Hawaii.

Citizen population means citizens of both the United States and the State of Hawaii. This excludes from the apportionment base all nonresidents (including nonresident military and transients) and all aliens. Included however are all incompetents, felons, nonregistrants and nonvoters who are citizens of the United States and the State of Hawaii. As noted above with respect to permanent population, we still face the problem of securing statistics covering the nonresident military. Data as to aliens are readily available, but it appears that presently one cannot allocate these aliens to the different electoral districts because the tabulations do not show geographic detail below the state level. Your Committee also believes that there is a growing transiency among the aliens in Hawaii because of readily available and inexpensive transportation to and from the far eastern countries. Many aliens live in Hawaii on a temporary basis for a year or two under special permits for employment purposes, as students, or for extended visits. Because of the uncertainty in pinpointing the residence of the aliens and in the poor reliability and lack of availability of other data on citizen population, your Committee finds that the citizen population suffers the same shortcomings as the total population and permanent population bases and therefore is deficient as an apportionment base.

Eligible voter population as a base would exclude nonresidents, transients, aliens, and incompetents, including minors and felons disqualified from voting. Included, however, are all eligible voters, including nonregistrants among those who are eligible to register to vote. As stated in the existing constitutional provisions, those persons eligible to register to vote include all residents except the following: persons less than 20 years of age; aliens; residents of the State for less than one year as of the day of election; persons unable to speak, read and write either Hawaiian or English; persons who are non compos mentis; and persons convicted of felony, unless pardoned. No one is deemed to have gained or lost residence simply because of his presence or absence while employed in the service of the United States, or while engaged in navigation or while a student in school.

Like the other bases discussed before, there are practical problems with the eligible voter basis. The only direct method available to determine the number of eligible voters is to determine the total population, from which is subtracted the number of nonresidents, the number of aliens and the number of those ineligible to register to vote. The problems in determining any of these numbers on an up-to-date basis have been discussed and it may

be seen that all the problems are added together and compounded in computing this base. Of course, a more direct and far more accurate method of ascertaining the necessary statistics would be a special, periodic state census. But Hawaii has not conducted a state census of this kind and to do so would be very expensive.² Mr. Schmitt also stated that an estimate of the eligible voter population could be calculated from the total population at the time of the federal census taken every ten years. However, he cautioned that the estimate would be very inaccurate after five years and that the registered voter totals, even with the inaccuracies from which they suffer, would give a more accurate picture of the eligible voter population at least from that time on until the next census. This inaccuracy is illustrated by the statistic that 112.3 percent of the eligible voter population in Kauai County voted in 1966, an obviously impossible ratio. Although election irregularities conceivably could be factors, Mr. Schmitt believes that a far more likely explanation is inaccuracy in the updated 1960 U.S. census total population base from which the eligible voter population is derived. It is clear that any estimate of the eligible voter population would be as suspect as the total, permanent or citizen population base.

Notwithstanding their computational difficulties, and in view of the special population problems peculiar to Hawaii, particularly with its small overall population, its high proportion of transient and mobile persons and its high growth rate (all of which quickly upset population equality among districts), your Committee concludes that the eligible voter basis is best for Hawaii. Your Committee believes as a matter of policy that the exclusion of all nonresidents, all aliens and incompetents (including minors and felons disqualified from voting) from the apportionment base is desirable for Hawaii. The eligible voter base will best stabilize and most fairly reflect the equality of the represented among districts under a meaningful representative system. Your Committee further concludes that the eligible voter basis would best achieve the goals of the "one-man, one-vote" principle enunciated by the Supreme Court and that this objective cannot be achieved in our State by the use of a total, permanent or citizen population base.

Although eligible voter population figures, like other population bases, are also difficult to obtain or extrapolate, your Committee finds that in Hawaii, a reasonable approximation can be obtained by the use of the registered voter population.³

² A letter from Senator Nelson Doi to Mr. Robert Schmitt, state statistician, indicated the cost would be \$1,000,000. This was in 1964 and presumably the cost has risen considerably by now.

³ This contrasts with other population bases which do not have any readily available means of approximation.

The registered voter base is the next logical subgroup extension of the eligible voter base—statistically separated only by those who are eligible to register to vote but who do not register. The extent to which the registered voter count reflects the eligible voters in a given district depends upon the extent of registration by those eligible to do so. There is no precise numerical measure of this available, but a high level of political activity and participation should certainly indicate a high correlation. Hawaii's history, recent and past, reflects a very strong involvement of its citizens in politics,⁴ a situation likely to continue in the future as a result of the continuing efforts by the lieutenant governor's office and the county clerks to foster and encourage registration of eligible voters throughout the State. Your Committee is also cognizant of a need for maintaining and improving the relationship between eligible voters and registered voters and has thus provided for the appointment of a chief elections officer with appropriate duties. This will be discussed in a section that follows.

Some of the State's current efforts to narrow the "gap" between eligible voters and registered voters are as follows: Hawaii's centralized education system has resulted in an unusually literate citizenry, and interest in politics and strong drives to bring out the vote have resulted in a high rate of voter turnout during the elections. In 1966, 87% of those registered to vote in the State actually voted. Your Committee also understands that offices of the clerks of the various counties make concerted efforts to register as many persons as possible of those eligible by: (1) recruiting volunteer registrars and locating them at various points for the convenience of registrants; (2) distributing information sheets on registration procedures and locations of registration points; and (3) placing public advertisements on registration in the daily newspapers. Lieutenant Governor Thomas P. Gill, whose office is charged with the enforcement of the election laws, testified that at the coming 1968 election an effort will be made at the polls to confirm or correct the place of residence of the voters.⁵ This will ensure improved accuracy of statistics showing the actual number of registered voters residing within an electoral district. He also advised your Committee that registration teams have been actually going out into those precincts when there were indications that registration might be lower than average in an effort to increase registration there. Unlike the mainland United States, Hawaii

⁴ The District Court in *Holt v. Richardson*, 238 F. Supp. 467, 240 F. Supp. 724 (D. Haw.) took note of this and essentially found it as a fact; the Supreme Court took cognizance of it at pp. 95-96.

⁵ A spot-check conducted by the lieutenant governor's office showed that some voters continue to vote in places of prior residence rather than in new districts to which they have moved. Of course voting and living in different districts, even if widespread, would not affect the validity of the registered voter base.

is geographically very small so that house-to-house registration drives in selected areas or throughout the State might possibly be achieved.

Nothing in our State Constitution or in the statutes implementing the exercise of franchise works to disenfranchise the military population or any other group of citizens. Hawaii continues to register all military personnel who are qualified if they so desire. The policy of this State has been to clarify ambiguities in our statutes to encourage registration, and recently Act 36 of the Session Laws of Hawaii 1966 was enacted for the purpose of clarifying that the voting rights of military personnel living on base were to be the same as those living elsewhere. Also, a registered voter who continues to vote either in a primary or general election need not re-register thus giving some permanence in the voting register for those who regularly participate in elections. Relatedly, Act 42 of the Session Laws of Hawaii 1968 waives residency requirements for newcomers to Hawaii who were citizens in other states and who wish to vote in the election for the President of the United States. Your Committee also notes that this Constitutional Convention has adopted and will submit to the electorate for approval a proposal lowering the voting age from 20 to 18, removing the literacy test, and relaxing the felon's voting disability so that upon final discharge, or earlier as the legislature may provide, a felon shall have his voting right restored instead of waiting for a full pardon by the governor. Your Committee recognizes these and other efforts which enlarge the apportionment base and/or otherwise help generate the political activity of the eligible voters to actually register and vote.

There are distinct advantages to the use of registered voter figures for apportionment. For example, they are compiled and brought up to date every two years by senatorial and representative districts and by precincts. This provides the ability to keep current track of population movements within districts and of population growth, both of which are substantial and neither of which affect all districts uniformly. This allows more frequent reapportionment in order to maintain the maximum equality of representation. Your Committee recommends that reapportionment be effected every six years, a period which will give reasonable stability of political districts and yet maintain a fairly current and accurate adherence to registered voter population.

It was originally thought by your Committee that the use of presidential election year figures might possibly assure a higher level of participation and reduce the likelihood that varying degrees of local interest in the outcome of the election would produce different patterns of political activity over the State. Study of past election figures, however, indicates that, in Hawaii, participation and patterns of political activity over

the State in presidential elections are not significantly different from those in other general elections.⁶ Apparently Hawaii's off-year gubernatorial races and the keen interest in local issues are as attractive to our voters as are presidential elections.

For the reasons stated, your Committee finds that the registered voter basis is the only basis that can assure any meaningful apportionment of the legislature for Hawaii.

Use of 1966 general election figures for current apportionment:

Your Committee used the 1966 registered voter figures in the initial apportionment of the legislature recommended by this report. This is in keeping with the existing constitutional provision which requires voters registered "at the last preceding general election," and is supported by other sound reasons as well. The 1966 figures are the most recent reliable statistics on registered voters in Hawaii. A suggestion that the 1968 figures now being compiled be used was received for consideration and rejected by your Committee on the grounds that such data is not now available. The county clerks are precluded from preparing the 1968 list of the electors until the closing of the general county registers ten days after the coming primary election in October. Even when the 1968 figures are finally compiled by the county clerks in terms of existing senatorial and representative districts and precincts, they would not provide helpful information regarding districts based on census-type criteria which your Committee has newly adopted in its districting. It would require a complete and time-consuming reorganization of the figures (as was done with the 1966 figures) before use of them can be made in any meaningful way.

Judicial decisions, and common sense, require only that equality in apportionment be related to some reasonable starting point. The Committee felt that 1966 general election figures were the most reasonable starting point, the count for the 1968 Constitutional Convention election being subject to problems because it was a special election and more current figures being unavailable except in estimated form.⁷ Your Committee has provided that although normal reapportionments are to take place every six years, the first reapportionment will occur in four years, when the data used will be six years old.

7. Districting

a. Problems of candidates in newly altered

⁶ See Voter Registration Statistics 1959-1968 prepared by the Office of the Lieutenant Governor, August 8, 1968.

⁷ Even the estimates are not available for the new representative districts. Applying them to the former representative districts on Oahu, they would not produce a transfer of a single representative from any district to any other.

districts:

The Committee found early in its public hearings that it is impossible to reapportion or redistrict the State without jeopardizing the ability of some of the incumbent state legislators (as well as of some prospective candidates who are not incumbents) to gain re-election. This is particularly true in large representative districts which are reduced in size and in which all incumbents live in a relatively small area. Your Committee has great sympathy for the problems faced by these persons and is not unmindful of the fact that many of them have spent substantial time and effort building a political following in large areas which are now being split into two or more representative districts. Your Committee considered recommending certain changes to the constitutional provisions pertaining to residence requirements for candidates to the legislature to permit adjustment after reapportionments. A review, however, disclosed that the Constitution does not itself contain any residence requirements as such⁸ and that the legislature, therefore, is free to act in the area. Your Committee strongly recommends that the legislature take action to relax residence requirements for candidates whose districts have been altered for a limited time after reapportionment and redistricting.⁹ Not only would such action permit candidates to adjust to altered circumstances, but would also very substantially reduce the pressure brought to bear against the redistricting agency.

b. Districting procedures followed by the Committee:

In order to assure incumbents and the public of a rational and objective districting plan which meets the legal requirements, your Committee utilized elaborate precautions to insure fairness and nonpartisanship. Your Committee first heard testimony from political scientists, attorneys and others, reviewed judicial decisions, analyzed the apportionment and districting provisions in the constitutions of other states and reviewed numerous publications on the subject. From all these sources, your Committee formulated and adopted districting criteria. It then engaged an independent team consisting of computer programmers, a statistician, a statistical assistant, statistical typists and a draftsman. This team programmed into the computer appropriate data gleaned from the 1966 registered voter figures for election precincts and extrapolated all data to correspond to census tracts. The team was then

instructed to prepare and present to your Committee various districting plans according to your Committee's criteria. The maps were prepared in a downtown office and no member of your Committee or any other delegate was involved in the preparation of the various plans.

The team prepared a total of 39 house districting plans: 22 for the island unit of Oahu, 10 for the island unit of Hawaii, 3 for the island unit of Maui, and 4 for the island unit of Kauai.¹⁰ No alternate plans were prepared for the apportionment and districting of the senate. Your Committee, after a careful study, concluded that the senate districting plan now temporarily in effect under the ruling of *Burns v. Richardson*, 384 U.S. 73, is sound and acceptable, with some minor adjustments of boundary lines of two urban Oahu districts.

After nearly seven weeks of intensive hearings, study and discussion, your Committee realizes that the factors which must be considered in apportionment and districting are inextricably interrelated and are indeed complex and difficult to comprehend in their entirety.

c. Criteria used by the Committee in districting:

Your Committee adopted and used the following criteria to: (i) guide computer team in preparing the alternate districting plans and (ii) serve as your Committee's policies in selecting that plan which best meets the needs of Hawaii. Some of these criteria were also adopted in setting the guidelines for future reapportionment commissions.

(1) *The average number of registered voters per legislator in every district shall be as nearly equal as possible.* This criterion, of course, is merely a restatement of the equal population principle enunciated by the United States Supreme Court in its apportionment decisions. This criterion was given overriding consideration in the preparation of the various plans and in the selection of the plans adopted by your Committee.

(2) *No district shall extend beyond county boundaries.* This criterion preserves the integrity of political subdivisions. The composition, history and peculiar characteristics of each county (which is also a basic island unit) are described in that portion of this report relating to minimum representation for each island unit. Your Committee has been able to adhere to this criterion without doing violence to the equal population principle.

⁸ Art. III, Sec. 7 requires that a member be a "qualified voter of the senatorial district from which he seeks to be elected. . . ." Art. II, Sec. 1 provides that a voter must have been a resident of the State for "not less than one year" but does not specify any residence requirements for qualification as a voter in any particular district.

⁹ The situation will be even more acute in forthcoming reapportionments and redistricting, the plans for which will be disclosed much closer than this one to the election for which they will be effective.

¹⁰ The Oahu island unit consists of the island of Oahu and all unenumerated islands; the Hawaii island unit consists of the island of Hawaii; the Maui island unit includes the islands of Maui, Molokai, Lanai and Kahoolawe; and the Kauai island unit includes the islands of Kauai and Niihau.

(3) *Insofar as possible, districts are to be contiguous (except multi-island districts) and compact.* This criterion serves as a guide for any future reapportionment of the state legislature to help prevent gerrymandering from occurring. Compact and contiguous districts have traditionally been urged by all authorities on apportionment, but they are sometimes difficult to design here because of Hawaii's special geography.

(4) *District lines must follow permanent and easily recognized lines—e.g., major streets, streams, clear geographical features—and should follow census tract lines where possible.* Easily recognizable lines permit each voter to be able to tell, without difficulty, the district to which he belongs. Permanent lines, too, permit district lines to be readily identifiable for as long as the configuration of the district remains unchanged. The house and the senate apportionment plans adopted by your Committee consistently utilize clear geographical features, major streets and streams. In addition to the use of mountain ridges, gullies and streets, the house apportionment plan for Oahu utilizes the newly constructed freeway to separate the mauka and makai representative districts in urban Honolulu. This criterion is designed to help future reapportionment commissions by establishing a restrictive guideline and thus narrowing the range of its discretion.

The requirement that census tract lines should be followed whenever possible was motivated first by the fact that the census uses the same geographical standards for its lines as those your Committee used in drawing district lines, and second, by a desire on the part of your Committee for district lines which would permit easy recourse to valuable voting and electoral data. The districts as now constituted do not follow census tract lines, yet a great deal of information about people (as compiled in census and other studies) are generally kept along census tract lines. Since the current district lines frequently cross census tracts (and vice versa), it is not possible accurately to correlate census data and estimates with our representative districts. Your Committee believes that requiring district lines to follow census tract lines where possible, coupled with your Committee's recommendations and proposals related to the office of the State's chief election officer, should facilitate the gathering of the kind of data needed for any future apportionment of the state legislature and for numerous other purposes such as state planning and forecasting activities.

(5) *Wherever possible, the division of areas with a substantial community of interest (socio-economic) is to be avoided.* Your

Committee concluded very early in its deliberations that it is highly desirable to permit a homogeneous group of people or an identifiable neighborhood group to participate in the political process as a unit, rather than to be split up arbitrarily into small factions in two or more districts. By a homogeneous group, your Committee means a group, the members of which are alike in their social and economic status.

Your Committee is aware that it is impossible to insure completely that no homogeneous group would be split up and the members scattered over several districts. Your Committee is further aware that it is no easy task to identify each and every group with a substantial community of interest. But, to the extent possible, without violating any of the other criteria established, your Committee believes that areas with a substantial community of interest should not be divided.

(6) *The submergence of small areas or groups within larger districts where substantially different socio-economic interests predominate is to be avoided.* Your Committee sought to avoid clear cases of one socio-economic group being disadvantaged by reason of its placement in a district in which another socio-economic class heavily predominates. This criterion attempts to establish some rough balance among diverse interest groups within a district. Where a socio-economic group of people cannot, by reason of its number or otherwise, be a district by itself, it should have at least a fighting chance to compete with other socio-economic groups in the same district in selecting a legislator. It is, admittedly, not a precise criterion, but it does delineate an undesirable condition which should be considered in selecting districts.

(7) *Districts may not be so drawn as to unduly favor one person or political faction.* In its deliberations, your Committee exercised the greatest degree of objectivity possible. It permitted the possible fate of no incumbent legislator and of no political party to influence its decision. Your Committee believes that the house and senate plans finally adopted by it reflect this objectivity.

(8) *No multi-member house district shall have more than three representatives.* The policy was adopted to prevent a long ballot. Greater the number of representatives a voter must select, greater the number of candidates and less the chance that the voter would become sufficiently acquainted with the candidates to cast an intelligent ballot. This policy is particularly important in areas where future growth in population is

immediate and foreseeable. The criteria for future reapportionment commissions is somewhat less restrictive, limiting representative and senate districts to four members.

(9) *No single-member districts shall be created in highly urban areas.* This criterion was adopted when it became evident that no rational single-member district lines could be drawn in highly urban areas. In a single-member districting system, populous areas are particularly susceptible to a mish-mash of lines and divisions of homogeneous groups. None of the districts in urban Honolulu and downtown Hilo is a single-member district in the plans adopted by your Committee. This criterion was not adopted for future reapportionment commissions since it was felt conditions and the availability of data might change and since it was not felt proper to impose so definite a prohibition as this upon the future.

(10) *Except where districts constitute entire islands or counties, the senate districts should be larger than representative districts, and senate district lines should avoid cutting across a house district.* The traditional concept of bicameralism that senate districts shall be larger than house districts was retained by your Committee. Your Committee, however, sought to draw senate district lines in such a fashion that they fell along representative district lines and cut across no representative district. The adopted plans successfully follow this policy, except in one minor instance. This criterion is adopted in a more general, less restrictive manner for future reapportionment.

d. Single-member v. multi-member districts:

In both *Fortson v. Dorsey*, 379 U.S. 433, and *Burns v. Richardson*, 384 U.S. 73, the United States Supreme Court held that the Equal Protection Clause (of the Fourteenth Amendment to the U.S. Constitution) does not require that at least one house of a bicameral state legislature consist of single-member legislative districts. Nevertheless, your Committee gave full and deliberate consideration to apportioning at least the house of representatives exclusively among single-member districts. The Committee also gave consideration to apportioning the house exclusively among multi-member districts.

To assist the Committee in deciding the issue of single-member v. multi-member districts, house districting plans were prepared reflecting (1) all single-member districts, (2) all multi-member districts, and (3) a combination of single- and multi-member districts. For the island of Oahu, two plans were prepared reflecting all single-member districts,¹¹ and at least five plans

were prepared reflecting all multi-member districts. After a careful examination of all these plans, your Committee concluded that the best districting system for the house of representatives is that which is not rigidly limited to single- or multi-member districts.

The rejection of exclusively single-member districts for the house, of course, led to the rejection of exclusively single-member districts for the senate. Traditionally, in Hawaii, the senate districts have encompassed greater geographic areas than the house districts, and the members of the senate have enjoyed longer terms than the members of the house. In addition, the senate has been a smaller body than the house, and each senator has represented a larger number of constituents than a representative. Your Committee finds no valid reason to depart from this traditional scheme which has worked remarkably well.

Our findings which led to the conclusion that a combination of single- and multi-member districts is best for the house of representatives are as follows:

(1) *Reasons for rejecting all single-member districts.* Your Committee rejected the creation of exclusively single-member districts for the house of representatives because it finds that no meaningful apportionment can result therefrom in Hawaii, at least in the urban areas.

(a) *Single-member districting system unduly disrupts and divides areas where people have a substantial community of interest.* The overriding consideration in any districting system, whether it be a single-member districting system or a multi-member districting system, is substantial equality in numbers—that is, each legislator must represent that number of registered voters which is substantially equal to the number of registered voters represented by every other legislator. In a single-member districting system, this means that every district must contain substantially the same number of registered voters.

Your Committee finds that it is impossible to apportion the 51-member house among single-member districts which adhere to the "equal population" principle and at the same time preserve neighborhood or homogeneous socio-economic groups. Such a single-member districting system must be accomplished by counting the number of registered voters, beginning

¹¹ Plans A and B.

at a given point on each island. As soon as the count approximates the average number of registered voters per representative, a line must be drawn circumscribing a district.¹² The lines frequently divided neighborhoods and submerged small segments of one socio-economic group in a district where some quite different group predominated. As Mr. Schmitt noted in his explanation of the plans to your Committee, "Homogeneous areas do not come in neat packages of 5,082 voters. If every neighborhood, every district, were that exact size, our problems would be solved."¹³ Homogeneous areas come in varying sizes, some greater than 5,082, others less than 5,082, and very, very few equal to 5,082 voters. Thus, the division of homogeneous areas and the scattering of its members among two or more districts were unavoidable, and many of the important criteria adopted by the Committee were violated more often than honored.

Plan B was drawn to adhere as closely as possible to the equal population principle. Plan A permits a greater deviation in the number of registered voters per district from the average or norm (some as great as 14%). The closer the adherence to the equal population principle, the less the chance of avoiding disruption of areas with substantial community of interest and greater the opportunity for submergence of small groups within a district in which a substantially different socio-economic interest predominates. Greater deviations from the equal population principle reduce this disruption but substantially increase the risk of the plan being declared unconstitutional. It is important to note that Plan B, with a deviation as great as 14% still substantially divides neighborhood areas and that the supreme court has in the past rejected unexplained deviations smaller than this.¹⁴

(b) *Single-member districting system results in irrational district lines.*

¹² 5,082 is the average number of registered voters per representative on Oahu based on Oahu's 1966 total registered voters (193,107) divided by the number of representatives (38) to which Oahu is entitled.

¹³ Committee on Apportionment and Districting, transcript of hearing held on July 29, 1968.

¹⁴ See *Swann v. Adams* 385 U.S. 440 (1967); *Kilgarlin v. Hill*, 386 U.S. 120 (1967).

District lines should be readily identifiable. Thus, one of the criteria followed by your Committee requires that district lines follow permanent and easily recognized lines—e.g., streets, streams, clear geographical features. Since there can be no substantial deviation in the number of registered voters in each single-member district from the average number of registered voters per representative, as soon as the count of registered voters reaches a number approximating the average, a search must be had for the nearest recognizable line. The geography of each island is such that geographic features such as streams, gullies and mountain ridges bisect even the most heavily populated areas of the island.

The result of creating single-member districts under these circumstances was found to be that district lines run every which way, with little semblance of order or rationale. Compactness is often disregarded, and contiguity can be maintained in several instances only by a sliver of land joining one part of the district with another part or by crossing mountain ridges or other geographical features that are actually impassable.

Your Committee finds that district lines of this kind, particularly in a state with small population which is growing, lead to a "crazy quilt" apportionment, which Justice Clark criticized in *Baker v. Carr*, 369 U.S. 186.

(c) *Single-member districts, especially where the population is changing rapidly, are subject to violent shifts in their district boundary lines at each apportionment. Such violent shifts in district lines detract from the stability desired in Hawaii's political process. A single-member districting system, when applied to Hawaii, means small districts. Small districts are easily susceptible to imbalances in numbers of voters with slight movements of people in or out of any single district.*

Data available to your Committee indicate that the people in Hawaii are relatively mobile—that is, there is a constant change in places of residence—and that the population, especially on Oahu, is growing rapidly. If the single-member districting system were adopted, it appears that the small size of the districts and the mobility and instability of the island population

will require at each apportionment of the Hawaii legislature violent changes in the district boundary lines. Voters accustomed to voting with one group of people will find themselves voting with a new group of people; voters accustomed to voting for legislators from among candidates familiar to them will find themselves voting for legislators from among candidates who are new to them. This might alienate many eligible voters who are otherwise highly motivated.

In sum, Hawaii has very special problems of geography and population. Exclusive reliance on single-member districts may have certain theoretically desirable features¹⁵ and may be a workable approach in other areas; in Hawaii it would create far more harm than any benefits it could produce and the Committee strongly rejects it.

(2) *Reasons for rejecting all multi-member districts.* Your Committee also rejected all proposals which would have required that every representative district be a multi-member district. Such a requirement ignores the existence of areas which can and ought to be, for varying justifiable reasons, single-member districts. Among the circumstances justifying certain areas in the State to be single-member representative districts are:

(a) *Areas which are substantially homogeneous in the socio-economic makeup of their populace, distinctly different from the socio-economic makeup of the people in adjoining areas, and which are sufficiently large and geographically separable to be representative districts by themselves.* These were the considerations which prompted your Committee to create a single-member representative district in Waianae (proposed district 21) on the island of Oahu.

The entire district of Waianae, including Nanakuli, is predominately a low-income area. It is a pocket of poverty and is one of two areas in the State where the model cities program is now in operation. It is also an area where special educational, health and welfare programs are offered to provide equal opportunities to its residents. The homogeneous district of Waianae is

readily distinguishable from its more highly affluent neighbor of Ewa. It is bordered by the sea on one side and is separated from the rest of the island of Oahu by the Waianae Range on two remaining sides. The alternative to making Waianae a single-member district by itself is to join Waianae with Ewa in a multi-member district. To group the low-income people of Waianae with the upper middle-income people of Ewa would to some extent result in the submergence of a distinct and distinguishable interest within another.

(b) *Areas which are so sparsely populated that multi-member districts would cover inordinately large geographic areas.* There are areas in the State which are sparsely populated, thus requiring that legislative districts be geographically large, covering many miles of uninhabited regions. So long as the equal population principle is substantially adhered to, there is no valid reason why single-member districts in such areas should not be created. To require otherwise would compel voters living miles apart to vote together and candidates to cover long distances in campaigning for office.

These are the reasons for the creation of single-member representative districts on the island of Hawaii. Each of these single-member districts, however, contains that number of registered voters which approximately equals the island unit's average number of registered voters per representative.

e. A general description of the plans:

The house and senate districting plans adopted by your Committee are incorporated in Exhibit A attached to this report. Your Committee believes that these districting plans are the fairest and most equitable of all possible plans.

The house districting plan creates twenty-five representative districts: one in the Kauai island unit, two in the Maui island unit, five on Hawaii and seventeen on Oahu. Each representative district is apportioned one, two or three representatives, depending on the size of the district.

The senate districting plan is substantially like the temporary plan currently in effect.¹⁶ The plan

¹⁵ Discussions of the relative advantages and disadvantages of single and multi-member districts are highly theoretical and subject to dispute. See *Hawaii Constitutional Convention Studies*, Article III; The Legislature (Apportionment Provisions), Volume II, Legislative Reference Bureau, July 1968, 40-47, 71-82.

¹⁶ The current temporary plan is the senate apportionment contained in the proposed constitutional amendment enacted by the Hawaii legislature at its 1967 session (S.B. 1102). This proposed amendment will be on the ballot at the general election of 1968. The problem that would arise if both it and the Committee's plan are ratified by the voters is resolved by proposed Section 26 of Article XVI, discussed later in this report.

creates eight senatorial districts, one for each of the basic island units of Kauai, Maui and Hawaii and five for the island unit of Oahu. The single senatorial district in each island unit of Kauai, Maui and Hawaii, is apportioned one, two and three, two and one senator, respectively.

f. Kauai.

The proposed house and senate district plans make no changes in the representational character of the island unit of Kauai. Kauai still retains its three representatives and one senator. Your Committee gave full consideration to the creation of single-member representative districts in the Kauai island unit. However, due to the topography and geography of Kauai and its population dispersion, no single-member district could be created which makes any sense.

g. Oahu.

The proposed districting plans make the following changes on the island of Oahu:

On Oahu, one senatorial district is apportioned three senators, and each of the four other districts is apportioned four senators.

The districting plans adopted by your Committee differ from the present house and senate apportionment primarily with respect to size of house districts and the extent of voter population deviations among districts. The proposed representative districts are smaller than those which currently exist. Presently, there are as many as six representatives being elected from a single district.

Your Committee reviewed the comments and opinion of the three-judge district court in *Holt v. Richardson*, 238 F. Supp. 468, 240 F. Supp. 724, and the comments and opinions of others who criticized the fact that both houses of our legislature were characterized by large, multi-member districts. It concluded that if senate districts were to retain their present large size and multi-member status, house districts should on the whole be smaller and elect fewer representatives.

The new apportionment is thus characterized generally by a reduction in the size of representative districts. It contains no representative district with more than three representatives. It retains, however, senatorial districts with as many as four senators.

Under existing apportionment, there are a number of districts which are both representative

and senatorial districts at the same time.¹⁷ Under the plans adopted by your Committee, no district on Oahu is a representative district and a senatorial district at the same time. Each senatorial district is larger in area and contains two or more representative districts.

At present, several senatorial district lines cut across representative districts, dividing the voters in each of such representative districts into two senatorial districts. The plans adopted by your Committee generally avoid the division of voters in any representative district into two senatorial districts.¹⁸

The existing representative district lines generally run from the mountain to the sea. Your Committee retained this manner of drawing district lines. However, for the city of Honolulu, after much experimentation, your Committee adopted the freeway as a major cutoff point for the purpose of splitting existing districts into smaller sizes. Your Committee was guided to this conclusion by a number of factors:

(1) The freeway both physically and psychologically divides the neighborhoods through which it runs. Statistical studies have shown that residents of a neighborhood tend to focus their shopping, social and other activities away from the freeway, and in general look upon the freeway as a barrier in fact between them and the neighborhoods on the other side.

(2) The freeway generally divides the city along socio-economic lines. There are exceptions, but as a generalization it can be said that industrial and less affluent residential areas tend to dominate in the makai side of the freeway.

(3) The freeway is a permanent, easily recognizable, physical boundary.

(4) The freeway is absolutely impartial, its location having nothing to do with incumbents, potential candidates, parties or others who may become upset whenever district lines are redrawn.

(5) Generally speaking, the freeway permits division of existing districts without requiring

¹⁷ The present 8th Representative District and the 3rd Senatorial District encompass the same geographic area. The present 15th Representative District and the 6th Senatorial District cover substantially the same area. Districts which serve both as representative and senatorial districts were severely criticized as being "political monoliths" by the United States District Court for the District of Hawaii in *Holt v. Richardson*, 240 F. Supp. 724.

¹⁸ The sole exception is the ewa boundary of the 7th Senatorial District which divides the 11th Representative District.

substantial changes in the mauka boundaries to obtain appropriate population totals.

h. Maui.

The house districting plan affects the island unit of Maui as follows:

Maui loses one representative, and the islands of Molokai and Lanai, by reason of their voter population, are no longer entitled to a single representative by themselves.

At present, the island of Maui itself elects four representatives at-large. The proposed districting plan divides the island of Maui into two. The northern portion of the island, including Wailuku and Lahaina, is joined with the islands of Molokai and Lanai to create a two-member district. The remainder of the island of Maui and the island of Kahoolawe constitute another two-member district.

In districting the Maui unit, your Committee was particularly concerned with preserving effective representation for the sparsely populated islands of Molokai and Lanai. Your Committee finds that the proposed districting plan is the only meaningful way in which Molokai and Lanai can be assured effective participation in the election of representatives. Your Committee seriously considered the possibility of having all four representatives elected at-large throughout the Maui island unit. Your Committee concluded, however, that such an at-large election unduly submerges the interests of Molokai and Lanai in the light of the much greater population on the island of Maui. Your Committee also considered the possibility of creating a single-member district consisting of Molokai and Lanai and a portion of the island of Maui. No meaningful single-member district, however, could be formed without unduly disrupting some community on the island of Maui.

i. Hawaii.

The proposed districting plans affect the island unit of Hawaii as follows:

At the present time, the city of Hilo and a portion of the Hamakua coast is a single, three-member representative district. The new apportionment divides this area into one single-member district and one two-member district.

In accordance with your Committee's experience in the city of Honolulu and its findings that single-member districts do not work well in urban areas and as a result of a past history of at-large elections in Hilo city, your Committee voted overwhelmingly to retain an at-large, multi-member district for the city of Hilo. However, the northern portion of the South Hilo judicial district is predominately sugar-cane land and consists primarily of plantation communities.

Your Committee, therefore, voted to create a single-member district for this northern portion of Hilo.

The present 5th Representative District (North and South Kohala and a portion of North Kona) is eliminated in the proposed house districting plan for Hawaii. North Kohala is included in a single-member district with Hamakua, and South Kohala is included in a single-member district with North and South Kona. Kau and Puna form another single-member district together with a small part of South Hilo.

Your Committee is aware that this districting plan is not entirely satisfactory. Due to topography, North Kohala is separable by impassable valleys, and is accessible to Hamakua only by a road which runs through the South Kohala-Kona district.

Indeed, the island of Hawaii presents peculiar problems which arise essentially out of the vast distances and sparse population of the island. Your Committee heard a great deal of testimony concerning the districting of the island of Hawaii, particularly with respect to the separation which the Committee proposed of North and South Kohala. Such separation is, as the Committee fully recognized, undesirable, but it is, in your Committee's judgment, not critical. The line drawn does not divide any population center and North Kohala, until recently, has been relatively isolated in any event. In addition, North Kohala is essentially a sugar plantation area, thus having a substantial identity of interests with the Hamakua district with which it is joined. The South Kohala district has little sugar and is primarily concerned with ranching and resort development.

Many persons from the North Kohala area have informed the Committee that they do not wish to have their district separated from South Kohala. The Committee very much appreciates the great effort made by these persons to make their views known, and indeed it is very sympathetic to those views. Because of the rigid numerical exactness required by the "one-man, one-vote" decision in drawing districts, however, the Committee was faced with a series of undesirable alternatives. It could either separate North and South Kohala or it would be required to do one of the following:

(1) Join North and South Kohala with a portion of Hamakua, thereby fracturing the traditional and highly homogeneous Hamakua district. The resort development area of South Kohala would then be separated from the resort development area of North Kona (a highly undesirable result in Committee's opinion) and joined with the plantation areas of Hamakua who have neither resort activity nor any immediate potential for same.

(2) Join North and South Kohala with

North Kona (the most desirable combination of these three districts). But the problems of numbers would then require splitting the Kona population center just south of Kealahou. This would be highly undesirable since this population center is sandwiched between large geographical areas which are only very sparsely populated and the people residing on both sides of the line have common problems with respect to most relevant matters. Additionally, the people residing south of the line would be attached as a sort of appendage to a huge district containing the farming and sugar-producing areas of Puna, Pahala and Naalehu with whom they have very little in common. These persons would have difficulty receiving adequate representation in such a district since the representative would undoubtedly be elected from the population centers in Puna, many miles away and dissimilar from South Kona in geography, weather and socio-economic interests.

If the plan proposed by the Committee is undesirable as to those residing in North Kohala, the alternatives are fully as undesirable to others. The Committee deliberated at great length over the choice it was forced to make and even held a special public hearing in Hilo on September 7th. The Committee's conclusion is that the undesirable features of its original proposal to separate North and South Kohala are less destructive of the Committee's criteria and provide a lesser interference with potential effective representation than either of the alternatives.

It should be noted that the South Kohala-North Kona areas can anticipate substantial population growth in the near future. This may well mean that the North Kohala area can be rejoined to its neighbors in the next reapportionment four years from now.

j. Explanation of deviations among districts:

In developing the house and senate districting plans to recommend to the Convention proper, the members of your Committee kept foremost in their minds the ruling of the United States Supreme Court that the number of registered voters per legislator in any district must be substantially equal to the number of registered voters per legislator in every other district.

Your Committee sought to keep the disparity in numbers to a minimum by imposing on itself a working rule that no deviation from the average number of registered voters per legislator should exceed 10%, except in special, explained circumstances, and that wherever possible, deviations should be kept to within 5% of the average. It is often extremely difficult to comply with requirements as rigid as this and to design districts which in every respect adhere to the

Committee's criteria. The Committee has, however, attempted to minimize both deviations from numerical averages and from its criteria and believes that the result is a successful balance.

This part of the report explains the procedure used by your Committee in allocating the 51 representative and 25 senatorial seats to the various districts and the reasons for those deviations which appear to exceed reasonable limits.

(1) *Allocation of seats among basic island units.* Initially, your Committee apportioned the 51 representative and 25 senatorial seats to the four basic island units by the method of equal proportions. Your Committee is aware of the admonition of the United States Supreme Court contained in Footnote 4 of *Burns v. Richardson*, 384 U.S. 73, that the use of the method of equal proportions "will not necessarily result in a constitutional apportionment. It is the distribution of legislators rather than the method of distributing legislators that must satisfy the demands of the Equal Protection Clause." Your Committee has concluded, however, that the use of the method of equal proportions in this instance does not have the effect of denying to any person equal protection of the laws. As will be demonstrated, the resulting representative and senatorial districts are substantially equal in size. The method of equal proportions was used to allocate the total number of representative and senatorial seats to the basic island units for the reasons set forth elsewhere in this report to support your Committee's recommendation that each basic island unit be guaranteed a certain minimum representation.

As apportioned by the method of equal proportions, the basic island unit of Oahu, with 76.3% of the statewide total registered voters of 253,242, has thirty-eight representatives and nineteen senators; the basic island unit of Hawaii with 11.3% of the total registered voters has six representatives and three senators; the basic island unit of Maui with 7.5% of the total registered voters has four representatives and two senators; and the basic island unit of Kauai with 4.9% of the total registered voters has three representatives and one senator.

Each basic island unit's average number of registered voters per legislator and the percent by which such average deviates from the statewide average number of registered voters per legislator are as follows:

HOUSE

Island Unit	No. of Rep.	No. of Registered Voters	Island Average Registered Voters Per Representative	Percent Deviation from State Average of 4,967 ¹⁹
Oahu	38	193,107	5,082	+ 2.3
Hawaii	6	28,596	4,766	- 4.1
Maui	4	19,029	4,757	- 4.2
Kauai	3	12,510	4,170	-16.1

¹⁹ Total statewide number of registered voters (253,242) divided by the total number of representatives (51).

SENATE

Island Unit	Number of Senators	No. of Registered Voters	Island Average Registered Voters Per Representative	Percent Deviation from State Average of 10,130 ²⁰
Oahu	19	193,107	10,164	+ 0.3
Hawaii	3	28,596	9,532	- 5.9
Maui	2	19,029	9,514	- 6.1
Kauai	1	12,510	12,510	+23.5

²⁰ Total statewide number of registered voters (253,242) divided by the total number of senators (25).

The over-representation in the house for the basic island unit of Kauai by -16.1% resulted when, by the method of equal proportions, the last representative seat was assigned to that basic island unit. Its under-representation in the senate by +23.5% is caused by the inability of the island unit's 12,510 registered voters to command a second senate seat. Kauai's over-representation in the house compensates to a large

extent the unit's under-representation in the senate.²¹

When the apportionment plans adopted by your Committee for both the house and the senate are viewed together, they reflect the following average number of registered voters per legislator for each basic island unit and the percent by which such average deviates from the statewide average:

Basic Island Unit	No. of Legislators (Representatives and Senators)	No. of Registered Voters	Island Av. No. of R.V. per Legislator	% Deviation from Statewide Av. No. of R.V. per Legislator (3,332) ²²
Oahu	57	193,107	3,388	+ 1.7
Hawaii	9	28,596	3,174	- 4.7
Maui	6	19,029	3,171.5	- 4.8
Kauai	4	12,510	3,127.5	- 6.1

²² The total statewide number of registered voters (253,242) divided by the total number of representatives and senators (76).

(2) *Apportionment of legislative seats within each basic island unit.* Your Committee exercised extreme care to insure equality in the number of registered voters per legislator within each island unit. Some

²¹ The United States Supreme Court in *Reynolds v. Sims*, 377 U.S. 533, remarked that "apportionment in one house (of a bicameral legislature) could be arranged so as to balance off minor inequities in the representation of certain areas in the other house."

of the multi-member house districting plans prepared for your Committee contain slightly narrower deviations from the island units' averages than those contained in the plan adopted by your Committee. However, each of them violates one or more of the criteria adopted by your Committee and was thus rejected.

(a) *House of representatives.* The house districting plan adopted by your Committee creates 25 representative districts as follows:

District No.	Island Unit	No. of Representatives
1	Hawaii	1
2	Hawaii	2
3	Hawaii	1
4	Hawaii	1
5	Hawaii	1
6	Maui	2
7	Maui	2
8	Oahu	2
9	Oahu	2
10	Oahu	2
11	Oahu	3
12	Oahu	2
13	Oahu	3
14	Oahu	2
15	Oahu	2
16	Oahu	2
17	Oahu	2
18	Oahu	2
19	Oahu	2
20	Oahu	3
21	Oahu	1

(Continued next column.)

District No.	Island Unit	No. of Representatives
22	Oahu	2
23	Oahu	3
24	Oahu	3
25	Kauai	3

The statewide ratio of the largest number of registered voters per representative to the smallest number of registered voters per representative is 1.37 to 1. Within each basic island unit, the ratio is as follows:

Island Unit	Ratio
Oahu	1.23 to 1
Hawaii	1.16 to 1
Maui	1.06 to 1
Kauai	1 to 1

The percentage by which the number of registered voters per representative in each district deviates from the average number of registered voters per representative is shown on the following table. Two deviation percentages are given, one reflecting the deviation from the basic island unit's average and the other reflecting the deviation from the statewide average.

	Rep. Dist.	No. of Reprs.	No. of Reg. Voters	Reg. Voters per Rep.	% Dev. from Island Unit Av. No. of Reg. Voters per Rep.	% Dev. from Statewide Av. No. of Reg. Voters per Rep. (4965.53) ²³
<i>Hawaii</i>						
	1	1	4,377	4,377.0	— 8.2	— 11.9
	2	2	10,115	4,821.0	+ 1.2	— 2.9
	3	1	4,517	4,517.0	— 5.2	— 9.0
	4	1	4,766	4,766.0	0.0	— 4.0
	5	1	4,821	5,057.5	+ 6.1	+ 1.9
<i>Maui</i>						
	6	2	9,223	4,611.5	— 3.1	— 7.1
	7	2	9,806	4,903.0	+ 3.1	— 1.3

(Continued next page.)

²³ Total statewide registered voters (253,242) divided by the total number of representatives (51).

	Rep. Dist.	No. of Reps.	No. of Reg. Voters	Reg. Voters per Rep.	% Dev. from Island Unit Av. No. of Reg. Voters per Rep.	% Dev. from Statewide Av. No. of Reg. Voters per Rep. (4965.53)
<i>Oahu</i>						
	8	2	10,449	5,224.5	+ 2.8	+ 5.2
	9	2	9,973	4,986.5	- 1.9	+ 0.4
	10	2	10,449	5,224.5	+ 2.8	+ 5.2
	11	3	15,161	5,053.6	- 0.6	+ 1.8
	12	2	9,800	4,900.0	- 3.6	- 1.3
	13	3	15,597	5,199.0	+ 2.3	+ 4.7
	14	2	10,155	5,077.5	- 0.1	+ 2.3
	15	2	10,504	5,252.0	+ 3.3	+ 5.8
	16	2	11,099	5,549.5	+ 9.2	+ 11.8
	17	2	9,137	4,568.5	- 10.1	- 8.0
	18	2	10,363	5,181.5	+ 2.0	+ 4.3
	19	2	10,533	5,266.5	+ 3.6	+ 6.1
	20	3	14,812	4,937.3	- 2.8	- 0.6
	21	1	5,725	5,725.0	+ 12.7	+ 15.3
	22	2	9,296	4,648.0	- 8.5	- 6.4
	23	3	15,506	5,168.6	+ 1.7	+ 4.1
	24	3	14,548	4,849.3	- 4.6	- 2.3
<i>Kauai</i>	25	3	12,510	4,170.0	0	- 16.0

Deviation: Oahu. On the island of Oahu, except for four districts, the deviation in all districts from the island unit average number of registered voters per representative is 5% or less. In only two districts is the deviation greater than 10%. When measured against the state average number of registered voters per representative, the deviation in all districts, except eight, is within 5%. Only two of the eight districts deviate from the state average by more than 10%; the remaining six are 8% or less.

The two districts with deviations exceeding 10% measured against the Oahu average, are proposed House Districts 17 and 21. District 21 is the Waianae district. As mentioned earlier, your Committee's policy of not disrupting a homogeneous area which is large enough to be a district by itself and which would otherwise be submerged in another district in which another group interest predominates justifies the creation of District 21. District 17, which deviates from the island unit's average by 10.1% and the statewide average by 8.0%, consists of Kalihi-uka, lower Palama and a portion of Nuuanu. This is a mixed residential and industrial area, and the people who

reside in this district are generally of similar economic status. The creation of this district is thus in keeping with the policy of your Committee of retaining homogeneous areas intact wherever possible.

Deviation: Hawaii. On the island of Hawaii, the deviation from the island average number of registered voters per representative does not exceed 8.2%. When measured against the statewide average, District 1 deviates by -11.9% and District 3 by -9.0%. Due to the topography and vast geographic size of the island and the way the island's sparse population is dispersed, it is virtually impossible to narrow the deviation much further than this. Any attempt to narrow the deviation in any one district results in a greater deviation in another.

A deviation can be narrowed only by moving the boundary line of a district to take in more people or to eliminate some. Such movement of the boundary line has a domino effect. For example, if District 1's boundary line were moved either to the north or to the west, the boundary line of each subsequent district must in turn be moved. The effect of such movements

of boundary lines is the creation of districts which make little sense. Thus, if District 1's boundary line were moved northward, it would split the compact, homogeneous city of Hilo and would combine the southern portion of Hilo with Puna, which is several miles of forest away. If District 1's boundary line were moved westward, the effect is to split a part of South Kona away from the Kona coast and to join it with Kau over many miles of lava desert. Similarly, the corresponding movement of the boundary line of each subsequent district would split other homogeneous areas and join population centers which are miles apart.

Deviation: Maui. Maui's two districts deviate from the island's average number of registered voters per representative by +3.1% and -3.1%. When measured against the statewide average, the deviations are -1.3% and -7.1%. These deviations are minimal.

Deviation: Kauai. The Kauai island unit is over-represented in the state house of representatives by -16.0%. The reason for this has already been explained.

(3) *Senate.* The proposed senate districts and the number of senators apportioned to each are as follows:

District No.	Island Unit	No. of Senators
1	Hawaii	3
2	Maui	2
3	Oahu	3
4	Oahu	4

(Continued next column.)

District No.	Island Unit	No. of Senators
5	Oahu	4
6	Oahu	4
7	Oahu	4
8	Kauai	1
		25

The statewide ratio of the largest number of registered voters per senator to the smallest number of registered voters per senator is 1.31 to 1. The seemingly large ratio is caused by the single senator for the basic island unit of Kauai who represents 12,510 registered voters compared to the statewide average number of registered voters per senator of 10,130. Without including Kauai, the ratio is 1.08 to 1.

On the island of Oahu, which is the only basic island unit with more than one senatorial district, the ratio of the largest number of registered voters per senator to the smallest number of registered voters per senator is 1.026 to 1.

The percentage by which the number of registered voters per senator in each district deviates from the average number of registered voters per senator is shown on the following table. Deviations from the island unit's average is shown only for those senatorial districts on Oahu. The only meaningful measure of deviation in the other island units is the statewide average, since each island unit is a single senatorial district.

Senatorial District	No. of Senators	R.V. per Senator	Number of Registered Voters	% Deviation from Island Unit's Av. No. of R.V. per Senator ²⁴	% Deviation from Statewide Av. No. of R.V. per Senator (10,130) ²⁵
1	3	9,532	28,596		- 5.9
2	2	9,514	19,029		- 6.1
3	3	10,018	30,054	- 1.4	- 1.1
4	4	10,092	40,366	- 0.7	- 0.4
5	4	10,276	41,103	+ 1.1	+ 1.4
6	4	10,175	40,701	+ 0.1	+ 0.4
7	4	10,221	40,883	+ 0.5	+ 0.9
8	1	12,510	12,510		+ 23.5

²⁴ Total number of registered voters on Oahu (193,107) divided by the number of senators apportioned on Oahu (19) equals 10,163.53 registered voters per senator.

²⁵ Total statewide number of registered voters (253,242) divided by the total number of senate seats (25) equals 10,129.68.

Except for Kauai, the number of registered voters per senator in each senatorial district does not deviate from the statewide average by more than 6.1%. The under-representation by +23.5% for the island unit of Kauai was explained earlier in this report.

(4) *Legislature as a whole.* When the proposed representative districts and the proposed senate districts are read together, the number of registered voters per legislator in each district deviates from the statewide average number of registered voters per legislator by no more than 11.5%. The following table reflects this finding:

House Dist.	Senate Dist.	Tot. No. R.V.	Tot. No. Legislators (Hse. & Sen.)	Av. No. R.V. per Legislator	% Deviation from Statewide Av. per Legislator (3,332) ^{25a}
1)					
2)					
3)	1	28,596	9	3,174	- 4.7
4)					
5)					
6)	2	19,029	6	3,171.5	- 4.8
7)					
23)	3	30,054	9	3,339.3	+ 0.2
24)					
19)					
20)	4	40,366	12	3,363.8	+ 1.0
21)					
22)					
15)					
16)	5	41,103	12	3,425.2	+ 2.8
17)					
18)					
11 por)					
12)	6	40,701	13	3,130.8	- 6.0
13)					
14)					
8)					
9)	7	40,883	11	3,716.6	+ 11.5
10)					
11 por)					
25)	8	12,510	4	3,127.5	- 6.1

^{25a} Total registered voters (253,242) divided by the total number of legislators (76).

From the foregoing discussion, it is your Committee's conclusion that the districting plan adopted by your Committee substantially meets the requirement of "one man, one vote," and if any justification, rooted on a rational state policy, is required to explain any deviation from the equal population principle, it can readily be supplied.

k. Continuance in office of incumbent senators:

All senators elected in the 1968 general election will serve their full four-year terms. Section 21 of

Article XVI provides as follows:

"Senators elected to four-year terms in the 1968 general election shall in every case continue to serve in the district bearing the same number as that in which they were elected until the expiration of their term."

l. Effective date:

Your Committee recommends adoption of the following language as Section 25 of Article XVI:

"The senatorial and representative districts

and the numbers to be elected from each as set forth in the Schedules shall become effective for the first general election following ratification of the amendments to Sections 2 and 3 of Article III."

The intent of this section is to provide that the new apportionment and districting plan proposed by your Committee will become effective for the first general election following ratification.

IV. FUTURE REAPPORTIONMENT AND DISTRICTING

1. Reapportionment Periods

Your Committee recommends inclusion of the following language as Section 4.1 of Article III:

"Reapportionment Year. The year 1973 and every sixth year thereafter shall be reapportionment years."

The present provision in the Constitution requires the house to be reapportioned every ten years and the senate, by virtue of the present temporary plan now in effect, is required to be reapportioned on or before June 1, 1975 and every ten years thereafter. Your Committee has altered the reapportionment period so that reapportionment will occur at the same time for both houses—beginning in 1973 and every sixth year thereafter. The primary reasons for this change are:

(1) The United States Supreme Court in reviewing Hawaii's use of registered voters as an apportionment base suggested more frequent apportionments—every four or eight years.²⁶

(2) Your Committee has heard substantial testimony regarding the rapid growth of Hawaii's population which is not uniform among the several legislative districts, and of the rapid population shifts that occur. This would lead to substantial instances of over-representation and under-representation within a ten-year period and would produce substantial deviations among districts.

(3) Reapportionment and redistricting are rendered more difficult when existing districts become substantially unbalanced, for violent changes are required to correct them, thus magnifying difficulties for incumbents, potential candidates and voters.

(4) Although consideration was given to scheduling reapportionments every four or eight years to coincide with presidential elections, the statistics provided by the lieutenant governor's office indicate that

there is no apparent difference between voter registration and interest in presidential years or in off-years. This lack of difference may be due to the Hawaii gubernatorial elections being held during off presidential election years.

(5) Longer reapportionment periods promote greater stability of districts, while shorter periods are more desirable in terms of accurately reflecting rapid changes in the number of registered voters in each district. Six years was selected as an appropriate compromise between these desired ends.

2. Legal Status of Existing Reapportionment Provisions

The Constitution presently authorizes the governor to reapportion and redistrict the house of representatives every ten years. However, he is permitted to redraw district lines only when the average registered voters per representative in that district varies by more than 50% from the state average and requires only that the line be redrawn so that the variation is reduced to less than 50%. In practice, such a large variation will almost never occur where multi-member districts are used and therefore the governor's redistricting power is highly limited in scope. The present Constitution contains no reapportionment provisions for the senate but the legislature has passed and put upon the ballot for the next general election a constitutional amendment adopting the same program for the senate.

Your Committee has concluded that reapportionment in the manner suggested is constitutionally deficient. Recent judicial decisions indicate clearly that periodic reapportionment must be carried out with far less deviation than 50%. Indeed unexplained deviations of as little as 12% have been held unconstitutional because excessive.²⁷ Whenever legislative reapportionment is conducted in the future, it will be necessary to reduce all deviations to an absolute minimum unless carefully and legally acceptable explanations for specific exceptions are made. As a consequence and because of Hawaii's very rapid growth and mobile population, all future reapportionments will necessarily require redistricting which may be extensive.

3. General Considerations as to Kind of Districting Agency Needed

Given this circumstance your Committee has concluded that the responsibility for future reapportionments should not fall upon the governor or any single person. Your Committee finds:

(1) Whenever redistricting (as opposed to

²⁶ *Burns v. Richardson*, 284 U.S. 73 (1966)

²⁷ See *Swann v. Adams*, 385 U.S. 440 (1967); and *Kilgarlin v. Hill*, 386 U.S. 120 (1967).

simple reapportioning) is to take place, there is a wide range of discretion and judgment required.

(2) There is no way to accomplish an objective redistricting without affecting the future prospects of certain incumbents, potential candidates or parties in this area or that.

(3) Great political pressure will be brought to bear upon the reapportioning and districting agency.

(4) Some people will be unhappy and some of them will inevitably conclude that the redistricting was unfair.

(5) Judicial review based upon present constitutional limitations is limited largely to corrections of numerical deviations and of instances of extreme discrimination, but judicial review cannot be counted upon to correct instances of unfairness or of favoritism to persons, groups or parties in any districting plan.

Your Committee believes:

(1) That redistricting is a difficult and thankless task. It is unlikely that any substantial segment of the population could ever believe that a holder of political office carried out the task impartially and objectively even though such might actually have been the case and it seems inappropriate to subject the governor's office or any other elective office to such a situation.

(2) Those affected will react positively to a redistricting plan only if they feel that it was accomplished by an entirely nonpartisan or bipartisan body which had no reason to favor one person or group of persons or one party over another.

Your Committee has studied the reapportionment and redistricting provisions adopted by many states throughout the country. It has concluded that a nonpartisan body is quite impossible to locate or to appoint, and even if such a body were nonpartisan to begin with, the extreme political pressures brought to bear would be such that it could not long remain so. Other states have provided a variety of methods, the best of which involved balanced bipartisan commissions with strict deadlines and at least general districting criteria all included in its constitution. Your Committee has selected from these state provisions those features which it deems most likely to be effective and has filled in other provisions of its own specially designed for Hawaii.

Your Committee recommends inclusion of the following language as Section 4.2 of Article III:

"Reapportionment Commission. On or before March 1 of each reapportionment year and whenever reapportionment is required by court order, a legislative reapportionment commission shall be constituted. 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 select one of their number for each house and the two so selected each shall designate two members of the commission. None of the eight members so selected shall be eligible to become a candidate for election to either house of the legislature in either of the first two elections under any such reapportionment plan. 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 appointing authorities for the eight members of the commission shall, at the time of the commission appointments, also appoint one person from each basic island unit to an apportionment advisory council for that island unit. Such council shall remain in existence during the life of the commission and shall serve in an advisory capacity to the commission for matters affecting its island unit.

"Any vacancy in the commission or a council shall be filled within fifteen days in the same manner in which such position was originally filled. Council and commission members not appointed within the time specified shall be appointed 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 120 days from the date on which its members are certified, the commission shall file with the chief election officer a final reapportionment plan which shall become law after publication as provided by law. Members of the commission shall hold office until the reapportionment plan becomes effective or until such time as may be provided by law.

"Commission members and apportionment

4. Reapportionment Commission

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 shall furnish, under the direction of the commission, all necessary technical services. The legislature shall appropriate funds to enable the commission to carry out its duties."

The reapportionment commission recommended by your Committee consists of nine members with the president of the senate and the speaker of the house each appointing two. Two each are appointed by the minority members in each house (the Committee debated having these appointments made by the minority leader in each house, but decided against use of that officer by name since problems might arise where there was more than one minority party or where the officers or their titles in the legislature might be changed). If any of these appointments are not made, the supreme court will make them. The eight persons so selected will presumably be evenly divided between the two political parties, a balance designed to assure members of each party that their interests have been adequately dealt with. Commission members are to be compensated and reimbursed for their expenses as provided by law and the eight initially selected are not permitted to run for legislative office under the districting program they have drawn for a period of four years. The latter proviso is to insure both incumbents and prospective candidates that self-interest in dealing with individual districts has been minimized.

The eight members initially selected are to select a ninth by agreement of at least six, who will act as chairman. If they are unable to make a selection, the chairman will be appointed by the supreme court. Appropriate time limits are specified for the appointments and the selection of the chairman, and the commission thereafter is given 120 days in which to complete its work. Advisory bodies are created for each county to insure that the problems and desires of each island unit are made known to the commission. Advisory body members are also compensated and their expenses reimbursed as provided by law.

The commission's work is to be carried out in such manner as the legislature may provide. Your Committee recommends that the legislature include in its provisions a requirement that public hearings be held and a requirement that the plan finally prepared be published for a given minimal period before it becomes law. No referendum to the people or to the legislature is involved but the legislature may wish to provide for the initial publication of the plan and a given period of time in which the public may bring its objections to the commission to permit the correction of errors without the necessity of judicial review.

5. Chief Election Officer

Your Committee recommends inclusion of the following language as Section 4.3 of Article III:

"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."

Your Committee has found in its attempts to build appropriate districts that frequently statistics and other data in useful form simply are not available. To facilitate future apportionment activities, it is necessary to provide for: (1) a continuing program of maintenance of statistics in units smaller, and therefore more useful, than present precinct and census tract data; (2) an active ongoing program to maintain a high level of voter registration generally, but especially in districts which appear to be below average in voter registrations; and (3) a permanent program to re-register voters in the districts in which they actually reside. Programs and perhaps appropriate legislation is necessary to insure improvement in each of these areas.

At the suggestion of the lieutenant governor we have included a provision calling for the appointment of a chief election officer of the State and prescribing in general certain duties for such officer. At present the lieutenant governor is charged by law with carrying out most of the duties described and it is anticipated that the legislature will provide that the lieutenant governor will be chief election officer. Your Committee strongly recommends that the legislature take action as required to permit the effective implementation of the programs above suggested. Keeping current the register voter lists is critical for Hawaii since we are committed to the idea that our eligible voter population is best reflected and computed by the use of registered voters.

6. Apportionment Among Basic Island Units

Your Committee recommends inclusion of the following language as Section 4.4 of Article III:

"Apportionment among Basic Island Units. The commission shall allocate the total number of members of each house 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

such 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."

This section incorporates present apportionment methods as found in the Constitution and in the senate proposal. No changes have been made except the substitution of the term "basic island unit" for "basic area." This term is used throughout your Committee's reapportionment provisions and was adopted to reflect more clearly the fact that these areas are not only basic but are historical, geographical and political units with a strong identity of interest. These factors are important considerations in justifying deviations from a strict calculation of average registered voters. Since such deviations do occur by virtue of the fact that these areas do not possess exact multiples of the number of registered voters needed to justify a senator or a representative, it was felt the term would be helpful in supporting them.

7. Minimum Representation for Basic Island Units

Your Committee recommends inclusion of the following language as Section 4.5 of Article III:

"Minimum Representation for Basic Island Units. 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 this article, 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."

Recent years have witnessed a phenomenal growth in the population of Oahu and an inability on the part of neighbor island counties to keep pace.²⁸ It is true that the events which may change this trend are already in evidence. Many plans are being formulated for tourist development on the neighbor islands and capital improvements to facilitate this tourist activity are being provided. Nevertheless, it may be many years before all of the neighbor island counties will attain a population and voter growth rate equal to or exceeding that of Oahu. In these intervening years

a serious problem will develop.

The Committee has given serious study and thought to the growing concentration of legislative representation on Oahu.²⁹ Following the one-man, one-vote principle enunciated by the United States Supreme Court, which requires a reasonably strict allocation of legislative members according to numbers of population or registered voters, Oahu will after this apportionment elect 38 of the 51 members of the house of representatives and 19 of the 25 members of the senate. Your Committee does not take issue with the basic philosophy underlying the one-man, one-vote principle but it is virtually unanimous in its opinion that rigid adherence to the principle may result in depriving substantial elements of our population of any effective representation in the state legislature in matters of government. This danger is occasioned largely by two factors which are unique to Hawaii. These are Hawaii's geographical structure wherein our four counties are each basic and independent island units separated by from thirty to seventy miles of open international ocean.³⁰ The second factor is Hawaii's highly simplified and centralized government structure.³¹ No other state in the union possesses either of these characteristics and, of course, no other state even remotely approaches the situation resulting from a combination of both.

Geographically, Hawaii's structure produces a number of results which must be considered in evaluating the needs of any governmental structure for the State. These are familiar to most of us but they will bear repetition here:

(1) Islands or groups of islands in Hawaii have been separate and distinct fundamental units since their first settlement by human beings in antiquity. As population grew, separate monarchies developed and each of the present counties was an independent free nation. It was not until about 1795, when Kamehameha I conquered and united the islands presently constituting Maui, Hawaii and Oahu under unified rule, that any abiding superior government existed. Kauai was never conquered by Kamehameha I but

²⁹ See Appendix 1.

³⁰ Robert M. C. Littler, *The Governance of Hawaii, A Study of Territorial Administration* (Stanford University Press, California, 1929), pp. 2-3; and *Civil Aeronautics Board v. Island Airlines, Inc.*, 235 F. Supp. 990 (D. Hawaii 1964); aff. 352 F. Supp. 735 (9th Cir. 1965) held that the seaward boundaries of Hawaii "were fixed at three nautical miles from the line of ordinary low water surrounding each and every one of the islands composing the State of Hawaii." (235 F. Supp. 990, 1007).

³¹ See Norman Meller, "Hawaii: A Study in Centralization," (Unpublished Ph.D. dissertation, Department of Political Science, University of Chicago, 1955); and W. Brooke Graves, *Centralization of Government in Hawaii*, The Library of Congress Legislative Reference Service (1962).

²⁸ See Department of Planning and Economic Development, *The State of Hawaii Data Book*, State of Hawaii, 1967, Table 7, p. 5; and Andrew W. Lind, *Hawaii's People*, (3rd ed., University of Hawaii Press, Honolulu, 1967), Table 3, p. 44.

acquiesced to Kamehameha I in 1810.³² The first constitution of the nation of Hawaii, granted by King Kamehameha III in 1840, provided that there would be four governors "over these Hawaiian Islands—one for Hawaii—one for Maui and the islands adjacent—one for Oahu, and one for Kauai and the adjacent islands." The same constitution provided for a council of nobles to establish laws for the nation chosen from the four island units. Thereafter in every constitution of the nation, the territory and the state, the island units have been recognized as separate political entities.

(2) Hawaii's insular separation has had effects far more pervasive, however, than simply the establishment of historically independent governmental units. Each of the islands has had its unique geographic, topographic and climatic conditions³³ which have produced strikingly different patterns of economic progress and occupational pursuits. Thus each unit of government has its own peculiar needs and priorities which in some instances may be quite different from any other county.

(3) Statewide news media are centralized on the island of Oahu and concentrate their local news heavily, as might be expected, on Oahu matters. The people of Oahu therefore, constituting about 80% of the total population, know a great deal about the problems facing their island but very little about the problems of any Neighbor Island.

(4) It is not possible, given Hawaii's geography and its history, to manufacture tenable senatorial or representative districts by combining any parts of two counties. The result in any such case would always be the submergence and effective disenfranchisement of the voters in that county which constituted the lesser number. Consequently the people living in any given Neighbor Island unit can attain effective representation only from persons elected within that unit.

Given these geographically created factors, your Committee also considered the unique role of Hawaii's legislature in representative state government. In every other state in the union there are numerous minor governmental units—towns, cities, school districts, sewer districts and the like—which exercise power and in which the people may obtain local representation for local matters. Hawaii has none of these. Although Hawaii has major political units called counties,

³² Ralph S. Kuykendall and A. Grove Day, *Hawaii: A History from Polynesian Kingdom to American State* (Rev. ed., Englewood Cliffs, N. J.: Prentice Hall, 1961), pp. 23-29.

³³ See Department of Planning and Economic Development, Tables 93, 94 and 95.

these units have substantially less power and authority over local affairs than in most other states. The result is that Hawaii's legislature deals exclusively with, or at least effectively controls, many matters which are normally considered typically local government services.³⁴ Examples include the following areas of state jurisdiction:³⁵

(1) The entire public education system from the recruitment, payment and assignment of teachers to the maintenance, construction and operation of the public school system.

(2) The administration and control over all state and federal-aid highways, all boat harbors and all airports.

(3) The administration and collection of all major taxes, including the real property tax which is turned over to the counties after deduction of administrative expenses.

(4) The administration and control over all health and welfare activities, including the administration of hospitals, burial of indigents, economic assistance and rehabilitation.

(5) Administration and control over the entire judicial system, including the district courts, the circuit courts and the supreme court.

(6) Formulation and control of the state land use districts and primary responsibility for planning and economic development.

(7) Control of all natural resources, including fish, forestry, minerals, agriculture and land.

(8) The direction and coordination of programs of apprenticeships, employment security, labor law enforcement, workmen's compensation, industrial safety and labor-management relations.

(9) State law has created uniform provisions on classification and pay for all state and county employees by Act 188 of the Session Laws of Hawaii 1961.

In addition, in Hawaii and unlike other states, all of the major taxes are centrally administered and collected by the state government. A table prepared by the Tax Foundation of Hawaii is attached as Appendix 2 showing the amounts and

³⁴ See Norman Meller, "Hawaii: A Study in Centralization," (Unpublished Ph.D. dissertation, Department of Political Science, University of Chicago, 1955); W. Brooke Graves, *Centralization of Government in Hawaii*, The Library of Congress Legislative Reference Service, 1962; and Public Administration Service, *State and Local Government Relationships in the State of Hawaii* (Chicago: 1962).

³⁵ See Public Administration Service, pp. 44-48 but updated to reflect statutory changes since 1962.

types of taxes collected by the State as compared with those collected by the counties.

The referred-to table also reveals that the neighbor island counties are not self-supporting even for the limited county services they provide, and each county government depends on grants-in-aid from the legislature in order to support its own activities.

Your Committee believes the conclusions to be drawn from the foregoing are obvious and inescapable: if a voter of the State of Hawaii is to have meaningful representation in any kind of government, he must have effective representation from his own island unit in the state legislature.

Given this conclusion it is clear that the diminution of neighbor island representation which has characterized reapportionments in both bodies of the legislature in recent years raises the danger that at some point substantial numbers of Hawaii's citizens may be deprived of any effective representation in their governmental affairs. Your Committee held hearings and received testimony on the representation necessary to provide minimal coverage of legislative matters. Your Committee finds that the true deliberative bodies and decision-making centers in the legislature were the various committees. There were nineteen such committees in the senate and twenty-three in the house of representatives in the 1968 session. The testimony given to this Committee leads to the conclusion that even if these committees were drastically altered in structure or reduced in number, the number of basic areas of concern is such that for effective coverage and exposure of other legislators to its problems, a county must have an absolute minimum of two members in the senate and three members in the house of representatives.³⁶

Much of the Committee's discussion of this matter was taken up with a legal question: since the allocation of these minimal numbers of members to counties which had an insufficient voter population to warrant them would result in substantial deviations from the average number of registered voters throughout the State, would the courts permit the use of minimum representation? Your Committee felt that some minimum should be imposed. Some members of your Committee also felt that the supreme court would give recognition to a rational state plan based on Hawaii's unique representation problems, particularly since the solution called for only isolated deviations from the basic one-man, one-vote principle which could never result in control of the legislature shifting to a small fraction of the populace.

In recognition of the problem of the neighbor island counties, your Committee recommends a plan whereby the 25 senators and 51 representatives would be allocated among the counties by the method of equal proportions as has always been the case. If that allocation results in a county receiving for example only one senator and two representatives then the senate would be increased to 26 members to provide the extra senator and the house to 52 members to provide the extra representative. These increases in the size of the house and senate would be temporary and the process will start anew at each six-year reapportionment. Thus if at the next reapportionment the county in question is entitled to its minimum out of the initial allocation, the senate and the house would remain at 25 and 51, respectively.

This plan would serve three important functions:

(1) It would isolate the deviations from the average so that every county which had sufficient population to warrant at least two senators and three representatives would be apportioned with mathematical perfection (insofar as the initial 25 and 51 members are concerned). Only the county or counties in which augmentation had been necessary would show deviations.

(2) No county would be deprived of the representation to which it was entitled out of the basic numbers of either house or senate to provide the additional representatives for the county or counties needing augmentation.

(3) The entire minimum representation plan could be split from the balance of the reapportionment scheme permitting review by the courts of that plan alone. If the courts concluded that the minimum plan could not be sustained, the court could overturn or effect necessary changes in the minimum plan without any adverse consequence to the remainder of the apportionment and districting provisions which could stand alone.

Fractional Voting

Your Committee was divided on the question whether the minimum plan had sufficient likelihood of success in the courts. Much deliberation failed to resolve this split. The legal issue seems to center not on the number of people elected to the legislature but rather on the voting power they exercise. Accordingly, your Committee reached agreement on a plan which gave to each neighbor island county a guaranteed minimum number of legislators but did not dilute the voting power of the remaining counties. A plan was developed therefore which provides that

³⁶ These minimums do not of course apply to representative or senatorial districts within the basic island unit where problems of communication, of proximity and of economic and historical background do not exist or at least are far less severe.

each neighbor island county is to have as many votes in the legislature as its registered voter totals dictate except that no county will ever have less than one full vote in either house. Where the voting population is not sufficient, however, to give a particular county the minimum number of votes and members, then its representation will be augmented as above described but the members as augmented would simply share among themselves their county's allocated voting power. For example, if a county's registered voting population were such that the initial allocation gave it only one senator and two representatives, each body would be increased by one member to be assigned to that county. The county's two senators would each be entitled to all privileges and rights of that office and would share the county's one vote in the senate such that each would cast one-half vote. The house members would likewise have all rights and privileges of that office and each would cast two-thirds of a vote. If a county should ever be allocated only one representative in the initial allocation, then its three representatives as augmented would each cast one-third of a vote. The plan works in such a way that no other fractions would ever be utilized.

Since there would be no increase in the total votes cast within either legislative body, constitutional, statutory and internal rules with respect to minimums for affirmative action, quorums, and other matters need not be changed. Where such rules look to a proportion of the total vote, the same proportion will be required although it is possible that it will take a greater number of members to attain it. The houses of the legislature should provide by rule for any adjustments needed to integrate the fractional voting concept with its existing procedures.

Your Committee feels strongly that this plan is a rational one. It provides the minimum representation felt necessary to maintain our legislature as a truly representative body and it avoids most of the legal dangers that would otherwise accompany a plan to grant that minimum. Since only a small number would ever be added to either house under any feasible circumstances, the plan would not be disruptive of internal legislative matters (including allocation of physical space) and would never produce a proliferation of fractional votes. Since each senator and representative would be entitled to all rights and privileges of his office, including full pay and allowances, there need be no fear of "second-class status." There is no substantial dilution in the power, voting or otherwise, of the more populated counties. Finally, although there is still an element of legal risk since no such plan has ever been approved by a court before, the plan is placed in the Constitution and in the apportionment article in such a way that even if it were disapproved by the courts, it is very likely that the remainder of the reapportionment provisions would not be affected. These provisions have been planned in

such a way that they will stand alone in such an event and no further reapportionment or constitutional activity would be necessary.

Your Committee urges adoption of the plan.

8. Present Augmentation of Kauai Senatorial Representation

Your Committee recommends adoption of the following language as Section 24 of Article XVI:

"Effective for the first general election following ratification of Section 4.5 of Article III and until the next reapportionment, one senator shall be added to the twenty-five members of the senate as provided and with the effect set out in Section 4.5 of Article III hereof and such senator shall be allocated to the basic island unit of Kauai."

This transitional provision is designed to implement the minimum representation provision of Section 4.5 for the next general election after adoption of the Convention's proposal.

9. Apportionment Within Basic Island Units

Your Committee recommends inclusion of the following language as Section 4.6 of Article III:

"Apportionment within Basic Island Units. Upon the determination of the total number of members of each house to which each basic island unit is entitled, the commission shall apportion the members among the districts therein and shall redraw election district lines where necessary in such manner that the average number of registered voters per member in each district is as nearly equal 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 one person or political faction.
3. Except in the case of districts encompassing more than one island, districts shall be contiguous.
4. Insofar as is practicable, districts shall be compact.
5. Insofar as 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. Representative districts to the extent practicable shall be wholly included within senatorial districts.

7. Multi-member districts in either house shall not elect more than four members.

8. Submergence of an area in a larger district wherein substantially different socio-economic interests predominate shall be avoided insofar as is practicable."

The method of equal proportions for apportionment within basic areas has been abandoned. The method must be abandoned since this method works only where legislative districts are fixed. In the past reapportionment has been contemplated by the Constitution as being simply the reallocation of legislators among relatively fixed existing districts. In such a case the method of equal proportions is appropriate but it would invariably produce substantial deviations from the average number of registered voters established for the basic unit. Recent supreme court decisions have clearly stated that substantial deviations will be invalidated. Therefore, your Committee has had to provide for periodic redistricting, as well as reapportionment. Since district lines will now be subject to periodic change, the method of equal proportions cannot any longer be used. The method has been retained for apportionment among basic island units where the lines will remain constant.

Your Committee has instead provided that apportionment and districting produce a result such that "the average number of registered voters per member in each district is as nearly equal the average for the basic island unit as practicable." This means that the quotient obtained by dividing the number of voters registered in each district by the senators or representatives assigned to that district should closely approximate the same quotient for the island unit as a whole. It has been argued within your Committee that the term "average" does not have the technical meaning that its use by your Committee would indicate and there is perhaps merit to this argument. Substantial discussion and experimentation with alternatives left your Committee with the conclusion that its language, even if technically deficient, conveys the intended message more clearly and concisely than any alternative and does not produce ambiguity.

Your Committee has also placed in this section a number of guidelines for the reapportionment commission to follow when redistricting. These are largely the same as the criteria initially adopted by

your Committee for its own districting and discussed in section III, subsection 7 (b), *supra*. It is not intended that these guidelines be absolute restrictions upon the commission excepting for numbers 1, 2, 3 and 7 which are stated in mandatory terms. The remainder are standards which are not intended to be ranked in any particular order. Rather, your Committee believes that they are matters that should be considered in any decision concerning districting and that the balance to be struck among them is a matter for case-by-case determination. The inclusion of these guidelines is intended to aid the reapportionment commission in maintaining impartiality and objectivity in its own reapportionment plan and to provide the courts with a standard for review of claims of gerrymandering or other unfair or partial result in the apportionment plan.

10. Continuance in Office of Members of the Senate

Your Committee recommends adoption of the following language as Section 4.7 of Article III:

"Continuance in Office of Members of the Senate. As a part of a reapportionment plan the commission shall allocate among the districts the incumbent senators whose terms of office will not expire until the second general election following the taking effect of the plan. Notwithstanding any other provision of this Constitution, incumbent senators shall be allowed to complete their terms as senators of the districts to which they are allocated, irrespective of the districts in which they reside."

Your Committee recommends a plan which permits continuance of the staggering of terms of senators yet allows incumbent senators to serve for the full four years even if a reapportionment year intervenes. The plan calls for the reapportionment commission to allocate incumbent senators whenever the district lines have been altered. Your Committee recommends that such allocation be to the district which contains all or the largest portion of the registered voters of the district from which the senator was originally elected. If the number of seats in that district has been reduced so that incumbent senators may not be so allocated, or if the allocation will disrupt the staggering of terms (where all senators' terms may expire at the same time), then a senator should generally be allocated to the district containing the next largest portion of registered voters of the district from which he was elected. If two or more senators need to be reallocated by this method, the allocation should be determined by lot. These recommendations appeared as requirements in an early draft of constitutional language drawn by your Committee but were removed as being unduly restrictive and detailed for inclusion in the Constitution.

Your Committee feels that it is unfair to

require a person who is elected to a four-year term to run again for office at the expiration of half of his term merely because of an intervening reapportionment. This is particularly true as periodic reapportionments are expected to occur regularly and frequently in the future.

11. Mandamus and Judicial Review

Your Committee recommends inclusion of the following language as Section 4.8 of Article III:

"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."

Judicial review is provided in the form of a mandamus to require the commission to do its work, correct any error or effectuate the purposes of the reapportionment provisions contained in the Constitution. The grant of power to review is designedly broad, permitting the court to fashion its own remedies to fit the exigencies of the situation.

V. RESOLUTION OF CONFLICT BETWEEN COMMITTEE'S PROPOSAL AND SENATE BILL NO. 1102

Your Committee recommends inclusion of the following language as Section 26 of Article XVI:

"The amendments to Article III, Sections 2, 3 and 4, proposed by the Constitutional Convention of 1968, shall upon ratification supersede the provisions of Senate Bill No. 1102 of the Regular Session of 1967 even if the latter shall also be ratified."

The senate has passed and placed on the ballot for the 1968 general election S.B. 1102, a reapportionment plan for the senate, as well as provisions for future reapportionment. If adopted, S.B. 1102 would become a constitutional provision and it would be in conflict with the Convention's proposal if it also is adopted. Obviously, if both were adopted the Convention's proposal would have to prevail over S.B. 1102 and the problem of insuring that such would be the case prompted the obtaining of an opinion of the attorney general on the matter. The section here proposed is designed to comply with the attorney general's opinion and to insure that the Convention's proposal for Sections 2, 3 and 4 will prevail over the provisions of S.B. 1102 if both are adopted.

VI. CONCLUSION

In summary, the major decisions made by your Committee are as follows:

1. That the size of the house and senate remain as they are: 51 representatives and 25 senators.

2. That registered voters be retained as the basis for reapportionment.

3. That senatorial districts remain essentially intact with two exceptions in urban Oahu where the district lines were altered so that the senatorial district lines would coincide with representative district lines. The number of districts and the number of senators elected from each senatorial district is the same as the present temporary senate plan provides.

4. That representative districts be reduced in size so that each district would not be allotted more than three representatives.

5. That the number of members of each house be temporarily increased if necessary to provide minimum effective representation to the neighbor island counties—at least three representatives and two senators with each legislator sharing the number of votes to which that basic unit may be entitled.

6. That a bipartisan reapportionment commission be responsible for reapportionment and districting.

7. That reapportionment and redistricting of both the house and senate occur in the same year—1973 and each sixth year thereafter.

8. That incumbent senators be allowed to serve their full four-year terms even though the terms are interrupted by a reapportionment year.

9. That the senatorial districts, like the house districts, be delineated in Article XVI as part of the Schedule rather than fixed in Article III.

The factors of apportionment and districting are inextricably intertwined and interrelated. So much so that any alteration of any of the factors or the districts will have ramifications throughout the plan and will require adjustments in areas outside of the district or the area of immediate concern.

With the foregoing in mind, your Committee 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 submitted.

Signed by all members of the Committee. Delegate Kawasaki did not concur in part.

EXHIBIT A LEGAL DESCRIPTION OF DISTRICTS

SENATE DISTRICTS

First Senatorial District: The Island of Hawaii, consisting of the first through fifth representative districts.

Second Senatorial District: The Islands of Maui, Molokai, Lanai and Kahoolawe, consisting of the sixth and seventh representative districts.

Third Senatorial District: That portion of the Island of Oahu consisting of the twenty-third and twenty-fourth representative districts.

Fourth Senatorial District: That portion of the Island of Oahu consisting of the nineteenth, twentieth, twenty-first and twenty-second representative districts.

Fifth Senatorial District: That portion of the Island of Oahu consisting of the fifteenth, sixteenth, seventeenth and eighteenth representative districts.

Sixth Senatorial District: That portion of the Island of Oahu consisting of the twelfth, thirteenth and fourteenth representative districts and that portion of the eleventh representative district lying on the west side of Kapahulu Avenue.

Seventh Senatorial District: That portion of the Island of Oahu consisting of the eighth, ninth and tenth representative districts and that portion of the eleventh representative district lying east of Kapahulu Avenue.

Eighth Senatorial District: The Islands of Kauai and Niihau, consisting of the twenty-fifth representative district.

REPRESENTATIVE DISTRICTS

First Representative District: That portion of the Island of Hawaii known as Puna and Kau and that portion of South Hilo being more particularly described as follows: beginning at the junction of Haihai Street and Ainaola Drive, easterly along Haihai Street extended to Kanoelehua Avenue, thence southerly along Kanoelehua Avenue for 100 feet to the boundary between the Panaewa Farm Lots and the Hawaiian Home Land of Panaewa, thence easterly along the north boundary of the Panaewa Farm Lots to the old Puna Railroad, thence easterly along the prolongation of a line that is parallel to Haihai Street to the South Hilo-Puna Boundary, southwesterly along said South Hilo-Puna Boundary to a point where the prolongation of the southwest end of Ainaola Drive intersects the South Hilo-Puna Boundary, thence northerly along the said prolongation and along Ainaola Drive northerly and northeasterly along Ainaola Drive to the point of beginning.

Second Representative District: That portion of the Island of Hawaii known as South Kona, North Kona and South Kohala.

Third Representative District: That portion of the Island of Hawaii known as North Kohala, Hamakua and North Hilo.

Fourth Representative District: That portion of the Island of Hawaii being the northern portion of South Hilo, more particularly described as follows: beginning at the seashore on the North Hilo-South Hilo Boundary, southeasterly and southerly along the seashore to the mouth of Wailuku River, westerly along Wailuku River to the prolongation of Punawai Street, thence southerly along said prolongation and along Punawai Street to Punahale Street, thence southwesterly along Punahale Street to Hoomana Street, thence southeasterly along Hoomana Street to its junction with the Hilo Boarding School Ditch, thence westerly along Hilo Boarding School Ditch to its junction with Kaumana Road; thence northwesterly across Kaumana Road to the west boundary of Block "S" which fronts on the west side of Ekaha Street; thence northerly along the west side of said block to the southeast corner of the Hilo Watershed Reservation (Executive Order 1418); thence along the southerly side of said reservation to the common boundary between the lands of Piionua and Punahoa 2; thence westerly along said boundary to the old Piionua Road; thence southwesterly along the old Piionua Road to Ainako Avenue, thence southerly along Ainako Avenue to the common boundary between the lands of Punahoa 1 and 2; thence westerly along said boundary to Akolea Road; thence southerly along Akolea Road to Waipahoehoe Stream; thence westerly along Waipahoehoe Stream and the common boundary between Punahoa 1 and Ponahawai for a distance of approximately 2.2 miles to the Hilo Forest Reserve; thence northeasterly along the Hilo Forest Reserve for a distance of approximately 1.5 miles to angle in same; thence northwest approximately 0.2 miles to Kahoama Stream; thence northerly along Kahoama Stream and Wailuku River to the junction of Hookelekele Stream; thence northwesterly along Hookelekele Stream for a distance of 7,157 feet; thence northeasterly along the lower boundary of Hilo Forest Reserve for a distance of 6,780 feet to Aale Stream; thence easterly along said Aale Stream to its junction with Waiau Stream; thence northwesterly along Waiau Stream on into Awehi Stream to the upper boundary of Alae; thence northerly along the upper boundaries of Alae and Kaiwiki to Honolii Stream, thence northwesterly along the Paukaa-Piionua Boundary to the North Hilo-South Hilo Boundary; thence northeasterly along the North Hilo-South Hilo Boundary to the point of beginning.

Fifth Representative District: That portion of the Island of Hawaii for convenience referred to as that portion of

South Hilo, more particularly described as follows: beginning at the seashore at the mouth of Wailuku River, thence southeasterly along the seashore to the South Hilo-Puna Boundary, southwesterly along the South Hilo-Puna Boundary to a point where the prolongation of a line from the intersection of the north boundary of Panaewa Farm Lots with the old Puna Railroad to the South Hilo-Puna Boundary that is parallel to Haihai Street; westerly along said prolongation to the old Puna Railroad, westerly along the north boundary of the Panaewa Farm Lots to Kanoolehua Avenue, northerly along Kanoolehua Avenue for about 100 feet where Haihai Street extended would meet said avenue, westerly along said prolongation along Haihai Street to Ainaola Drive, southwesterly and southerly along Ainaola Drive, thence southerly along the prolongation of Ainaola Drive to the South Hilo-Puna Boundary, southwesterly, northwesterly and southwesterly along the South Hilo-Puna Boundary to the Kau Boundary, northwesterly along the South Hilo-Kau Boundary, thence northwesterly and northeasterly along the South Hilo-North Hilo Boundary to a point where the Paukaa-Piihonua Boundary intersects said South Hilo-North Hilo Boundary, thence southeasterly along the Paukaa-Piihonua Boundary to Honolii Stream, southerly along the upper boundaries of Kaiwiki and Alae to Awehi Stream, thence southeasterly along Awehi Stream on into Waiau Stream to its junction with Alae Stream, westerly along said Alae Stream to the Hilo Forest Reserve Boundary; thence southwesterly along the lower boundary of the Hilo Forest Reserve for a distance of 6780 feet, thence southeasterly along Hookelekele Stream for a distance of 7157 feet, to its junction with Wailuku River; thence southerly along Wailuku River and Kahoama Stream to the Hilo Forest Reserve Boundary, thence southeasterly about 0.2 mile to an angle in the Hilo Forest Reserve; thence southwesterly along the Hilo Forest Reserve to the Punahoa 1 and Ponahawai Boundary; thence easterly along said boundary and along Waipahoehoe Stream to Akolea Road, thence northerly along Akolea Road to the Punahoa 1 and 2 Boundary; thence easterly along Punahoa 1 and 2 Boundary to Ainako Avenue, northerly along Ainako Avenue to the old Piihonua Road, northeasterly along the old Piihonua Road to the Piihonua and Punahoa 2 Boundary; thence easterly along the Piihonua and Punahoa 2 Boundary to the Hilo Watershed Reservation (Executive Order 1418), thence southerly and easterly along the northerly side of said reservation to the southeast corner of said Hilo Watershed Reservation; thence southerly along the west side of Block "S" which fronts on the west side of Ekaha Street, southeasterly across Kaumana Road to a point where the Kaumana Road intersects the Hilo Boarding School Ditch, easterly along the Hilo Boarding School Ditch to Hoomana Street, northwesterly along Hoomana Street to Punahale Street, northeasterly along Punahale Street to Punawai Street, northerly along Punawai Street and the prolongation of Punawai Street to Wailuku River, easterly along Wailuku River to the point of beginning.

Sixth Representative District: The Islands of Molokai, Lanai and that portion of the Island of Maui that includes Lahaina and part of Wailuku that lies west of

the following described line: beginning at the seashore near Kahului Beach Road, at the end of the west breakwater of Kahului Harbor, southwesterly in a straight line to the intersection of Kaahumanu Avenue and South Papa Avenue, thence southwesterly along South Papa Avenue to the northeast corner of Lot 7-1 of Kahului Town Development, Seventh Increment (File Plan 766), thence along the westerly boundaries of Kahului Town Development, Seventh Increment (File Plan 766) and Eighth Increment (File Plan 906) to the south corner of Lot 8-149 of File Plan 906, thence southwesterly in a straight line to the old Puu Hele Triangulation Station (destroyed), thence southeasterly in a straight line to the seashore at the southeasterly corner of the abandoned Maalaea Airport.

Seventh Representative District: The Island of Kahoolawe and that portion of the Island of Maui that includes Makawao, Hana and the portion of Wailuku that lies east of the following described line: beginning at the seashore at the southeasterly corner of the abandoned Maalaea Airport, northwesterly in a straight line to the old Puu Hele Triangulation Station (destroyed), thence northeasterly in a straight line to the south corner of Lot 8-149 of File Plan 906, thence along the westerly boundaries of Kahului Town Development, Eighth Increment (File Plan 906) and Seventh Increment (File Plan 766) to the northeast corner of Lot 7-1 of File Plan 766, thence northeasterly along South Papa Avenue to the intersection of South Papa and Kaahumanu Avenues, thence in a straight line to the seashore near the Kahului Beach Road at the end of the west breakwater of Kahului Harbor.

Eighth Representative District: That portion of the Island of Oahu lying east of the Waialae-Nui Gulch and south of the top of Koolau Range to the ocean and more particularly described as follows: beginning at the seashore at the east corner of Waialae Beach Park, along the northeast boundary of Waialae Beach Park to Kahala Avenue, along Kahala Avenue to Waialae Golf Course, along Waialae Golf Course to the west corner of Lot 49 as shown on Map 17 of Land Court Application 828, along Kapakahi Stream to its junction with Waialae-Nui Stream, along Waialae-Nui Stream crossing Kalaniana'ole Highway and continuing along Waialae-Nui Stream and Waialae-Nui Gulch to a place called Puu Lanipo at the top of Koolau Range, thence easterly along the top of Koolau Range, to Makapuu Point, thence southwesterly along the seashore to the point of beginning. This district includes the Northwestern Hawaiian Islands from Nihoa Island to Kure Atoll excluding the Midway Islands.

Ninth Representative District: That portion of the Island of Oahu for convenience herein referred to as Diamond Head and Waialae-Kahala, more particularly described as follows: beginning at the seashore at the southeast corner of Diamond Head Lighthouse, along the east boundary of Diamond Head Lighthouse, westerly along Diamond Head Road, and along the boundary of Diamond Head State Monument (Executive Order 2000) and continuing northeasterly along Diamond Head State Monument (Executive Order 2000) and along Fort Ruger Military Reservation to Makapuu Avenue,

northerly along Makapuu Avenue to Kilauea Avenue, easterly along Kilauea Avenue to 22nd Avenue, northerly along 22nd Avenue to Harding Avenue, westerly along Harding Avenue to 21st Avenue, northerly along 21st Avenue to Lunalilo Freeway, southwesterly along Lunalilo Freeway to Koko Head Avenue, northerly along Koko Head Avenue to Waialae Avenue, westerly along Waialae Avenue to Sierra Drive, northerly along Sierra Drive to the southwest corner of Land Court Application 704, northerly along Land Court Application 704 to the east corner of Lot 14 of Land Court Application 704, westerly along Lot 14, northerly along Lot 21, easterly along Lot 11, all of Land Court Application 704, northerly along the easterly boundary of Land Court Application 704 to the south corner of Lot 6 of Land Court Application 704, northerly along the easterly side of Lots 6-A-2, 5-A, 4-A-2, 3-A-1, 2-A-1 and 1-A, all of Land Court Application 704, easterly along Pakui Street, northerly along the end of Pakui Street and the westerly boundary of Palolo Hill Tract, File Plans 46 and 48, to the south corner of Lani Hale Tract, westerly along Lani Hale Tract to the east boundary of Palolo Hillside Lots, File Plan 50, northerly along the easterly boundary of Palolo Hillside Lots, File Plan 50 and Land Court Application 610 to the boundary of Waiomao, easterly along the boundary of Waiomao to the west corner of Land Court Application 859, easterly along the north boundary of Land Court Application 859 and the land of Waiomao to Kalepeamoia Triangulation Station, northeasterly in a direct line to Waialae-Nui Stream, southerly along Waialae-Nui Stream crossing Kalanianaʻole Highway to its junction with Kapakahi Stream, along Kapakahi Stream to the west corner of Lot 49 as shown on Map 17 of Land Court Application 828, along Waialae Golf Course to Kahala Avenue, along Kahala Avenue to the northeast corner of Waialae Beach Park, along the northeast boundary of Waialae Beach Park to the seashore, thence southwesterly along the seashore to the point of beginning.

Tenth Representative District: That portion of the Island of Oahu for convenience herein referred to as Palolo, more particularly described as follows: beginning at the intersection of Lunalilo Freeway and Koko Head Avenue, westerly along Lunalilo Freeway to the Manoa-Palolo Drainage Canal, northerly along the Manoa-Palolo Drainage Canal to Dole Street, easterly along Dole Street to the east boundary of Waahila Faculty Housing, northerly along the east boundary of Waahila Faculty Housing to Waahila Triangulation Station, northeasterly along the Manoa-Palolo Boundary to a place called Mt. Olympus at the top of Koolau Range, easterly along the top of said range to a place called Puu Lanipo, southerly along Waialae-Nui Gulch for a distance of approximately 14,000 feet, thence southwesterly in a direct line to Kalepeamoia Triangulation Station, westerly along the land of Waiomao and the north boundary of Land Court Application 859 to the west corner of Land Court Application 859, westerly along the land of Waiomao to the east corner of Land Court Application 610, southerly along the easterly boundary of Land Court Application 610 and Palolo Hillside Lots, File Plan 50,

to the west corner of Lani Hale Tract, easterly along Lani Hale Tract to the westerly boundary of Palolo Hill Tract, File Plan 48, southerly along the westerly boundary of Palolo Hill Tract, File Plans 48 and 46, to the southeast corner of Pakui Street, westerly along Pakui Street to the north corner of Lot 1-B of Land Court Application 704, southerly along Lots 1-B, 2-B, 3-B, 3-C, 4-D, 4-C, 5-B, 6-B, all of Land Court Application 704 and along Palolo Hill Tract, File Plan 46, to the east corner of Lot 12-B of Land Court Application 704, westerly along Lot 12-B, southerly along Lots 12-B and 13-B, easterly along Lot 13-B, all of Land Court Application 704, southerly along Palolo Hill Tract, File Plan 46, to Sierra Drive, southerly along Sierra Drive to Waialae Avenue, easterly along Waialae Avenue to Koko Head Avenue, southerly along Koko Head Avenue to the point of beginning.

Eleventh Representative District: That portion of the Island of Oahu for convenience herein referred to as Moiliili and Kaimuki, more particularly described as follows: beginning at the intersection of Isenberg Street and Lunalilo Freeway, easterly along Lunalilo Freeway to 21st Avenue, southerly along 21st Avenue to Harding Avenue, easterly along Harding Avenue to 22nd Avenue, southerly along 22nd Avenue to Kilauea Avenue, westerly along Kilauea Avenue to Makapuu Avenue, southerly along Makapuu Avenue to Alohea Avenue, thence along the Fort Ruger Military Reservation to Trousseau Street, southwesterly along Monsarrat Avenue to Leahi Avenue, northwesterly along Leahi Avenue to Kapahulu Avenue, northerly along Kapahulu Avenue to Date Street, westerly along Date Street to Isenberg Street and northerly along Isenberg Street to the point of beginning.

Twelfth Representative District: That portion of the Island of Oahu for convenience herein referred to as Waikiki and McCully, more particularly described as follows: beginning at the outer edge of the reef at the entrance to Ala Wai Yacht Harbor, northerly along the east boundary of Magic Island to the extension of the centerline of the Ala Wai Canal, northeast along the extended line along the center of Ala Wai Canal to McCully Bridge, northerly along McCully Street to South King Street, easterly along South King Street to Isenberg Street, southerly along Isenberg Street to Date Street, easterly along Date Street to Kapahulu Avenue, southerly along Kapahulu Avenue to Leahi Avenue, southerly along Leahi Avenue to Monsarrat Avenue and easterly along Monsarrat Avenue to Trousseau Street, southeasterly thence southwesterly along Fort Ruger Military Reservation, southerly and easterly along the Diamond Head State Monument (Executive Order 2000) to Diamond Head Road, easterly along Diamond Head Road to the east boundary of Diamond Head Lighthouse, southerly along the east boundary of Diamond Head Lighthouse to the seashore, thence westerly along the seashore until Kapahulu Avenue extended, thence westerly along Kapahulu Avenue extended to the outer edge of the reef, thence westerly along the outer edge of the reef to the point of beginning.

Thirteenth Representative District: That portion of the Island of Oahu for convenience herein referred to as Makiki and Manoa, more particularly described as follows: beginning at the intersection of the Manoa-Palolo Drainage Canal and Lunalilo Freeway, westerly along Lunalilo Freeway to Pensacola Street, northeasterly along Pensacola Street to Nehoa Street, easterly along Nehoa Street to a point opposite Lewalani Drive, northeasterly along the top of ridge of the lands of Makiki and Kalawahine to a mountain peak called Puu Ohia or Tantalus, northeasterly along the top of the ridge between the lands of Pauoa, Manoa and Nuuanu to a point on the Koolau Range called Puu Konahuanui, southeasterly along the top of said range to a place called Mt. Olympus, southwesterly along the Manoa-Palolo Boundary to Waahila Triangulation Station, thence southerly along the east boundary of Waahila Faculty Housing to Dole Street, westerly along Dole Street to Manoa Stream, southerly along Manoa Stream and along Manoa-Palolo Drainage Canal to the point of beginning.

Fourteenth Representative District: That portion of the Island of Oahu for convenience herein referred to as Ala Moana and Lower Makiki, more particularly described as follows: beginning from the junction of the Honolulu Harbor Channel and the outer edge of the reef running northeasterly along the middle of Honolulu Harbor Channel and Honolulu Harbor to the intersection of Nimitz Highway and Nuuanu Avenue, northeasterly along Nuuanu Avenue to Lunalilo Freeway, easterly along Lunalilo Freeway to Isenberg Street, southerly along Isenberg Street to South King Street, westerly along South King Street to McCully Street, southerly along McCully Street to Ala Wai Canal, southwesterly along Ala Wai Canal along the center of Ala Wai Canal extended to the east boundary of Magic Island, southerly along the east boundary of Magic Island to the outer edge of the reef, westerly along the outer edge of the reef to the point of beginning.

Fifteenth Representative District: That portion of the Island of Oahu for convenience herein referred to as Pauoa, more particularly described as follows: beginning at the intersection of Lunalilo Freeway and Nuuanu Avenue, northeasterly along Nuuanu Avenue to the intersection of Wyllie Street and Pali Highway, northerly along Pali Highway to Nuuanu Pali Drive near Kepola Place, northeasterly along Nuuanu Pali Drive to top of Koolau Range at the Pali Lookout, southeasterly along the top of Koolau Range to a point called Puu Konahuanui and southwesterly along the top of the ridge between the lands of Manoa, Pauoa and Makiki to a mountain peak called Puu Ohia or Tantalus, southwesterly along the top of the ridge between the lands of Makiki and Kalawahine to the intersection of Nehoa Street and Lewalani Drive, southwesterly on Nehoa Street to Pensacola Street, southerly along Pensacola Street to Lunalilo Freeway, westerly along Lunalilo Freeway to the point of beginning.

Sixteenth Representative District: That portion of the Island of Oahu for convenience herein referred to as Nuuanu and Alewa Heights, more particularly described as follows: beginning at the intersection of Nuuanu

Avenue and Lunalilo Freeway, northwesterly along Lunalilo Freeway to the intersection of Liliha Street, School Street and Lunalilo Freeway, thence northwesterly along North School Street to Likelike Highway, northerly along Likelike Highway to Kalihi Street, northeasterly along Kalihi Street to Akahi Street, southeasterly along Akahi Street to the top of the ridge between the lands of Kamanaiiki and Kapalama, northeasterly along the top of said ridge to a point on the Koolau Range called Puu Lanihuli, easterly along the top of Koolau Range to Pali Lookout, southwesterly along Nuuanu Pali Drive to Pali Highway near Kepola Place, southerly along Pali Highway to the intersection of Wyllie Street and Nuuanu Avenue, southwesterly along Nuuanu Avenue to point of beginning.

Seventeenth Representative District: That portion of the Island of Oahu for convenience herein referred to as Kapalama, more particularly described as follows: beginning at the intersection of Nuuanu Avenue and Lunalilo Freeway, southwesterly along Nuuanu Avenue to the sea, southwesterly along the middle of Honolulu Harbor and Honolulu Harbor Channel to the outer edge of the reef, thence westerly along the outer edge of the reef to Mokauea Street extended, northeasterly along Mokauea Street extended to the intersection of the middle of Kalihi Channel and Mokauea Street extended, along Kalihi Channel to the middle of Kalihi Stream at Nimitz Highway, northwesterly along Nimitz Highway to Middle Street, northeasterly along Middle Street to Lunalilo Freeway, southeasterly along Lunalilo Freeway to the point of beginning.

Eighteenth Representative District: That portion of the Island of Oahu for convenience herein referred to as Kalihi, more particularly described as follows: beginning at the intersection of Lunalilo Freeway and Middle Street, northeasterly along Middle Street to where the Fort Shafter Military Reservation boundary runs westerly from Middle Street, westerly and then mauka along Fort Shafter Military Reservation boundary and Kahauiki Ridge to a point on the top of Koolau Range called Puu Kahuauli, southeasterly along the top of Koolau Range to a point on Koolau Range called Puu Lanihuli, southwesterly along the top of the ridge between the lands of Kamanaiiki and Kapalama to Akahi Street, northwesterly along Akahi Street to Kalihi Street, southerly along Kalihi Street to Likelike Highway, southerly along Likelike Highway to School Street, southeasterly along School Street to the intersection of School Street, Liliha Street and Lunalilo Freeway, northwesterly along Lunalilo Freeway to the point of beginning.

Nineteenth Representative District: That portion of the Island of Oahu for convenience referred to as Moanalua, Halawa and Aiea, more particularly described as follows: beginning at the point where Mokauea Street extended meets the outer edge of the reef, southwesterly along the outer edge of the reef to a point on the Moanalua-Halawa boundary, northerly along the Moanalua-Halawa boundary to the seashore, westerly along the seashore and along the seashore extended to the center of Pearl Harbor Entrance Channel, northerly along the center of Pearl Harbor Entrance Channel,

thence northeasterly along the center of the channel between Ford Island and Southeast Loch, Pearl Harbor to the entrance of Kalauao Stream at East Loch, Pearl Harbor and northeasterly along Kalauao Stream to the top of Koolau Range, southeasterly along the top of Koolau Range to a point on the top of Koolau Range called Puu Kahuauli, southwesterly along the top of Kahauiki Ridge along the southeast boundary of Fort Shafter Military Reservation to a point where the Fort Shafter boundary meets Middle Street, southwesterly along Middle Street to Nimitz Highway, easterly along Nimitz Highway to Kalihi Stream, southerly along Kalihi Stream and along Kalihi Channel to a point where the middle of Kalihi Channel meets Mokauea Street extended, southwesterly along Mokauea Street extended to the point of beginning.

Twentieth Representative District: That portion of the Island of Oahu for convenience herein referred to as Ewa, more particularly described as follows: beginning at the seashore on the boundary between Waianae and Ewa districts, northeasterly along the top of Waianae Range between the boundary of Waianae and Ewa districts to a point called Puu Palikea, thence following a direct line to Reservoir 31 of the Oahu Sugar Company, thence northeasterly along Waiahole Ditch to Waikele Stream, thence southerly along Waikele Stream to the intersection of Waikele and Kipapa Streams, thence northeasterly along Kipapa Stream to Kamehameha Highway, southeasterly along Kamehameha Highway to the roadway leading to Mililani Memorial Park, northeasterly along said roadway leading to Mililani Memorial Park to the middle of Panakauahi Gulch, northerly along the middle of Panakauahi Gulch to the siphon at the Waiahole Ditch, northwesterly along Waiahole Ditch to Kipapa Stream, northeasterly along Kipapa Stream to the top of Koolau Range, thence southeasterly along top of Koolau Range to the intersection of Kalauao Stream and top of Koolau Range, thence southwesterly along Kalauao Stream to the seashore at East Loch, Pearl Harbor, thence southwesterly along center of the channel between Ford Island and Southeast Loch, Pearl Harbor to the center of Pearl Harbor Entrance Channel, southerly along the center of the Pearl Harbor Entrance Channel to a point that meets the seashore extended, thence southwesterly along the seashore extended and thence southwesterly and northwesterly along the seashore to the point of beginning.

Twenty-First Representative District: That portion of the Island of Oahu for convenience herein referred to as Waianae, more particularly described as follows: beginning at the seashore on the boundary between the Ewa and Waianae districts, northwesterly along the seashore to Kaena Point, along the top of Waianae Range between the boundaries of Waianae, Waialua, Wahiawa and Ewa districts to the point of beginning.

Twenty-Second Representative District: That portion of the Island of Oahu for convenience herein referred to as Waialua and Wahiawa, more particularly described as follows: beginning at the seashore on the boundaries between Waialua and Koolauloa districts, easterly and southeasterly along the top of Koolau Range to the

intersection of Kipapa Stream and Koolau Range, southwesterly along Kipapa Stream to Waiahole Ditch, southeasterly along Waiahole Ditch to the siphon located at the center of Panakauahi Gulch, southerly along the middle of Panakauahi Gulch to the roadway leading to the Mililani Memorial Park, southwesterly along the roadway that leads out of Mililani Memorial Park to Kamehameha Highway, northwesterly on Kamehameha Highway to Kipapa Stream, southwesterly along Kipapa Stream to its junction with Waikele Stream, northwesterly along Waikele Stream to Waiahole Ditch, southwesterly along Waiahole Ditch to Reservoir 31, on a direct line from Reservoir 31 to a point on the top of Waianae Range called Puu Palikea, northwesterly along the top of Waianae Range along Waianae district boundary to Kaena Point, thence northeasterly along the seashore to the point of beginning.

Twenty-Third Representative District: That portion of the Island of Oahu for convenience herein referred to as all of Koolauloa and part of Koolaupoko, more particularly described as follows: beginning at the seashore between Waialua and Koolauloa districts, thence northeasterly and southeasterly along the seashore to the southeast corner of Kaneohe Marine Corps Air Station, southwesterly along the southeast boundary of the Kaneohe Marine Corps Air Station to Kaneohe Bay Drive, southeasterly along Kaneohe Bay Drive passing Mokapu Boulevard and on to North Kalaheo Avenue to Kawainui Drainage Canal, southwesterly along Kawainui Drainage Canal to the end of said canal where it meets the Kawainui Swamp, thence northwesterly at right angles to the Kawainui Canal to the southerly boundary of the Kalaheo Hillside Intermediate School, southwesterly and northwesterly along the south and west boundaries to the northwest corner of said school, thence northwesterly on a straight line to a point where the proposed Mokapu Saddle Road intersects the Kailua-Kaneohe boundary, southwesterly along Kailua-Kaneohe boundary to Kamehameha Highway, southeasterly along Kamehameha Highway to the junction of Kalaniana'ole Highway where it intersects the Pali Highway and Kamehameha Highway, southerly and continuing along Pali Highway to a point opposite the Pali Lookout, along the top of the Koolau Range to the point of beginning.

Twenty-Fourth Representative District: That portion of the Island of Oahu for convenience herein referred to as the remainder of Koolaupoko, more particularly described as follows: beginning at the seashore at Makapuu Point, westerly along the top of Koolau Range between the Honolulu and Koolaupoko districts to the Pali Lookout, northeasterly along Pali Highway to its junction with Kamehameha Highway and Kalaniana'ole Highway, thence northwesterly on Kamehameha Highway to the boundary between Kaneohe and Kailua, northeasterly along the Kailua-Kaneohe boundary to the top of the ridge, northeasterly along the top of the ridge to a point where the proposed Mokapu Saddle Road intersects with the Kailua-Kaneohe boundary, thence southeasterly on a straight line to the northeast corner of the Kalaheo Hillside Intermediate School, thence southeasterly and northeasterly along the west and south boundaries of said school to a point where

the school boundary intersects a line that is at right angles to the Kawainui Canal at the end where Kawainui Canal meets the swamp, northeasterly along the Kawainui Drainage Canal to North Kalaheo Avenue, northwesterly along North Kalaheo Avenue passing the intersection of Mokapu Boulevard on to Kaneohe Bay Drive, to a point where the east boundary of the

Kaneohe Marine Corps Air Station intersects Kaneohe Bay Drive, easterly along the southeast boundary of Kaneohe Marine Corps Air Station to the seashore, thence southeasterly along the seashore to the point of beginning.

Twenty-Fifth Representative District: The Islands of Kauai and Niihau.

APPENDIX 1

REGISTERED VOTERS, BY COUNTY

	1958	1960	1962	1964	1966
STATE TOTAL	175,317	202,059	221,650	239,361	253,242
Hawaii	25,534	26,059	27,194	28,130	28,596
% of Total	14.5	12.8	12.2	11.7	11.2
Maui	16,755	17,539	18,325	18,786	19,029
% of Total	9.5	8.6	8.2	7.8	7.5
Honolulu	121,647	147,123	164,324	180,179	193,107
% of Total	69.3	72.8	74.1	75.2	76.2
Kauai	11,381	11,338	11,807	12,266	12,510
% of Total	6.4	5.6	5.3	5.1	4.9

APPENDIX 2

ALLOCATION OF STATE AND COUNTY TAXES

Hawaii — Fiscal Year 1967
(In Thousands)

Type of Taxes	1967 Allocated to					Total
	State	Honolulu	Maui	Hawaii	Kauai	
State Collections						
Gross Income	\$ 93,988	\$ 2,067 ^d	\$2,624 ^d	\$3,638 ^d	\$2,178 ^d	\$104,495
Fuel	13,514	5,232	679	547 ^c	345	20,317
Liquor	5,797					5,797
Tobacco	4,669					4,669
Insurance	3,932					3,932
Public Service Companies	8,964					8,964
Banks & Financial Corp.	1,725					1,725
Income — Corporate ^a	10,525					10,525
Income — Individual ^b	63,512					63,512
Inheritance & Estate	1,591					1,591
Real Property ^c	3	26,468	1,397	1,927	849	30,644
Conveyance (Realty Transfer)	88					88

(Continued on following page.)

ALLOCATION OF STATE AND COUNTY TAXES, Continued

Type of Taxes	1967 Allocated to					
	State	Honolulu	Maui	Hawaii	Kauai	Total
State Collections						
Unemployment Compensation	\$ 10,769					\$ 10,769
Licenses & Others	763					763
Sub-Total	\$219,840	\$33,767	\$4,700	\$6,112	\$3,372	\$267,791
County Collections						
Liquor Fees	\$ —	\$ 417	\$ 76	\$ 78	\$ 9 ^c	\$ 580
Utility Franchise	—	1,317	55	137	47	1,556
Motor Vehicle Weight	—	6,906	531	765	343	8,545
All Others	—	1,393	127	158	70	1,748
Sub-Total	\$ —	\$10,033	\$ 789	\$1,138	\$ 469	\$ 12,429
TOTAL	\$219,840	\$43,800	\$5,489	\$7,250	\$3,841	\$280,220

a. Includes amounts paid on declared estimated taxes less refunds.

b. Includes delinquent collections from compensation and dividends tax repealed 1-1-58 and personal net income tax, including payments for withheld and declared estimated taxes less refunds.

c. Reduction in real property tax and liquor fees (Kauai only) due to delay in 1967 collections.

d. Tax sharing between state and counties replaced with state grants-in-aid effective 7-1-65.

e. Collections retained by State for county highways.

SOURCE: Tax Foundation of Hawaii, *Government in Hawaii; A Handbook of Financial Statistics, 1968*, Fifteenth ed., p. 18.

STANDING COMMITTEE REPORT NO. 59

Your Committee on Accounts and Printing begs leave to report that the Committee has printed and distributed Stand. Comm. Rept. No. 58 and Comm. Prop. No. 12, and Comm. Whle. Rept. Nos. 7 and 8.

Signed by all members of the Committee.

STANDING COMMITTEE REPORT NO. 60

Your Committee on Accounts and Printing begs leave to report that the Committee has printed and distributed Comm. Whle. Rept. No. 9, and Supp. Stand. Comm. Rept. No. 58.

Signed by all members of the Committee.

STANDING COMMITTEE REPORT NO. 61

Your Committee on Accounts and Printing begs leave to report that the Committee has printed and distributed Comm. Whle. Rept. No. 10, Comm. Whle. Rept. No. 11, Comm. Whle. Rept. No. 12 and Comm. Prop. No. 7, RD. 1.

Signed by all members of the Committee.

STANDING COMMITTEE REPORT NO. 62

Your Committee on Accounts and Printing begs leave to report that the Committee has printed and

distributed Comm. Whle. Rept. No. 13 and Comm. Prop. No. 8, RD. 1; Comm. Whle. Rept. No. 14 and Comm. Prop. No. 9, RD. 1; and Comm. Whle. Rept. No. 15 and Comm. Prop. No. 11, RD. 1.

Signed by all members of the Committee.

STANDING COMMITTEE REPORT NO. 63

Your Committee on Style, to which was referred Committee Proposal No. 2, Redraft 2, begs leave to report as follows:

The proposal deals with Section 1, Section 3 and Section 6 of Article IV of the State Constitution. Your Committee recommends changes in all three sections.

Your Committee has consulted with the chairman of the Committee on Executive to confirm that the changes do not affect the meanings.

Your Committee proposes the following changes in the fourth paragraph of Section 1:

"No person shall be eligible [to] 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 [next] immediately preceding his election."