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TERRITORIAL LEGISLATURE
ORGANIZATION AND PROCEDURE

LEGISLATIVE REFERENCE BUREAU

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TERRITORY OF HAWAII

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TERRITORIAL LEGISLATURE
ORGANIZATION AND PROCEDURE

--Report No. 3, 1949--
(Request No. 591)

1st revision, February 1950
2nd revision, February 1955

LEGISLATIVE BUREAU

The second revision of this report incorporates a few minor changes, mainly bringing references and examples up-to-date. The amendments to the House Rules that are being proposed on the eve of the 1955 regular session by the leaders of the majority party are also included. The bill draft form recently recommended by the majority party is shown on page 28.

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LEGISLATIVE REFERENCE BUREAU

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TERRITORY OF HAWAII

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TERRITORIAL LEGISLATURE - ORGANIZATION AND PROCEDURE

Smaller than any bicameral legislature in the 48 states, the Territorial Legislature closely parallels state legislatures in composition and procedures. The 15 members of the Territorial Senate are elected for 4-year terms from 4 Senatorial Districts (Hawaii 1st District - 4; Maui, Molokai, Lanai and Kahoolawe 2nd District - 3; Oahu 3rd District - 6; Kauai and Niihau 4th District - 2). The 30 members of the Territorial House of Representatives serve for 2-year terms, being elected from 6 Representative Districts (East Hawaii 1st District - 4; West Hawaii 2nd District - 4; Maui, Molokai, Lanai and Kahoolawe 3rd District - 6; Oahu 4th District - 6; Oahu 5th District - 6; Kauai and Niihau 6th District - 4). The terms of all members run from the date of election. Vacancies are filled for the unexpired term by the governor issuing a proclamation for a special election. The Organic Act contemplates periodic reapportionment of the Territorial Legislature, but none has been made since its enactment in 1900.

Candidates for either the office of Senator or Representative must be citizens of the United States, have resided in the Territory at least 3 years, and be qualified to vote for the office which they seek. Minimum age for Senators is 30 years; for Representatives it is 25 years of age. Each house is the judge of the elections, returns, and qualifications of its own members.

Members of the Territorial Legislature receive \$1,000 as compensation each 2 years from the United States Treasury, payable in equal installments on the first, thirtieth, and fiftieth days of the regular session. In addition, members are entitled to mileage from the United States Treasury at 20 cents a mile in coming to and returning from the session. Members not residing on Oahu receive \$15 allowance per day from the Territorial Treasury and members from Oahu are entitled to \$5 allowance per day during the session for

personal expenses. If a special session is called, members receive an additional \$500 from the Territorial Treasury.

The legislative power of the Territory extends to all rightful subjects of legislation not inconsistent with the United States Constitution or laws. The Organic Act itself contains a few express prohibitions, and in addition, by outlining certain responsibilities and duties of the Territory and territorial officers, precludes territorial action designed to change them. For example: power to grant legislative divorces is denied, and a minimum residence of 2 years prior to application to the courts for divorce is required; no lottery or sale of lottery tickets may be allowed; appropriations to sectarian, denominational, or private schools is prohibited -- these are a few of the specific denials of legislative power. Resort is occasionally had to Congress for approval of proposed legislation otherwise precluded because of the express or implied prohibitions of the Organic Act; in the case of the granting of franchises, Congressional approval is expressly declared a requisite.

Each regular session of the Territorial Legislature may not continue longer than 60 legislative days without extension by the Governor. Sundays and holidays are not included in computing the expiration of this period. It is not unusual for the Governor to authorize the session to continue for a few extra days, but he may not extend its life for more than an additional 30 days. (Thirty-four states, like Hawaii, have biennial sessions, but only one-third of the states limit them to 60 days.)¹

The Governor may convene the Legislature, or the Senate alone, in special session. The Organic Act does not restrict the length of such a special session, nor does it preclude the legislators from considering

¹Only 2 states -- Alabama (36 legislative days) and Wyoming (40 calendar days) -- have shorter regular sessions.

subjects not referred to them by the Governor. As provision is made for Senatorial approval of the appointment or removal of certain officers, this may be accomplished should only the Senate be sitting in special session.

Organization of Legislature

The regular session of the Territorial Legislature is held on the third Wednesday in February of every odd-numbered year. Each house meets in its respective chamber in Iolani Palace. No time for convening is fixed by law, but it usually occurs in the morning around 10 o'clock. Traditionally, the Senate is called to order by the Senator from the First Senatorial District (Hawaii) receiving the largest vote, or in his absence, by any other Senator-elect. Similarly, in the past it has been the custom for the Representative present from the First Representative District (East Hawaii) who was elected by the largest vote to call the House of Representatives to order. The Divine Blessing is invoked by the Chaplain, and the nominations for a Temporary Clerk are in order.

After the election of a Temporary Clerk in the Senate, a committee of three is next appointed to examine the credentials of members-elect. In the House of Representatives, prior to the appointment of a committee of three on credentials, a Temporary Chairman is elected, and he appoints the Temporary Clerk. Upon adoption of its committee's report that a majority of the credentials are in order, the temporary presiding officer of each house names a committee of 3 to request a judge to administer the oath of office required by the Organic Act.² Rules of the House of Representatives specify a Justice

²The oath of office subscribed to by all members of the Legislature and other officers of the Territory is: "I solemnly swear (or affirm), in the presence of Almighty God, that I will faithfully support the Constitution and laws of the United States, and conscientiously and impartially discharge my duties as a member of the Legislature, or as an officer of the government of the Territory of Hawaii (as the case may be)."

of the Supreme Court is to be thus waited upon, but Senate rules designate Circuit Judges, as well. The Chief Justice of the Supreme Court is generally requested to perform this function by each house. Once sworn in, each house proceeds to organize by adopting rules, electing permanent officers, and employing a staff. Organization being completed, each house appoints a committee to advise the Governor and the other house that it has duly organized and is ready for business. Closely associated with the organization of the Territorial Legislature, although not necessarily on the first day of the session, is the holding of a joint session in the Hall of the House of Representatives at which time the Governor delivers his message to the Legislature.

Meetings:

After the day of opening the Legislature, each house meets for the transaction of business every day except Sundays, recognized holidays, and other days as it may designate. The hour of meeting, recess and adjournment are fixed by motion.

No member may absent himself unless he has permission to do so, or is sick and cannot attend.

Officers and Employees

The Senate nominates and elects a President and Vice-President, and by resolution elects a permanent Clerk, Assistant Clerk, Sergeant-at-Arms, and Chaplain. In addition, at the 1953 Regular Session, 36 employees served the Senate at large and there were approximately 80 clerks, secretaries, and messengers for committees and named Senators, 2 attorneys, 2 specialists for the Ways and Means Committee and 2 clerks to the legal advisors. A majority vote is required to elect the President, Vice-President, Clerk, and Assistant Clerk; the other officers and the employees of the Senate at large may be elected by a plurality. In practice, after the election of the President and Vice-President, the remaining officers and employees are elected by the same resolution. All officers

and employees hold their respective offices and positions during the pleasure of the Senate.

The House of Representatives customarily nominates and elects a Speaker and Vice-Speaker, as well as a permanent Clerk, an Assistant Clerk, Sergeant-at-Arms, and Chaplain. As in the Senate, the latter 4 are elected by a single resolution. [In 1947, instead of a Vice-Speaker, two floor leaders were provided for, and at the end of the session, the rules were impliedly amended by the electing of two Vice-Speakers.] The Speaker and Vice-Speaker retain their positions during the terms for which they were elected; all other officers do not hold their positions beyond the session in which they were elected unless the House of Representatives takes action to the contrary. At the 1953 Session, approximately 116 clerks, stenographers, messengers, and custodial employees were appointed to furnish services to the House, its Committees, and named Representatives. In addition, there were 3 attorneys and 2 legal stenographers.

In each house the pay of all officers and employees, other than the presiding officer and his alternate, is fixed by single house resolution. Once so determined, it may not be increased except by unanimous consent. The remuneration of these officers and employees is computed on the basis of a stated per diem for each day worked. The presiding officers and their alternates serve without extra compensation.

President of Senate and Speaker of the House:

The duties of both officers as expressed in the rules of each house are almost identical:

1. They open the sittings of their respective house at the time previously determined.
2. They maintain order and proper decorum, and may have their respective house chambers cleared of all persons except members and

and officers in case of disturbance or disorderly conduct.

3. They announce the business before their respective house in the order prescribed by the rules.

4. They receive and submit all matters brought properly before the respective house by the members, call for votes thereon, and announce the results.

5. They make known rules of order when requested, and decide all questions of order subject to an appeal to their respective house.

6. They appoint all committees unless otherwise ordered.

The rules of the Senate grant to the President the control and direction of areas set apart for the Senate and of all Senate property. The Speaker of the House of Representatives exercises similar powers, although they are not expressly stated in the rules of the House of Representatives. All of the officers and employees of each house are directly answerable to the presiding officer of their respective house, and must obey all of his orders and directions, subject to revision by that house.

Vice-President and Vice-Speaker:

In the absence of the President of the Senate or Speaker of the House of Representatives his duties and powers are exercised by the Vice-President or Vice-Speaker, respectively. [Under the 1947 rules of the House of Representatives which provided for two Floor Leaders, provision was made for them to alternate in presiding in the absence of the Speaker.]

President and Speaker pro tem:

The presiding officer of each house ordinarily has the power to name another member to temporarily perform the duties of the chair, but the substitution does not extend beyond adjournment of that legislative day. In case the permanent presiding officers are absent on the convening of either

house, the eldest member of the majority party present presides until a President pro tempore (Senate) or Speaker pro tempore (House of Representatives) is chosen. These temporary officers have the powers and duties of the permanent presiding officers.

Clerk:

The Clerks have charge of all records of their respective house. Original documents may not be withdrawn from their keeping unless ordered by the Senate or the Speaker, in the House of Representatives. Matters referred to committee are delivered to the appropriate committee chairman by the Clerk, and all communications, messages, and similar matters are forwarded to the proper parties by the Clerk. The Clerk prepares the daily journal of his respective house for reading on the following day, when it is corrected or approved. When bills, resolutions or other matters are required to be read, this becomes the duty of the Clerk. All bills and accounts approved by the Committee on Accounts³ (Chairman of the Committee on Accounts in the House of Representatives) or ordered by either house are paid by the respective Clerks. They also draw drafts on the Treasury for expenses of the session as authorized by their respective house and approved by the Committee on Accounts (Chairman of the Committee, in the House).

Chaplain:

It is the duty of the Chaplains to open each day's session with prayer.

Sergeant-at-Arms:

The Sergeant-at-Arms maintains order among spectators, gives notice to the presiding officer of the attendance of persons with communications, serves all orders or processes directed by the presiding officer or the house,

³It is customary for the Senate, by resolution, to grant the power of approval of vouchers after adjournment to the Chairman of the Senate Committee on Accounts.

and makes all required arrests of members or other persons and holds them in custody. He also supervises the supply of books, stationery, and other incidentals which require distribution among the members, and is responsible for the postal requirements of his house.

Floor Leaders:

The House rules provide for the election of party floor leaders by the members of the Democratic party and the Republican party. Customarily, majority and minority floor leaders are also designated in the Senate. Although the formal rules contain little or no recognition of these officers, they are important positions of leadership in both houses.

Committees

In both the Senate and House of Representatives there are 4 kinds of committees. The Committee of the Whole House, which is referred to in the rules as an additional type, consists of all the members of either house meeting as a committee to permit greater flexibility of procedure (see p. 32). The first person named on a committee in either house is its chairman, while the second designated is its vice-chairman. Appointments to committees are made by the President or Speaker, but the chairmen of Standing Committees are often determined previously in party caucuses and committee composition is sometimes similarly determined. All committees are subject to the orders of their respective house, and must faithfully carry out such orders.

Standing Committees:

The number and size of standing committees are not uniform in both houses of the Legislature, nor do they remain constant from session to session. Committees which were provided for in the 1953 rules of each house were:

Standing Committees of the Senate

	(members)		(members)
Ways and Means	6	Education	5
Judiciary	5	Enrollment	3
Labor and Public Relations	5	*Accounts	3
*Military	3	Rules	3
Public Lands	5	Agriculture, Forestry	
Public Health	5	and Conservation	5

(In addition, the Senate has four select committees; one for each county, composed of senators for the respective county.)

*Combined in 1955 to read "Accounts and Military."

Standing Committees of the House

	(members) ⁺		(members)
Finance	10	Labor and Industrial	
Judiciary	7	Relations	7
Public Expenditures		Veterans and Housing	7
and Accounts	7	Police and Military Affairs	7
Public Lands	7	Juvenile Court, General	
*Agriculture, Forestry		Welfare and Recreation	7
and Manufactures	7	Utilities and Transportation	7
Public Health	7	Aeronautics and Marine	
Education	8	Shipping	7
County and Municipal		**Marketing, Reclamation and	
Affairs	8	New Industries	7
Revision and Printing	7	Civil Service, Classifica-	
Public Improvements	7	tion and Retirement	7
Public Institutions	8		

*Changed in 1955 to read "Agriculture and Forestry."

**Changed in 1955 to read "Marketing, Manufactures, Reclamation and New Industries."

+The Speaker and Vice-Speaker are ex-officio members of all committees.

The rules of the houses describe in detail the matters over which each committee has jurisdiction. The names of the committees fairly well indicate the scope of the subjects which they may consider. Occasionally the situation arises where a particular matter may properly be referred to more than one committee, which may occasion a debate on the floor between the advocates of referral to one committee, where favorable action is anticipated, and the opponents who look to referral to another committee as a means of "killing" the measure.

All measures containing appropriations are generally referred to the Committee on Ways and Means (Senate) and Committee on Finance (House of Representatives) even though they have been previously considered by another committee charged with passing on the general subject with which the measure is concerned.

Special Committees:

Special Committees (or Select Committees, as they are called in the House of Representatives) are appointed as occasion requires to perform specific functions or consider particular matters when for any reason it is believed that a standing committee could not properly dispose of them. Thus, a committee may be appointed for the purpose of studying and reporting on the advisability of undertaking a proposed program. Special investigating committees are an example of this type of committee.⁵

Conference Committees:

When the houses are unable to agree upon the contents of a measure requiring the approval of both houses, the measure as it passed each house reading differently, each house appoints a Conference Committee which meet to reconcile the conflict (See page 14). Members of Conference Committees are called Managers.

Joint Committees:

A Joint Committee is created by action of both houses, either by resolution or by statute, to take some particular action. It differs from committees of the two houses meeting together, as in the latter situation, each maintains its own identity. In a Joint Committee, the Legislators are

⁵An investigating committee has no power to serve after final adjournment of the Legislature unless authorized to do so by statute, according to the opinion of the Attorney General.

all members of one committee and the committee functions as the agent of both houses. One of the most common uses of a Joint Committee is for investigatory purposes.

Committee Action and Reports:

Special Committees (or, as they are called in the House of Representative, Select Committees) are required to report within 5 days upon matters referred to them, unless further time is given by house vote. However, this rule is not always observed, no doubt because in many cases the provision made for the Special Committee contemplates that more than 5 days will be required to perform the duties assigned. Standing Committees report to their respective house from time to time. Although the latter are required to report back on all matters referred to them, observance is somewhat of a fiction as frequently the report is not made until the closing days of the session, thus effectively preventing consideration of the matter reported.

Committee meetings are open to the public unless otherwise ordered. Conference Committees may meet at any time, but other committees may not sit while their house is in session without special permission. Traditionally, Conference Committees meet in private, and any committee, by having "executive sessions", may bar all but members from being present when it desires to consider particular matters in confidence.

The chairman of each committee calls the meetings of the committee, presides at the committee meeting, and determines the order in which matters will be considered.

Standing and Special (called "Select" in the House of Representatives) Committees are directed to make diligent inquiry into the matters referred to them for consideration. Witnesses may be summoned and examined, documents and records searched, and everything done to bring all pertinent factors to

the attention of the Legislature. Only rarely does a committee make a transcript of the testimony given before it. The vote of the committee members on a particular measure is made a matter of record.* Although advance notice of a standing committee's intention to consider a particular measure at a designated meeting date is occasionally given, this practice is not observed by all committees nor by any committee with respect to all measures referred to it.

Conference Committees devote their efforts to arriving at a recommendation which reconciles the differences between the two houses on a specific bill or resolution.

Reports of Standing and Special (called "Select" in the House of Representatives) Committees are required by the rules to state findings of facts, conclusions based thereon, and the committees' recommendations as to the disposal of the matters referred to them. If amendments to a bill or resolution are proposed, they generally are set forth at length in the report. In practice, the committee report on a legislative measure does little more than briefly state what it will accomplish, amendments deemed desirable, and the committee's recommendation as to the action to be taken.* Should the committee decide to recommend a substitute bill for one or more measures referred to it, the subject of the substitute must agree with that superseded.

Whenever a committee fails to agree, the majority makes the report, and it is the report of the committee. The minority may note upon the majority report "I (or we) do not concur" and sign their names. A minority report may be presented immediately following the majority report, or by motion, leave may be granted to present it at a later day. Ordinarily, the committee's report is prepared and presented by its chairman.

*The proposed house amendment reads: "A report recommending a bill for passage shall state the legislative intent and purpose of such bill; and such report shall also contain a record of the votes cast by each committee member, for or against the recommendation, as the case may be."

In the case of Conference Committees, a majority of the managers from each house must agree. Occasionally, as in the case of the general appropriation bill, the size of the delegation from the House of Representatives is larger than that of the Senate.

Acceptance or Rejection of Committee Reports:

Once submitted, a house then acts on its committee's report. It may adopt it, reject it, merely order it filed, or may recommit the measure reported on to the committee whose report is under consideration, or to another committee. If the report of a Conference Committee is not adopted, the Committee is discharged and a new Conference Committee may be designated.

Rules

The rules of a legislative body do not continue beyond the life of that body. Consequently, it is necessary to adopt legislative rules each session. This is customarily accomplished not by drafting rules anew but by adopting the rules of the preceding session. Should a change in the rules be desired, it is easier to accomplish this before they are adopted, as amendment of the motion to adopt permanent rules so as to incorporate desired changes requires only a majority vote of those present and voting; after formal rules have been agreed upon, one day's notice must be given of intention to alter the rules or to adopt a new standing rule.

In the House of Representatives, a two-thirds vote of the membership is required to amend the rules; in the Senate, it is a majority vote of the membership. Occasionally, the rules will be suspended in order to expedite some particular action. In the House of Representatives, suspension of the rules requires a two-thirds vote of the members present. However, both in the Senate and the House, asking for unanimous consent to suspend, and without any objection being voiced, is an effective way of achieving this

When the rules are silent, Cushing's Rules of Parliamentary Practice govern.

Violation of Rules; Decorum; Punishment

If any member transgresses the rules, the presiding officer or any member may call him to order. The member so called to order sits down and the presiding officer decides the question of order without debate, subject to an appeal to the house from his decision. Before deciding the point of order, the presiding officer may ask for the opinion of the house on the question. If a person is speaking at the time he is called to order, he is still in possession of the floor after decision of the question.

Questions of order may be raised at any time except on roll call vote. Should an appeal from the decision of the chair be made, Cushing holds a majority vote sustains or overrules the decision of the chair.

Decorum:

When any member desires the floor, he stands, addresses "Mr. President" or "Mr. Speaker," and when recognized by the presiding officer, speaks. A member at all times should confine himself to the matter under consideration and avoid personalities. If a member is called to order for something he has said, upon his request or that of any other member, the words objected to must be taken down in writing. These words will then be read for the information of the house, if required.

No one may walk across the hall or out of it while the presiding officer is addressing the house or putting a question to the house. Similarly, while a member is speaking, no one may pass between him and the chair. In both cases, private conversation is a breach of decorum.

Punishment:

If a member is disorderly, the presiding officer may order him to his seat and to cease such action. Should he persist in his disorderly conduct, he may be removed from the house by the Sergeant-at-Arms on the order of the presiding officer. Unless he gives a satisfactory pledge to maintain good behavior, he may not return to his seat during the remainder of that legislative day.

Each house may punish its members for disorderly behavior or neglect of duty by adopting a vote of censure. A more severe punishment - suspension or expelling of a member - is possible on a two-thirds vote.

Only the legislature may punish its members for words uttered in the exercise of their legislative functions in either house. Thus, damages may not be collected by suit in a court of law for words which might otherwise be actionable. Similarly, members are privileged from arrest during their attendance at the sessions of the Territorial Legislature, and while going to and returning from them. However, this privilege does not apply to cases of treason, felony, or breach of the peace.

Each house may also punish persons who are not members by fine or by imprisonment not exceeding 30 days if they interfere with the legislative process. Such punishment of non-members can be applied to disorderly or contemptuous behavior by the non-member in the presence of the house or that of any of its committees. Situations also included are threats to the person or property of legislative members because of legislative action, harming or detaining persons ordered to attend the legislature, or rescuing any person arrested by order of either house of the legislature. Before such punishment may be ordered, the non-member must be informed in writing of the charge made against him, and have an opportunity to present evidence and to defend himself.

Voting

By Voice Vote; Unanimous Consent:

The least formal manner for members to express their collective opinion is through an oral, uncounted vote. This generally takes the form of a member making a motion and all members present saying "aye" (for) or "no" (against) in unison when the members in favor or those opposed are polled by the presiding officer. The presiding officer announces the result on the basis of the apparent decision of the majority of members voting. The same result is achieved by the presiding officer asking if there is any objection to a motion, and none being voiced, announcing it has been passed by unanimous consent. If the result of the voice vote is disputed, a more formal method of voting, such as by raising hands, by standing, or by roll call may be employed.

Should unanimous consent be required, as is the case when a member requests consent to explain the vote he cast on a roll call vote, a single member by withholding his consent, defeats the request.

By Raising Hand:

On all questions but final passage of a measure the presiding officer may state the question, and request all members in favor of the affirmative of the question to raise his or her hand. After the clerk counts the number, members opposed to the question raise their hands. The number of affirmative and negative votes having been communicated by the Clerk to the presiding officer, the latter announces the result. Only in case of a tie vote does the President of the Senate or Speaker of the House of Representatives decide by casting his vote in this form of voting. When the vote is recorded, the total number of affirmative and negative votes is entered upon the Journal, but each member's action is not shown.

By Standing:

If any member challenges the result of a vote by show of hands, the presiding officer again states the question and requests the members voting affirmative on the question to rise and remain standing until counted. The negative votes are similarly tallied and the result announced. The vote is recorded in the same way as when voting by a show of hands.

By Ballot:

Voting by ballot permits members to indicate their choice without disclosing their identity. It is permissible under the rules of the House of Representatives only when electing officers. In the Senate, all officers are required to be elected by ballot, and, on motion, any other question may be voted on in this manner. Even if the rules are suspended, the Organic Act does not allow voting by ballot on the final passage of bills. When voting by ballot, tellers are appointed by the presiding officer to collect the ballots, or house employees may be designated to perform this service. The Clerk counts the ballots and the result is announced by the presiding officer.

By Roll Call:

Whenever one-fifth of the members present so request, the roll of members is called by the Clerk. Upon the member's name being called, he is required to vote "aye" (for) or "no" (against) on the question. A roll call vote is automatically held on the final passage of all bills and joint resolutions. Each vote is recorded upon the Journal of the respective house, and the result is announced by the presiding officer. The latter always votes in a roll call vote regardless of whether or not a tie exists.

With unanimous consent, a member may be permitted to explain his vote on a roll call vote. The explanation is carried in the Journal.

Members Failing or Not Permitted to Vote:

No member may refrain from voting unless excused. In the House of Representatives, except where a member may not vote, the House has no power to excuse any member from voting unless he wholly fails to understand the question. On failing to vote, a member may be ordered to do so, and may be punished should he not observe such direction. In the House of Representatives, should a member refuse to observe such order, and no punishment is ordered, his vote is recorded as being in the affirmative of the question upon which he refused to vote.

A member may not vote upon any question in the result of which he has any pecuniary interest. Similarly, he may not vote in a matter affecting his legislative seat or involving his official conduct.

Prior to the announcement of the result by the presiding officer, any member may change his vote.

Order of Business⁶

When each house convenes, prayer is first offered by the chaplain. This is followed by calling roll of all members. The roll call determines whether a quorum is present, a quorum being a majority of the total number of members to which the house is entitled. (A quorum is 8 members in the Senate, 16 in the House of Representatives.) Ordinarily, only a majority vote of a quorum (5 members in Senate, 9 members in House of Representatives) is necessary to take legislative action desired to be accomplished, but there are important exceptions to this, such as on final passage of a bill.⁷

⁶For Organization, that is, Order of Business on the first day of the Legislature, see page 3.

⁷For vote on final passage, see p. 31; for vote after veto see p. 34; for vote to amend or suspend the rules see p. 14.

If a quorum is not present at the hour fixed for opening of the House of Representatives, the Speaker may declare the House adjourned. Should the roll call disclose the absence of a quorum, a majority of the members present in either house may adjourn the house to the next legislative day and also have power to compel the absent members to attend. At times when the presence of a quorum is questioned other than when the roll is called on opening the legislative day, the presiding officer merely counts the number of members present to determine whether a quorum is in the legislative hall.

The third formal act performed on the opening of each legislative day is to read and approve the Journal of the preceding legislative day. Frequently this is dispensed with upon motion.

Messages from the Governor are next read, placed on file (that is, are filed with other gubernatorial messages), referred to an appropriate committee, or otherwise acted upon. Next similarly treated are reports and communications from the heads of territorial agencies.

Communications, bills, resolutions, and other matters from the companion house are then formally recognized, and depending upon their nature, read and filed or placed on the calendar. Bills and joint resolutions from the other house which accompany such communications are passed on first reading by title at this point, and placed on the calendar for second reading on the next day. From this point, the two houses differ slightly in the order of business.

In the Senate, the reading of petitions, memorials and communications from the people in the Territory is next, followed by the introduction of bills and resolutions. Reports of Standing and Select Committees are next in order. After the reports are received and acted upon or filed, the Senate then turns to business unfinished in the previous legislative day upon which

it was engaged when it adjourned. Concluding with Unfinished Business, the Senate next considers measures waiting consideration on second and third reading, and other matters in the Orders of the Day. The final item in the Senate order of business is any miscellaneous business on the presiding officer's desk.

In the House of Representatives, the Orders of the Day, which includes the second and third reading of bills, follows right after the receipt of communications from the Senate. This concluded, attention is turned to petitions, memorials, and communications from the people in the Territory. Reports of Standing and Select Committees are then received and considered. Introduction of bills and resolutions which follows precedes unfinished business upon which the House was engaged at the time it last adjourned. As in the Senate, miscellaneous business on the presiding officer's desk is the lowest in priority.

Either house may by motion direct that a designated matter shall be made a special order of business. In the Senate, special orders may take priority at any point in the order of business after the introduction of bills and resolutions; in the House of Representatives, special orders may take precedence over communications from the Senate or any other item lower in priority.

Reports from Conference Committees, (Joint Committees, also, in the Senate) and from the printing committee are in order at any time in the House of Representatives and at any time in the Senate after reports and communications from territorial officers are received. Upon motion, messages from the Governor or from the other house may be received at any time; if unanimous consent is not obtained, however, such messages are placed on the calendar as unfinished business and are considered when this item is reached. In the Senate, after an hour has passed without reaching

unfinished business or the orders of the day, it is in order to move that the Senate proceed to dispose of the unfinished business or the Orders of the Day.

All questions relating to the priority of business to be acted upon are decided without debate.

General files:

Bills which have passed first reading are arranged on a list called the Second Reading File in the order of their introduction. When time arrives for their consideration, this is controlled by the order in which they appear on the file.

Bills which have passed second reading are arranged in the order of their passage--irrespective of the date of reference to committee, or of committee report--on the Third Reading File. They are then considered in this order. If the third reading of a bill is fixed for a particular date, the bill is omitted from the General File.

Resolutions or other matters not requiring three readings on which consideration has not been completed at the time they are introduced are placed upon the General File in the order of consideration with bills. If consideration is ordered for a stated time, they are placed upon the Special File.

Special files:

When bills or other measures are set for consideration upon particular dates, they are arranged on a special list, and if set for the same time, their order is that of the several votes making the assignments.

If adjournment occurs before all special orders are disposed of, the remainder go over and come up on the following day under the head of unfinished business.

Precedence of Motions

Motions, customarily introduced with the phrase, "I move that. . .," may be made orally but must be reduced to writing if requested by the presiding officer.⁸ All motions require a second before they may be considered and voted on; otherwise they "die" for want of a second. At any time before vote or amendment they may be withdrawn by the mover. Similarly, should the person seconding the motion withdraw his second and no one else seconds it, the motion would "die".

A motion to adjourn is always in order. It is a very effective means of delaying action as it has precedence over all other motions. If it does not name any time, adjournment is to the regular hour of meeting of the next business day. A motion to adjourn to a specified time, or sine die (final adjournment), is debatable; all other motions to adjourn are put to an immediate vote. Once defeated, a motion to adjourn may not again be made until other business intervenes. Neither house may adjourn for more than 3 days, or sine die, without the consent of the other house.

When any question is under discussion, the following motions, when relevant, are always in order, having precedence in the order named:

(1) To lay upon the table: If adopted, this effectively precludes further discussion and consideration of the matter during the rest of the session until it is removed from the table by motion. In the Senate, under the rules such a motion requires the consent of a majority of the members. The motion to table is decided without debate and is put to vote as soon as it is made and seconded.

⁸ Although motions to amend need not be in writing, in the Senate amendments to any bill must be in writing unless otherwise ordered by the Senate; in the House of Representatives amendments to bills may be expressed orally, but upon the request of the presiding officer, must be reduced to writing.

(2) To postpone to a certain time: Occasionally, to expedite business or to delay consideration of a vexatious problem, a matter will be held over until a designated time. When the appointed time arrives, it once more becomes in order to discuss it. A motion to postpone to a time certain, like a motion to table, is decided without debate and is voted upon at once.

(3) To postpone indefinitely: Should it be desired to "kill" the matter under discussion, the adoption of this motion will prevent it from being acted upon again during the remainder of the session. This motion is debatable.

(4) To commit: Instead of considering the matter under discussion, it may be felt advisable to commit it to a standing committee, or to a special committee for further study. This motion is not put to a vote until after it is discussed.

(5) To amend: The motion to amend is used to rephrase the matter being decided so that it more correctly expresses the desires of the will of the majority voting thereon. Occasionally it is employed to defeat the measure, for only a majority of those voting upon the motion is necessary to adopt the motion, but as amended, the measure may be in such form as subsequently to be unable to obtain the requisite majority of all members elected which is essential for final passage of bills and joint resolutions. Like all but the first two motions, it is debatable.

When any of the motions enumerated is voted down, it may not again be used the same day with relation to the main question. No member other than the mover of the matter pending may speak more than twice on the motion. The latter may speak in reply after all other members desiring to do so have spoken. The House of Representatives has a "gag" rule which establishes a maximum of 15 minutes for each speaker.

The motion for the previous question is a legislative procedural device employed to end debate. It is always in order. In the Senate, a two-thirds vote is required to carry it, but in the House of Representatives only a majority is necessary. If the motion carries, no one but the author of the main matter under discussion may speak in way of closing the debate; he also has the privilege of delegating this right to close to another member. When debate is thus ended in order to put the main question to a vote, it is of course still possible to move to adjourn, or to utilize any one of the motions previously enumerated.

Each house on occasion adopts particular measures or makes determinations which it subsequently desires to reconsider. This is as true as to matters which passed as to matters which failed of passage. Only a member voting with the majority on a motion may formally move for reconsidering it on the same or the succeeding day of the session. A motion to reconsider takes precedence over all motions but a motion to adjourn. After a motion for reconsideration has been decided, that vote may not be reconsidered. In order to obtain reconsideration, members sometimes change their votes just before the result of the vote is announced so that they may be counted with the majority side and thus be in position to move for a reconsideration.

Journal

Each house keeps a record of its proceedings. Every legislative day a concise memorandum is prepared of all matters brought before the house and of all action taken by the house. The nature of each matter is stated, as well as the name of the introducer. These memoranda, together with other matters ordered to be included, comprise the Journal. Neither the Journal of the Senate nor of the House of Representatives includes

a verbatim account of all discussion and debate.

The Journal is printed after final adjournment of the Legislature. During the session, each day's Journal is typewritten to be read in full the following day for correction and approval, but this reading is often dispensed with in the House of Representatives upon motion. In the Senate, by motion the President is authorized to read the daily Journal and make the necessary corrections. Consequently, when the reading of the Journal is called for by the Order of Business, in lieu of the Journal being read, the President makes a statement that he has read it and finds it correct.

Form of Petitions and Memorials: Action Thereon

All persons may petition either or both houses of the Legislature. There is no standard or recognized form for petitions and memorials. About the only formal requirements are that they must be in English, in writing, and signed by the petitioners.

It is customary, but in no sense mandatory, for a petition or memorial to be addressed to the attention of either house, and sent to the presiding officer. They are presented to the house by the presiding officer, or by a member. If a member introduces such a petition or memorial, a brief statement of its nature is made, and it is then received and read by the Clerk.

After a petition or memorial is read, the presiding officer orders it filed or referred to a committee for action, or takes some other appropriate action, without first asking the members. However, should objection be raised, the house decides its disposition. In the Senate, the rules prohibit the debating of any petition or memorial on the day it is presented.

Form of Bills and Resolutions

Starting with the 1955 session, bills and resolutions are preferably to be submitted on letter-size paper.* They must be in the English language. An original and six copies are presented at time of introduction, with at least the original dated and signed by the introducer. Mimeographed or other processed copies may be submitted in lieu of typewritten drafts.

Frequently, a member desiring to introduce a bill will obtain the signatures of several other members who also desire to sponsor the same legislation. Should a member be asked by a constituent or governmental official to introduce a measure with which he is not necessarily in full accord, he can affix "By Request" after his name to indicate this fact.

When formally introduced, a bill or resolution is assigned a number, by which it is thereafter referred to throughout the legislative session. If it is amended and reprinted, this is indicated on the measure, also.⁹

A bill consists of a title, an enacting clause, and a body. Each bill may relate to only one subject, which is stated in its title. The title also customarily refers to the session laws (the laws enacted at a session of the Legislature) or the sections of the Revised Laws of Hawaii (the laws as revised every ten years) which are affected. The enacting clause, which is essential to the legal efficacy of a bill, is: "Be it enacted by the Legislature of the Territory of Hawaii." In the body of the bill, existing provisions of law may be amended, repealed or supplemented, or new provisions may be added. Joint resolutions customarily include all of the formal elements of a bill (title, enacting clause, and body) and may have the force of law, although they also include several introductory "whereas" paragraphs giving the reasons for the resolution.

*It is recommended that bills follow, as closely as possible, the sample shown on the following page.

⁹See page 31.

S. B. NO.

AN ACT

(1 1/2" left margin)

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BE IT ENACTED BY THE LEGISLATURE OF THE TERRITORY OF HAWAII:

(5 spaces) SECTION 1. Section xxxxx of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

(a) By deleting the first paragraph and inserting in lieu thereof the following two paragraphs:

(10 spaces) "XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX
XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX
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(b) By deleting the last sentence of the last paragraph thereof.

SECTION 2. Section xxxxx of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX
XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX

SECTION 3. This Act shall take effect upon its approval.

INTRODUCED BY:

(App. 3/4" to 1" margin)

(No date or lines for signature)

Concurrent resolutions (that is, resolutions of both houses) and single house resolutions do not have enacting clauses, and do not have the force of law. Concurrent resolutions may have titles; single house resolutions do not. Both types need have only one reading in each house before adoption or rejection, and only part of the procedure governing the introduction and passage of bills applies to them.

Introduction and Passage of Bills

A bill may be introduced by any member or on the report of a committee. Unlike the federal procedure and that followed in almost a majority of states, any bill may be introduced in either house, and revenue bills need not be introduced only in the House of Representatives. The rules contain no limitation on the number of bills any one member may introduce. Although the rules are silent on limiting the introduction of bills, customarily toward the end of each session the introduction of new bills is precluded so as to permit consideration before the session ends of all bills already introduced.

A bill must be read three times in each house, on separate days, previous to final passage.

First reading:

When introduced, the title of the bill is read and if there is no objection, by motion it passes first reading and is referred to the Printing Committee. If opposition occurs, which is extremely rare at this stage of the proceedings, the presiding officer asks: "Shall this bill be rejected?" Each member is precluded from speaking more than once during the debate, other than the introducer of the bill who may also close the

discussion. After debate, the question is voted on, and if in the negative, it follows the course of a normal bill.

Second reading; Referral to Committee; Amendments:

As a bill must be read on 3 separate days, it cannot again be considered until at least the next legislative day after it passed first reading. When the Printing Committee reports it back as printed--that is reproduced by mechanical methods of duplication so that copies may be given to all members--it is then ready for second reading. Only the title is customarily read on second reading, although the rules require reading at length unless the bill is printed, and even then reading by title is only to be permitted if a motion is made to that effect.

Ordinarily, at this stage the bill is referred by direction of the presiding officer or by motion to a Standing or Select Committee for consideration and report.¹⁰ Should it be desired to hasten the passage of a bill, upon motion the bill may be read and passed on second reading without referral to committee, and on the next legislative day it will be ready for third reading and final passage. Occasionally, bills are referred to the Committee of the Whole, the time for such consideration being fixed in the order of referral. Most bills do not succeed in obtaining committee approval, nor are they reported out until so late in the session that they cannot be acted upon.

When reported back from committee, the house formally acts upon the committee report. As all reports until the last few days are either favorable, or recommend adoption after amendment, the house usually adopts such report by motion and the measure referred to passes second reading.

¹⁰ See page 11 for Standing Committee action, page 12 for Standing Committee reports.

Occasionally, the bill will be referred to another committee, or opposition to the bill will manifest itself and the measure may be debated upon its merits at this time.

If amendments are suggested by the committee report and the report is adopted, the bill will ordinarily be reprinted to incorporate the amendments, carrying the notation "S. D. 1" (Senate Draft 1) or "H. D. 1" (House Draft 1). Should it be amended further and be reprinted, the bill will bear a correspondingly higher draft number. It is not amiss to add that a house bill on being amended in the Senate for the first time continues to bear its original bill number, but the amendment is indicated by "S.D. 1".

Third reading; Amendments:

Upon third reading a bill is read throughout. The presiding officer then asks, "Shall this bill pass its third reading?" It is on third reading that debate generally develops and amendments are offered from the floor. In the Senate, such amendments must be in writing unless otherwise ordered by the Senate, and are sent to the Clerk's desk to be filed with the bill; in the House of Representatives, they may be verbal, but must be reduced to writing if requested by the presiding officer. Neither house has a rule requiring that a bill be printed in its final form before passage, and as a result of amendments at this stage or after a Conference Committee report, bills may be adopted without the members first seeing it in its final form.

Final passage of a bill is by roll call vote. This is one of the few instances where the affirmative vote of a majority of all members is required for passage, and the ayes and noes are entered upon the Journal.

Committee of the Whole:

Reference has been made to the fact that bills and other matters may be referred to the Committee of the Whole for consideration before final passage. This is practiced more frequently in the Senate than the House of Representatives. It permits greater freedom of action than is possible under the formal restrictions applicable when either house is meeting as such a body and not as a committee.

Upon adoption of the motion to resolve itself into a Committee of the Whole, the presiding officer of the Senate calls some other member, who is eligible, to preside. In the House, the Speaker presides over the Committee of the Whole. The Clerks act as clerks of the Committees of the Whole and keep separate records of the proceedings.

Bills referred to the Committees of the Whole are supposed to be read first throughout, and then section by section. This initial reading of the whole bill may be dispensed with, and thus section-by-section consideration is possible without first reading it at length.

The rules of the respective house apply to the Committee of the Whole, except that a member may speak more than once on the same subject. In the House of Representatives, certain limitations are placed upon this privilege, and the motion for previous question to cut off debate is not allowed.

When its work is concluded, the Committee of the Whole rises and reports to the house. The member presiding over the Committee of the Whole then reports the Committee's recommendations, and requests to be discharged. The report is received, acted upon, and the Committee of the Whole formally discharged. Occasionally, a Committee of the Whole will rise, report progress, and ask leave to sit again. When granted, it may continue to consider the matter referred to it.

Certifying of bills between houses and to Governor:

When a bill passes the house of origin it is certified by the presiding officer and Clerk and is sent to the other house for consideration. The date of passage is noted on the foot of the bill. In the latter house it goes through the same three readings. Occasionally it may not be referred to a Standing Committee, but may be considered in Committee of the Whole; instead.

If the bill succeeds in passage through the second house, this is reported back to the house of origin. The presiding officers and Clerks of both houses then certify the bill and it is presented to the Governor.

It is not uncommon for one house to amend the bills passed by the other. The amended bill is reported back to the house of origin, the amendments made by the other house being included, but sometimes not expressly designated. If the house of origin concurs and adopts the bill with the requisite number of "aye" votes, this information is communicated to the house making such last amendments; if it refuses to so concur, it appoints a Conference Committee, and the other house is requested to do likewise. Should the Conference Committee itself suggest amendments, their adoption by both houses is considered final passage of the bill, and the absolute majority of "aye" votes is therefor a requisite to their adoption. Certification to the Governor then occurs as previously described.

Action by Governor

To be valid, all bills passed by the Legislature must be signed by the Governor or passed over his veto. If the Governor approves the bill and signs it, this information is communicated to the Legislature by the Secretary of the Territory. If the Governor vetoes a bill, he returns

it to the Legislature with his objections. In addition to a general veto, the Governor may veto any number of specific items of appropriation in a bill, while approving the balance of the bill. However, he does not have power to veto items of substantive law which are not items of appropriation, and if he does not approve of them, must veto the entire bill.

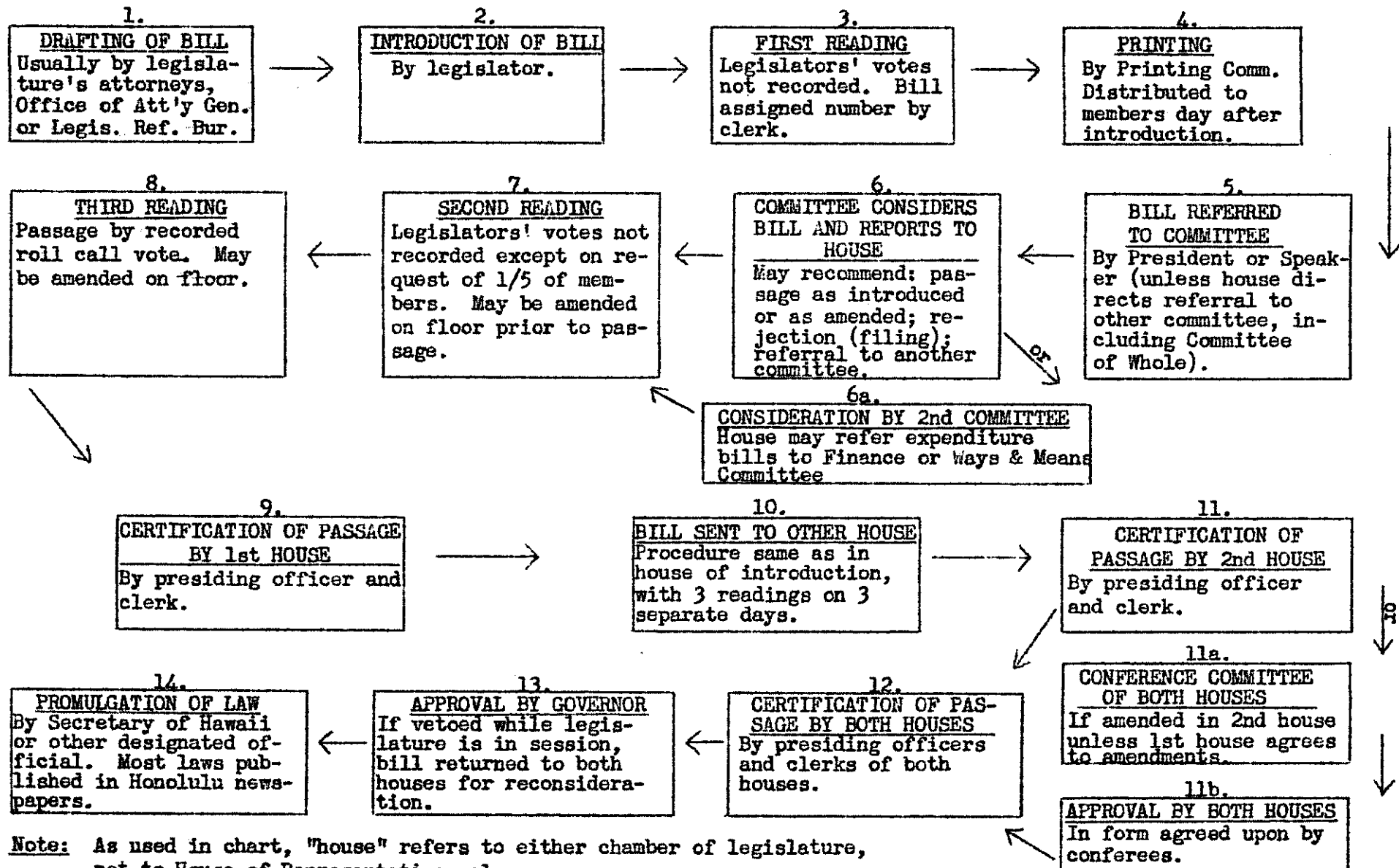
Time for signing:

If a bill is not signed or vetoed by the Governor within ten days (Sundays excepted) after it has been presented to him, it becomes law in like manner as if he had signed it, if the Legislature is still in session. If it has adjourned sine die, failure to sign the bill results in its dying, which is known as a "pocket veto". In a number of instances bills have been signed by the Governor after the adjournment of the Legislature but within ten days after their passage.

Action after veto:

Upon the receipt of a veto message from the Governor, each house enters it in full upon its Journal and proceeds to reconsider the bill, or item, vetoed. Ayes and noes are ascertained by roll call vote. If after such reconsideration it is approved by a two-thirds vote of all members to which each house is entitled, it becomes law without the Governor's signature.

HOW A BILL BECOMES A LAW IN HAWAII



Note: As used in chart, "house" refers to either chamber of legislature, not to House of Representatives alone.

OUTLINE OF HISTORIES OF TWO BILLS PASSED BY 25TH LEGISLATURE OF HAWAII IN 1949

The following outline is intended to serve as illustration of the steps in the evolution of a statute. It supplements the attached flow chart, "How a Bill Becomes a Law in Hawaii."

Act 51 (HB 322)--Providing for a closed
primary election

February 23, 1949. Introduced in House; passed 1st reading; referred to Printing Committee for duplication. (HJ 150)
February 25. Referred to Judiciary Committee. (HJ 196)
April 13. Reported out by Judiciary Committee, passage recommended. Amended on floor and passed 2nd reading. (HJ 343-41)
April 14. Passed 3rd reading in House. Transmitted to Senate. (HJ 1460)
April 14. Passed 1st reading in Senate. (SJ 886)
April 16. Referred to Judiciary Committee. (SJ 961)
April 18. Reported out by Judiciary Committee with amendments, passage recommended. Passed 2nd reading as amended. (SJ 981)
April 19. Passed 3rd reading in Senate. Returned to House for concurrence in amendments. (SJ 1023)
April 19. Amendments agreed to by House. Final passage in House. (HJ 1665)
April 20. Signed by Governor as Act 51, effective immediately.

Act 61 (SB 441)--Establishing a
legislative holdover committee

March 22, 1949. Introduced in Senate; passed 1st reading; referred to Printing Committee for duplication. (SJ 410)
March 23. Referred to Committee of the Whole. (SJ 427)
March 24. Reported out by Committee of the Whole; passage recommended. Passed 2nd reading. (SJ 445)
March 25. Referred back to Committee of the Whole for further consideration. (SJ 449)
March 28. Reported out again with amendments, passage recommended. Passed 3rd reading in Senate. Transmitted to House. (SJ 491)
March 29. Passed 1st reading in House. (HJ 792)
March 30. Referred to Committees on Finance and Judiciary, jointly. (HJ 830)
April 7. Reported out by Committees jointly, passage recommended. Passed 2nd reading. (HJ 1195)
April 8. Passed 3rd reading in House. Returned to Senate for concurrence in amendments. (HJ 1211)
April 8. Senate disagreed with House amendments, requested conference. Each house appointed 3 members to joint conference committee. (HJ 1246-7)
April 9. Report of conference committee, further amending bill, adopted by Senate. Passed final reading in Senate. (SJ 764)
April 11. Report of conference committee adopted by House. Passed final reading in House (HJ 1283)
April 21. Signed by Governor as Act 61, effective immediately.

Note: Page references in parenthesis are to journals of the 1949 regular legislative session, HJ and SJ being abbreviations for "House Journal" and "Senate Journal", respectively.