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REAPPORTIONMENT *of the* TERRITORIAL LEGISLATURE

By **KENNETH K. LAU**

Research Associate

LEGISLATIVE REFERENCE BUREAU

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TERRITORY OF HAWAII

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ROBERT M. KAMINS, Director

LEGISLATIVE REFERENCE BUREAU

**UNIVERSITY OF HAWAII
HONOLULU 14, HAWAII**

Summary

In November 1958 the voters of the Territory of Hawaii will elect the first legislature to be reapportioned since Hawaii became an incorporated territory in 1900. The Senate will be enlarged from 15 to 25 members and senatorial representation of each county will be maintained in approximately the same proportions as in the past. The House of Representatives will be enlarged from 30 to 51 members, and all of the new members will be elected from the Island of Oahu, reflecting the increase in population since 1900. Oahu will thus elect a majority of the House, but not of the Senate.

This reapportioned legislature, which will convene in February 1959, will be the only legislature to be composed in the manner prescribed in the reapportionment act passed by Congress in 1956. In July 1959 the House of Representatives will be reapportioned on the basis of the number of voters registered for the general election in 1958; thereafter the House will be reapportioned at ten-year intervals. The "method of equal proportions" will be used to effect the 1959 and subsequent decennial reapportionments. Based on estimates of probable voter registration, Oahu will be allocated an even greater representation in 1959.

Historically, many attempts have been made to secure reapportionment of the territorial legislature. Numerous bills and resolutions have been introduced but none have succeeded in becoming law. In May 1955 a citizen brought suit in the United States District Court for the District of Hawaii against the members of the legislature and the Governor and Secretary of Hawaii, seeking judicial assistance in enforcing reapportionment of the legislature. The court ordered an election at large, but set aside the order upon passage of the reapportionment act in August 1956, and entered a decree declaratory of the plaintiff's rights during the period prior to the enactment. Upon appeal, the Ninth Circuit Court in June 1958 held the case to be moot and reversed the District Court's decree.

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CHAPTER 1

The Problem of Legislative Apportionment

THE TERRITORIAL LEGISLATURE

The 30th Legislature of the Territory of Hawaii, which will be elected in November 1958 and convene in February 1959, will have a new look. It will be the first legislature elected under the provisions of the recent act of Congress reapportioning the legislature.¹ The new look will have two distinctive features: the first is that the legislative body will be substantially enlarged in numbers, totalling 76 members compared with the present 45; the second is that the Island of Oahu will have substantially more members in the House of Representatives than all the other islands combined, electing 33 of the new 51-member House.

The legislature, up to the present, has been constituted in accordance with the original Hawaiian Organic Act of 1900, with a Senate of 15 members and a House of 30 representatives. In 1900, a little less than 40 per cent of the population of the territory resided on Oahu. Accordingly, Oahu was entitled to six senators and 12 representatives, or 40 per cent of each body.

In the intervening years, there has been a marked shift in the concentration of population, so that by 1950 approximately 70 per cent and by 1958 more than 75 per cent of the population lived on Oahu. The purpose of the reapportionment act of 1956 "is to reapportion the territorial legislature of Hawaii on the basis of the present-day concentration of population in the islands."² Table I shows the distribution of population in the territory at decennial intervals from 1900 to the present.

In recognition of this shift in population, the act provides for a House of 51 members, of which Oahu will elect 33; however, of a Senate of 25 members, Oahu will elect 10, or 40 per cent. Thus, the House membership will reflect "the present-day concentration of population" but the Senate will continue to be elected on a geographical basis, with the original ratios closely maintained.

Table I. POPULATION OF THE TERRITORY OF HAWAII, 1900-1958

County	1900 Jun. 1	1910 Apr. 15	1920 Jan. 1	1930 Apr. 1	1940 Apr. 1	1950 Apr. 1	1958 Jan. 1
Hawaii	46,843	55,382	64,895	73,325	73,276	68,350	63,405
% of Total	30.4%	28.9%	25.3%	19.9%	17.3%	13.7%	11.1%
Maui & Kalawao	27,920	30,547	38,052	56,146	55,980	48,519	44,487
% of Total	18.1%	15.9%	14.9%	15.2%	13.2%	9.5%	7.8%
Honolulu	58,504	81,993	123,496	202,887	257,664	353,020	433,109
% of Total	38.0%	42.7%	48.3%	55.1%	61.0%	70.6%	76.1%
Kauai	20,734	23,952	29,438	35,942	35,818	29,905	28,503
% of Total	13.5%	12.5%	11.5%	9.8%	8.5%	6.0%	5.0%
Total	154,001	191,874	255,881	368,300	422,738	499,794	569,504

*Population figures from 1900 to 1950 include resident military personnel. Figures for 1958 exclude resident military personnel but include their dependents.

Sources:

1900 to 1930: United States Census, 1930, Vol. I: Population (Washington: Government Printing Office, 1931), pp. 1241-42.

1940 and 1950: United States Census, 1950, Vol. II: Population (Washington: Government Printing Office, 1953), p. 52-6.

1958: Territory of Hawaii, Department of Health, Bureau of Health Statistics, "Estimates of Civilian Population of the Territory of Hawaii by Geographic Areas" (Honolulu: 1958).

The forthcoming Thirtieth Legislature will be the first reapportioned legislature since Hawaii became a territory in 1900, although the Organic Act provision that "The Legislature ... from time to time ... shall reapportion the membership in the senate and house of representatives ..." ³ remained in force until amended by the reapportionment act of 1956. Beginning with the regular session in 1907, and in almost every session thereafter, at least one measure calling for the reapportionment of the legislature in some manner was introduced in either the House or Senate. In more recent years, until the regular session of 1955, several measures were often introduced in each session of the legislature. On a number of occasions, a bill was passed by one of the houses but was tabled by the other. In 1941 a house concurrent resolution passed both houses and was sent to Congress but no action was taken there. None of the measures ever succeeded in becoming law.

The problem of legislative reluctance to effect reapportionment in keeping with population changes is not peculiar to Hawaii, nor is the problem of legislative apportionment of recent origin. In fact, the problem in the United States is as old as the nation itself. It occurs on both national and state levels and has developed into serious proportions in a number of states.

APPORTIONMENT OF CONGRESS⁴

The composition of the Congress of the United States was a subject of major concern to the Constitutional Convention of 1787. The provision finally adopted in the Constitution was a compromise of the conflicting interests of the large and small states and provided that the states should have equality of representation in the Senate but that they should elect members to the House of Representatives according to their population.

The Constitution also provided that the first enumeration of the population basis for the apportionment of Congress should be made within three years after the first meeting of Congress, and within every subsequent term of ten years. Pursuant thereto, Congress has made provision for a new apportionment after every census except that of 1920. An automatic apportionment after each census was finally prescribed in the census act of June 18, 1929 (46 Stat. L. 26). The apportionment of representatives among the states to determine the number each state will have, being re-allocated every ten years, has resulted in a distribution generally satisfactory to each state.

While the Congress has determined the apportionment of representatives among the states, it has left to the states themselves the establishment of congressional districts within the states and the apportionment of the representatives among the various districts. It is in this area that there has been considerable inequality of treatment within some of the states. The major inequality has been in the variation of population among the congressional districts within the states. In a number of states the population of the largest districts substantially exceed the population of the smallest districts within the state.

Various factors have combined to cause and perpetuate inequalities. The lack of action may have been due to indifference, but is probably owing to the disinclinations of the political leaders to disturb the status quo. The

inequalities in most cases are likely to be due to the exigencies of practical politics. The majority party endeavors to concentrate the minority vote in a few districts, and thus make the remaining districts safe for the majority. The political fortunes of sitting members or aspirants also have considerable effect.

Conflicts between urban and rural areas account for many inequalities; as a rule the urban districts have a greater population than the rural ones, but this is not universally true. Another cause of inequalities is the disinclination to divide a county between two districts. Except in the metropolitan areas the district boundaries generally follow the county lines. Few states have constitutional provisions requiring this, but it is the usual practice.⁵

APPORTIONMENT OF STATE LEGISLATURES

As indicated above, there are inequalities among congressional districts within some of the states. However, it is possible for Congress to act to cure these inequalities as to congressional representation. An even more serious problem of unequal legislative representation which is beyond the power of Congress to reach lies in the make-up of state legislatures.

Problems of reapportionment are faced by most of the forty-eight states. Although all state constitutions contain some provision for reapportionment of the legislature, these provisions have operated with varying degrees of effectiveness. At one extreme are those provisions which, as a practical matter, insure reapportionment every ten years. At the other extreme are those provisions which have, in effect, served as a deterrent to reapportionment. In many states the failure to reapportion in order to reflect changes in population patterns has resulted in the partial disenfranchisement of a large portion of the electorate.⁶

The reapportionment provisions of state constitutions vary one from the other. Some constitutions provide that representation in one house of the legislature, usually the senate, is to be based not on population but on geographic area. Many constitutions provide for reapportionment of one or both

houses every ten years. However, the statement of a required interval notwithstanding, many state legislatures have not been reapportioned for several decades.

. . . failure of the legislatures to act is by far the more significant source of unequal representation. The constitutions of 40 states require reapportionment of one or both houses of the legislature every 10 years or more frequently, and 3 other state constitutions authorize decennial redistricting. Yet 23 of the 48 states have not reapportioned for 10, 20, 50 years or more. For example, Alabama's legislature is constitutionally obligated to reapportion every 10 years but last did so in 1901. Under 40 state constitutions population is the basis of apportionment, with some qualifications, in at least one house of the legislature. But the frequent redistricting required to make these standards a reality has not been forthcoming.⁷

A chart summarizing the provisions of the various state constitutions and the organic laws of other jurisdictions is presented as Appendix A at the end of this report. It shows the methods whereby the legislative houses are to be reapportioned, the frequency of reapportionment required, if any, the agency charged with the reapportionment, and the year when reapportionment was last effected.

FOOTNOTES

1. Public Law 895, 84th Congress, 2d Session, approved August 1, 1956, for convenience sometimes referred to in this report as the reapportionment act of 1956 or simply as "the reapportionment act."

2. U.S. Senate Report No. 2643, July 19, 1956 (To accompany H. R. 8837), U.S. Code Congressional and Administrative News, 84th Congress, 2d Session, 1956, Vol. 3, p. 4057.

3. Hawaiian Organic Act, Sec. 55.

4. Most of the material in this section is taken from Laurence F. Schmeckebier, Congressional Reapportionment (1941), Chapters I and IX.

5. Ibid., pp. 127-28.

6. Note, "The Role of the Judiciary in Legislative Reapportionment," 42 Minnesota Law Review 617 (March 1958).

7. Anthony Lewis, "Legislative Apportionment and the Federal Courts," 71 Harvard Law Review 1057, 1060-61 (April 1958).

CHAPTER 2

Judicial Enforcement of Reapportionment

The failure of legislative bodies to correct the various conditions of malapportionment in state legislatures and congressional districts has led to numerous lawsuits seeking judicial enforcement of constitutional or statutory reapportionment provisions. Actions have been brought in both state and federal courts.

STATE COURTS

Where state legislatures have failed to act, state courts generally have refused to compel affirmative action to enforce reapportionment. Where state legislatures have enacted reapportionment measures, state courts have been willing to review the actions to see whether they were taken in accordance with the particular constitutional provisions in question. On judicial review, reapportionment statutes have been invalidated on various grounds, such as failure to provide for equality, compactness, or contiguity of districts. On the other hand, where statutes were not judicially questioned, upon or shortly after enactment, and have become inequitable due to the passage of time, state courts have refused to invalidate them.¹

UNITED STATES SUPREME COURT

In the federal courts, cases have been brought to question measures involving both the reapportionment of congressional districts and state legislatures. The leading case on the subject is Colegrove v. Green² decided by the United States Supreme Court in 1946. In this case, three voters of congressional districts in Illinois which had much larger populations than other congressional districts in the state brought suit against the Governor, Secretary of State and State Auditor, who constituted the Illinois Primary Certifying Board, to enjoin them from conducting the 1946 election according to the 1901 apportionment law which was then in effect, seeking also a judgment declaring the congressional districts invalid. A

federal district court of three judges dismissed the complaint, and the United States Supreme Court, by a split decision,³ affirmed the district court's decree. The decision was based on the theory of the constitutionally delineated separation of the legislative and judicial powers, as indicated by the language of the court:

... the test for determining whether a federal court has authority to make a declaration such as is here asked, is whether the controversy "would be justiciable in this court if presented in a suit for injunction" (p. 552)

We are of the opinion that the appellants ask of this court what is beyond its competence to grant. . . . due regard for the effective working of our Government revealed this issue to be of a peculiarly political nature and therefore not meet for judicial determination. (p. 552)

* * *

... this controversy concerns matters that bring courts into immediate and active relations with party contests. From the determination of such issues this Court has traditionally held aloof. It is hostile to a democratic system to involve the judiciary in the politics of the people. . . . (pp. 553-54)

... the Constitution has conferred upon Congress exclusive authority to secure fair representation by the States in the popular House and left to that House determination whether states have fulfilled their responsibility. . . . (p. 554)

... Congress has at times been heedless of this command and not apportioned according to the requirements of the Census. It never occurred to anyone that this Court could issue mandamus to compel Congress to perform its mandatory duty to apportion. "What might not be done directly by mandamus could not be attained indirectly by injunction" (p. 555)

... The Constitution has many commands that are not enforceable by courts because they clearly fall outside the conditions and purposes that circumscribe judicial action. . . . The Constitution has left the performance of

many duties in our governmental scheme to depend on the fidelity of the executive and legislative action and, ultimately, on the vigilance of the people in exercising their political rights. (p. 556)

The conclusion of the court that relief lies in reliance upon executive and legislative fidelity has been criticized as being unrealistic.⁴ Additionally, a dissenting opinion felt that the court had jurisdiction and should have granted relief.

. . . It is my judgment that the District Court had jurisdiction; that the complaint presented a justiciable case and controversy; and that appellants had standing to sue, since the facts alleged show that they have been injured as individuals. Unless previous decisions of this Court are to be overruled, the suit is not one against the State but against state officials as individuals. The complaint attacked the 1901 Apportionment Act as unconstitutional and alleged facts indicating that the Act denied appellants the full right to vote and the equal protection of the laws. These allegations have not been denied. Under these circumstances, and since there is no adequate legal remedy for depriving a citizen of his right to vote, equity can and should grant relief. (pp. 568-69)

THE DYER CASE, UNITED STATES DISTRICT COURT, HAWAII

The United States Supreme Court has denied relief in cases involving congressional districts. Do federal courts have jurisdiction over the apportionment problems of state and territorial legislatures? A federal district court judge has ruled that equitable relief is available in a case involving the legislature of the Territory of Hawaii.

In May 1955 John F. Dyer filed a complaint in the United States District Court for the District of Hawaii against members of the legislature, the Governor and Secretary of Hawaii, and the Regional Disbursing Officer of the United States Treasury Department for Hawaii. Dyer brought his suit as a citizen of the Territory of Hawaii and of the United States and as a registered voter in one of the more populous electoral districts of the Territory, the Third Senatorial District and the Fourth Representative District, both on the Island of Oahu, alleging a deprivation of his right to an equal vote on the grounds that the

territorial legislature, while under mandate of Section 55 of the Hawaiian Organic Act to reapportion its membership "from time to time," had never effected such reapportionment.⁵

Motions to dismiss the complaint were filed by some of the defendants. These motions were dismissed by the district court judge, who distinguished the case from Colgrove v. Green:

The basic question before us is whether a United States district court should exercise its equitable jurisdiction to cause a reapportionment of a territorial legislature. Colegrove v. Green definitely decided that a case involving voting districts was a judiciable question over which a federal court had jurisdiction. Three justices held the court lacked jurisdiction or would not exercise what jurisdiction it had. Three justices felt jurisdiction existed and should be exercised. The deciding vote was cast by Mr. Justice Rutledge. He stated jurisdiction was present, but should not be exercised. Thus a majority held that a justiciable question was before it, but that in the discretion of the court, equitable jurisdiction should not be exercised.

* * *

The reasons preventing the Supreme Court from acting in Colgrove v. Green are not present here. The Territory of Hawaii does not have the same relation to this court that the State of Illinois has to a federal court within its boundaries. Hawaii is a political subdivision of the United States. It has the same relation to Congress a city or county has to a state. The legislature of the Territory is similar to a county governing board. It has no sovereignty of its own.

This relationship is the distinguishing factor between Colgrove v. Green and the suit before us. Mr. Justice Rutledge refused to extend equitable jurisdiction in that case because it would pitch the federal courts into the delicate area of state-federal relations. He did not believe a court of the United States should become involved in questions concerning the proper functions of state officials. As shown, no such relationship exists here⁶

The case was tried and on July 20, 1956 the court ruled in favor of Dyer, declaring the existing apportionment under

Sections 33 and 39 of the Hawaiian Organic Act to be invalid and ordering that the next election be conducted as an election at large. On August 1, 1956, Congress enacted the reapportionment act, continuing in force the existing apportionment law with respect to the 28th Legislature (1955) and the 29th Legislature (1957) and also deleted from the Hawaiian Organic Act that portion of Section 55 which mandated the legislature to reapportion itself. On August 2, 1956, the federal district court, taking judicial notice of the provisions of the reapportionment act on its own motion, determined that the basis of Dyer's cause of action and the basis of the court's prior order for an election at-large were now repealed. However, the court also ruled to grant Dyer a decree declaratory of his rights as of July 20, 1956. Such a decree, with findings of fact and conclusions of law, was entered on December 28, 1956.

The case has been appealed to the United States Court of Appeals for the Ninth Circuit on the basis that the suit raised a question of "political rights," as distinguished from "civil rights," which is not judicially enforceable and would not come within the equity jurisdiction of the federal court, and on the further basis that the declaratory decree orally granted on August 2, 1956 and formalized on December 28, 1956 "was futile and ineffective and thus should not have been granted," insofar as Congress had removed the duty of the territorial legislature to reapportion itself and had also provided for the continuance of the existing apportionment for the 1955 and 1957 legislatures.⁷ The case, as of this writing (May 1958) is pending before the Ninth Circuit Court of Appeals.

Stripped of technical verbiage, the Dyer case appears to present the appellate court with these issues: (1) whether the federal district court in Hawaii had jurisdiction over the case, and if so, whether such jurisdiction was properly exercised; (2) whether the territorial status of Hawaii distinguishes the case from those involving state legislatures; and (3) whether enactment by Congress of the reapportionment act of 1956 rendered the case moot.*

OTHER FEDERAL DISTRICT COURT CASES

Subsequent to the district court opinion in the Dyer case, other cases have been brought in federal district courts seek-

reapportionment of state legislatures. In one case involving the State of Alabama, a plaintiff brought suit against the Governor, Lieutenant Governor, Secretary of State and members of the state legislature, seeking an order directing them to comply with the state constitution which calls for reapportionment after each decennial census. Extreme inequality in representation as a result of failure to reapportion since 1901 was stressed in the suit. The federal district court in Alabama dismissed the suit, relying upon Colgrove v. Green and distinguishing the Dyer case on the basis of the federal-territorial relationship.⁸

In another case, involving the State of Oklahoma, a plaintiff sought a writ of mandamus against the Governor to call the legislature into special session, a judicial order compelling the legislature to reapportion itself in accordance with the state constitution, and for other alternative remedies. The federal district court in Oklahoma also dismissed the action and distinguished the Dyer case on the federal-territorial relationship.⁹

Most recently, the mayor of Atlanta has questioned the constitutionality of Georgia's electoral system. (Georgia elects its legislature and state officials on the basis of the so-called "county-unit" electoral system, under which the state's eight most populous counties have six electoral votes each while the 121 least populous counties have two electoral votes each. On this basis a ballot in Chattahoochee County with a population of 1,200 is said to be equal in value to 15.6 ballots cast in Fulton County, in which Atlanta lies.) In March 1958 the mayor of Atlanta filed suit in the federal district court asking that the county-unit system be declared unconstitutional. The district court judge refused to convene a three-judge federal court which would be required to act upon the constitutionality of a state act. The mayor thereupon appealed directly to the United States Supreme Court asking that it order the district court judge to convene the three-judge court.¹⁰ As of this writing (May 1958) the ruling of the Supreme Court is not known.

FOOTNOTES

1. From Note, "The Role of the Judiciary in Legislative Reapportionment," 42 Minnesota Law Review 617 (March 1958).

2. 328 U.S. 549 (1946).

3. Seven judges participated in the decision. Justice Frankfurter, joined by Justices Reed and Burton, wrote the prevailing opinion. Justice Black, joined by Justices Douglas and Murphy wrote the dissenting opinion. Justice Rutledge, in a separate opinion, felt that (1) were it not for precedent (Smiley v. Holm, 285 U.S. 355) he would rule that the U.S. Constitution in "making each House the sole judge of the qualifications of its own members, would remove the issues in this case from justiciable cognizance"; (2) "Assuming that the controversy is justiciable, ... the cause is of so delicate a character, ... that the jurisdiction should be exercised only in the most compelling circumstances ..."; and (3) that the complaint should be dismissed for want of equity.

4. "The argument is that in a democracy excessive reliance on the courts weakens the responsibility of the legislature and of the voters. And so those injured by unfair districts are remitted to the state legislatures and to Congress for relief. If this is not a cynical resolution of the problem--and it surely is not so intended--its premise must be that there is a reasonable chance of action in the legislative branches. But the historical evidence indicates that there is no basis whatsoever for this premise," Anthony Lewis, "Legislative Apportionment and the Federal Courts," 71 Harvard Law Review 1057, 1091 (April 1958).

5. Dyer asked the federal district court: (1) to order the Governor to convene the legislature in a special session for the purpose of passing a reapportionment act, to order the members of the legislature to attend the session and to pass a reapportionment bill, and to order the Governor to sign such bill, or (2) to order the members of the legislature to pass a reapportionment act if and when they should meet in special session prior to the next general election and to order the Governor to sign such bill, or (3) to order the eight hold-over senators to introduce and pass such reapportionment bill, to order the other members of the legislature to support and vote for such bill in their respective houses if they are reelected at the next general election and to order the Governor to sign such bill, and (4) to restrain the Regional Disbursing Officer from paying any salary or mileage to the legislators until they pass such reapportionment act or until further order of the court, and (5) to restrain the legislators from accepting any salary, per diem, or mileage payments until they pass such reapportionment act or until further order of the court, and, finally, (6) if the prayers for relief numbered (1), (2), and (3) above could not or would not be granted, to enjoin the Governor from proclaiming the next election to be on any basis except an at-large basis, to enjoin the Secretary of Hawaii from accepting any nomination papers of candidates unless such papers state that the candidate is running on an at-large basis, and

to further order the Governor and Secretary to take other necessary steps to hold such an election at large. From "Statement of the Case" in Appellants' Opening Brief in Kazuhisa Abe, et al (Defendants-Appellants) v. John F. Dyer (Plaintiff-Appellee), No. 15566 in the United States Court of Appeals for the Ninth Circuit. Chronological data in this section also drawn in large part from the brief.

6. Dyer v. Abe, et al, 138 F. Supp. 220, 233-34 (1956).
7. Appellants' Opening Brief, op. cit. supra note 5.
8. Perry v. Folsom, 144 F. Supp. 874 (N. D. Ala. 1956), from Note, 42 Minnesota Law Review at 632.
9. Radford v. Gray, 145 F. Supp. 541 (W.D. Oklahoma 1956), from Note, 42 Minnesota Law Review at 632-33.
10. Newsweek, April 28, 1958, pp. 23-24.

*On June 10, 1958 the United States Court of Appeals for the Ninth Circuit held in a per curiam opinion that congressional amendment of Section 55 of the Hawaiian Organic Act by the reapportionment act of 1956 "made Dyer's controversy over reapportionment moot." It reversed the District Court's declaratory decree and ordered that the complaint be dismissed without prejudice. (Abe v. Dyer, U.S. Court of Appeals for the Ninth Circuit, June 10, 1958.)

CHAPTER 3

The Reapportionment Act of 1956

In 1950, a territorial convention made up of popularly elected delegates was held in Honolulu to draft a constitution for the projected state of Hawaii. The composition of the proposed state legislature was a question which received serious consideration. After prolonged deliberation and debate, a legislature to be made up of a 25-member Senate and 51-member House of Representatives was agreed upon. The provisions of the proposed state constitution governing the initial composition and subsequent, periodic reapportionment of the projected state legislature became the basis for the reapportionment act enacted by Congress on August 1, 1956.¹

In the first reapportioned legislature, to be elected in the fall of 1958 and to convene in February 1959, even the least populous county will have no fewer than the same number in the House and Senate that it previously had. At the outset, therefore, although the relative representation of the four counties will be changed, none of the counties will lose numerically. Table II presents a comparison of the old and new senatorial and representative districts.

The reapportionment act changes the population basis for computing the apportionment of representatives. The Organic Act originally provided that the legislature ". . . shall reapportion the membership in the senate and house of representatives among the senatorial and representative districts on the basis of the population in each of said districts who are citizens of the Territory."² The reapportionment act, on the other hand, provides that future reapportionment will be "on the basis of the number of votes registered at the last preceding general election." The United States Department of the Interior, in 1956, commenting upon the then-pending bill, stated that according to its available information, "the arrangement presently provided in the Organic Act for reapportionment has not been satisfactory because statistics on Hawaiian citizens by districts were not available prior to the decennial census of 1950. More-

over, the statistical data collected in the decennial census of 1950 has not been published and its accuracy has not been determined"³

The Interior Department recognized the historical opposition of the islands other than Oahu to the reapportionment plan

Table II. REAPPORTIONED LEGISLATIVE REPRESENTATION, 30th LEGISLATURE
(Effective with 1958 Elections for 30th Legislature)

ISLANDS	REPRESENTATIVE DISTRICTS				SENATORIAL DISTRICTS			
	NEW		OLD		NEW		OLD	
	Dis-trict	Rep-resentatives	Dis-trict	Rep-resentatives	Dis-trict	Sen-ators	Dis-trict	Sen-ators
HAWAII	1st	1	1st	4	1st	5	1st	4
	2nd	4						
	3rd	1						
	4th	1	2nd	4	2nd	2		
	5th	1						
TOTAL		8		8		7		4
MOLOKAI-LANAI	6th	1	3rd	6	3rd	5	2nd	3
MAUI-KAHOOLAWE	7th	5						
TOTAL		6		6		5		3
OAHU	8th*	2	5th*	6	5th	5	3rd	6
	9th	2						
	10th	2						
	11th	3						
	12th	3						
	13th	3						
	14th	5	4th	6	4th	5		
	15th	6						
	16th	4						
	17th	3						
TOTAL		33		12		10		6
KAUAI-NIIHAU	18th	4	6th	4	6th	3	4th	3
TOTAL		4		4		3		3
GRAND TOTAL		51		30		25		15

*Southeastern portion of new 8th District was part of old 4th District.

in the Organic Act because it based the membership of both houses on population--and "such reapportionment would result in the city and county of Honolulu electing a substantial majority of the members of both the senate and the house." It summarized its approval of the then-pending bill with this statement:

We believe that the proposal for reapportionment contained in H. R. 8837 is a reasonable and proper solution to a difficult problem. It would follow the precedent established by the Federal Government as well as many of the States in providing that the senate and the house of the new legislature be elected on different bases to allow the outlying islands, when combined, to have a majority in the senate, and Oahu, the most populous island, to have a majority in the house. This plan conforms with the provisions of the proposed State constitution for Hawaii, which was adopted by the Constitutional Convention of 1950, was approved by the special session of the legislature of 1950, and was ratified at a general election in November 1950."⁴

THE SENATE

Under the Organic Act, since 1900 the territory was divided into four senatorial districts which elected a total of 15 senators as follows:

First District, the island of Hawaii, four senators;

Second District, the islands of Maui, Molokai, Lanai and Kahoolawe, three senators;

Third District, the island of Oahu, six senators;

Fourth District, the islands of Kauai and Niihau, two senators.

The major changes provided by the reapportionment act are to: (1) increase the membership of the Senate from 15 to 25 members; (2) create two senatorial districts on each of the Islands of Hawaii and Oahu in place of the single district existing for each island; and (3) increase the number of senators to be elected from each island by approximately the same ratios.

The new senatorial districts, and senators to be elected, are as follows:

First District, East Hawaii (including Puna, Hilo and Hamakua), five senators;

Second District, West Hawaii (including Kau, Kona and Kohala), two senators;

Third District, the islands of Maui, Molokai, Lanai and Kahoolawe, five senators;

Fourth District, the portion of Oahu 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 enumerated), five senators;

Fifth District, the remaining portion of Oahu, five senators;

Sixth District, the islands of Kauai and Niihau, three senators.

The new senatorial districts conform very closely to the former representative districts. For Hawaii the First and Second Representative Districts become the First and Second Senatorial Districts, without change in boundaries. For Oahu, however, the Fourth Senatorial District does not include any part of "Windward Oahu," as did the former Fourth Representative District, which ran from the Nuuanu Pali to Mokapu Point in Kailua-Kaneohe (not to be confused with the new line to Makapuu Point in the Koko Head area).

Under the reapportionment act, senators will continue to be elected for terms of four years. At the first election under the act, however, only 17 of the 25 senators will be elected. The act provides that the senators elected at the general election of 1956 will continue to hold office until the expiration of the four-year terms for which they were elected and will be deemed to have been elected from the new senatorial district in which they resided at the time of their election. Since eight senators were elected in 1956, their terms will not be disturbed. Furthermore, the new legislature at its first session will be required to assign the senators to long or short terms, so that as nearly as possible one-half of them--including the holdover senators--will hold office for two years and the remaining senators will hold office for four years. If the legislature fails to make the assignment to long and short terms, the Governor is directed to do so.

THE HOUSE OF REPRESENTATIVES

Major changes are made by the reapportionment act in the size and representation of the House of Representatives. The size of the House is increased from 30 to 51 members, and all of the additional 21 members will come from Oahu, which will elect 33 instead of 12 representatives. No change is made in the number of representatives to be elected from each of the other counties for the first reapportioned legislature; Kauai will continue to elect four, Maui six, and Hawaii eight.

All islands will be divided into a greater number of representative districts, with the exception of Kauai and Niihau, which will continue to constitute one district, to be renumbered the Eighteenth Representative District.

Maui, Molokai, Lanai and Kahoolawe will become two districts, with Molokai and Lanai to be designated as the Sixth Representative District and to elect one representative, and Maui and Kahoolawe as the Seventh to elect five.

Hawaii will be divided into five districts and elect a total of eight representatives, as follows:

First District: Puna, one representative;

Second District: South Hilo, four representatives;

Third District: North Hilo and Hamakua, one representative;

Fourth District: Kau, South Kona and part of North Kona, one representative;

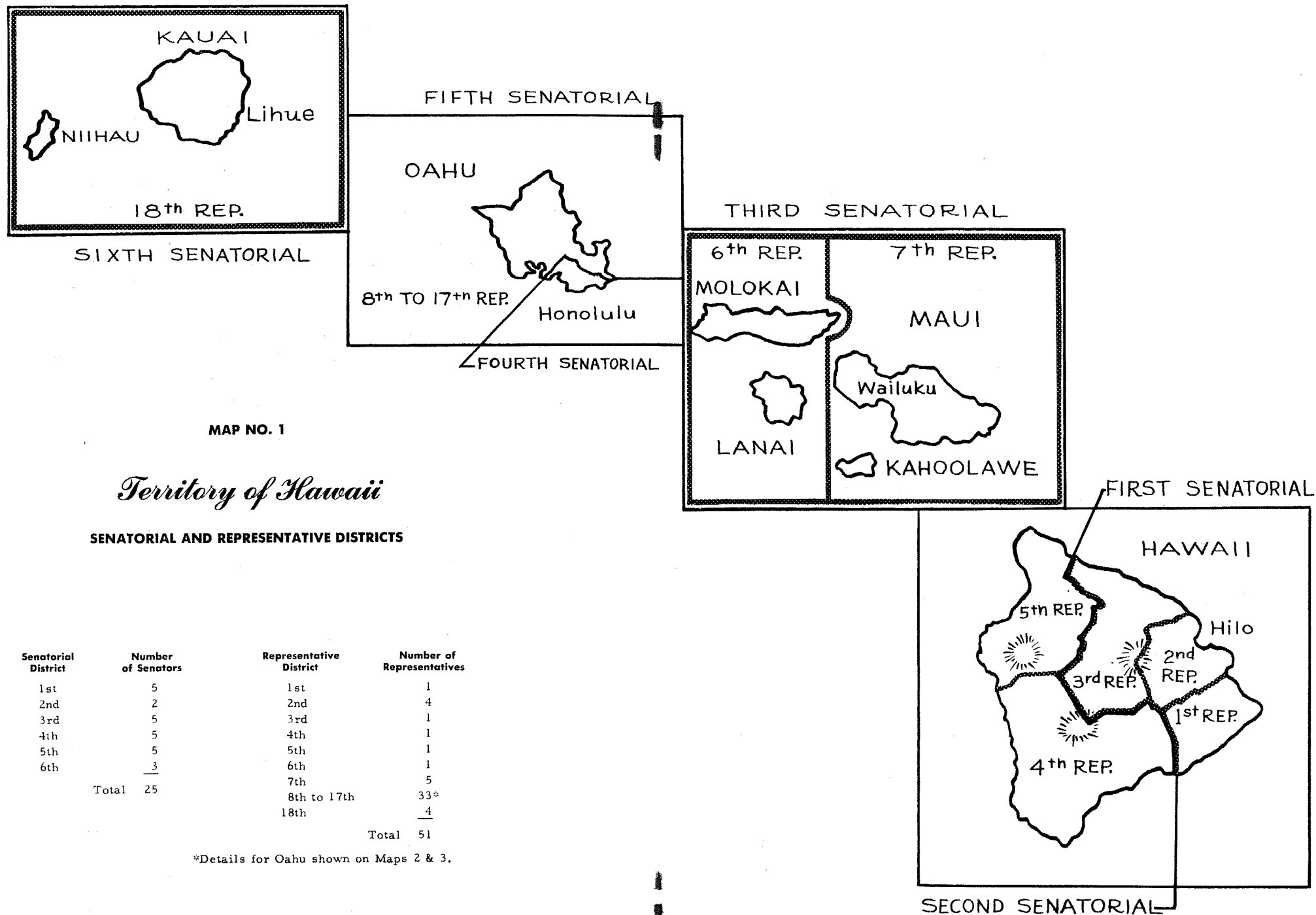
Fifth District: Kohala and remainder of North Kona, one representative.

Oahu will be most drastically affected. It will have ten representative districts, to be numbered Eighth through Seventeenth, and elect a total of 33 representatives as follows:

Eighth District: Koolaupoko and Koolauloa (windward Oahu from Waimanalo through Kahuku), two representatives;

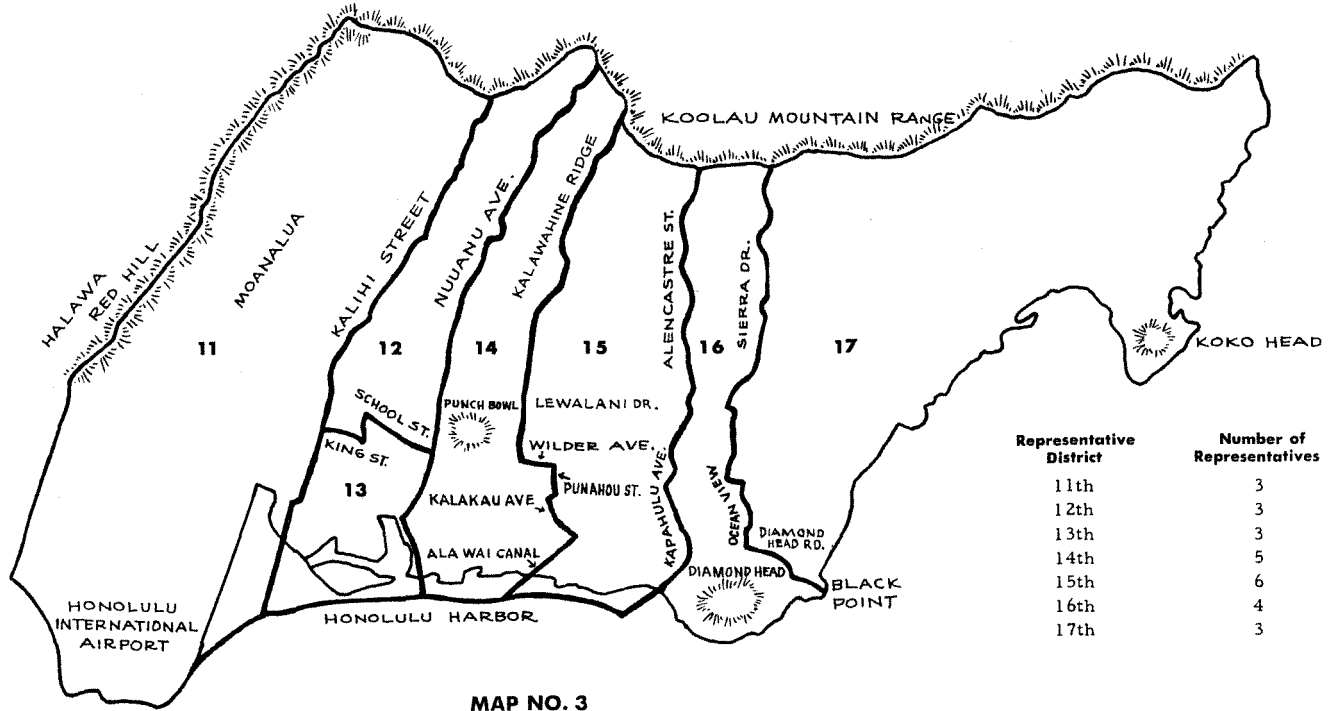
Ninth District: Waialua and Wahiawa, two representatives;

Tenth District: Ewa and Waianae, two representatives;



Island of Oahu

**4th AND 5th SENATORIAL DISTRICTS
8th TO 17th REPRESENTATIVE DISTRICTS**



City and County of Honolulu

11th TO 17th REPRESENTATIVE DISTRICTS

- Eleventh District: Kalihi (including Kalihi Valley, Moanalua, International Airport), three representatives;
- Twelfth District: Upper Nuuanu (including Liliha Valley and Nuuanu Valley west of Nuuanu Avenue and north of School Street), three representatives;
- Thirteenth District: Kapalama (the areas south of School and King Streets between Nuuanu Avenue and Kalihi Street), three representatives;
- Fourteenth District: Pauoa (Nuuanu Avenue east to upper Tantalus Drive, Punahou Street below Wilder Avenue and Kalakaua Avenue), five representatives;
- Fifteenth District: Manoa and Waikiki (including upper Makiki, St. Louis Heights west of Alencastre Street, and areas west of Kapahulu Avenue), six representatives;
- Sixteenth District: Kaimuki and Kapahulu (including Palolo Valley and Diamond Head Crater), four representatives;
- Seventeenth District: the remainder of Oahu and islands not enumerated (which includes Wilhelmina Rise, Waialae-Kahala, Aina Haina, Niu, Kuliouou, Portlock and Koko Head), three representatives.

FUTURE REAPPORTIONMENT

The reapportioned Senate, as above described, will continue in the same form indefinitely. The reapportionment act deleted the provision in the Hawaiian Organic Act calling for the periodic reapportionment of both the Senate and House of Representatives and made provision for the periodic reapportionment of the House only. Until further action of Congress, therefore, no provision exists for the future reapportionment of the Senate.

As to the reapportionment of the House of Representatives, several steps are set forth. The reapportioned House, as described above, will be effective only for the Thirtieth Legislature which meets in 1959, after which it will again be reapportioned. The act provides that on or before the first of June of 1959, "and of each tenth year thereafter the Governor shall reapportion the members of the house of representatives"

The islands will continue to be divided into four basic areas corresponding to the four counties, as follows: (1) Hawaii, (2) Maui, Molokai, Lanai and Kahoolawe, (3) Oahu and all unenumerated islands and (4) Kauai and Niihau. The 51 representatives will first be reapportioned among the four basic areas, with no area to have less than one member. The basis of the reapportionment will be the "number of voters registered at the last preceding general election in each of such basic areas"

The number to which each basic area is entitled is then reapportioned among the representative districts within the basic area, "on the basis of the number of voters registered at the last preceding general election within each of such representative districts" No district is to have less than one member. However, if the number of voters registered in any representative district should be less than one-half the quotient obtained by dividing the total voters in the territory by 51 (i.e., by "the total number of members to which the house is entitled,") then the basic area in which the representative district lies is to be redistricted so that the total number of voters in each new district becomes more than one-half of such quotient.

This method of computation is known as the "method of equal proportions," and is described more fully in the next chapter. As there indicated, the total number of voters registered for the general election in the fall of 1958 will determine the composition of the House of Representatives for the next ten years.

PROCEDURE AND ENFORCEMENT

The reapportionment act places on the Governor of the Territory the authority and responsibility for reapportioning the House of Representatives on or before June 1, 1959 and each tenth year thereafter. After each reapportionment, he is to issue a proclamation showing the results of such reapportionment, which is to be effective for the next five succeeding legislatures.

If the Governor should fail to act, any registered voter may apply for a writ of mandamus to compel the Governor to perform his duty. Similarly if an error should be made by the Governor, any registered voter may apply for a writ of manda-

mus to compel the correction of "any error made in such reapportionment."

Original jurisdiction is vested in the Supreme Court of the Territory for the exercise of judicial powers to compel compliance by the Governor. The inclusion of this provision establishes jurisdiction in a specified judicial body for the enforcement of the law and clarifies the question of whether or not a court may take cognizance of this type of case. The act also places responsibility for action upon the executive rather than the legislative organ of government. Furthermore, the formula for reapportionment is established by adoption of the "method of equal proportions," so that the carrying out of the reapportionment process becomes largely ministerial in nature, and hence an appropriate subject for recourse to a writ of mandamus.

FOOTNOTES

1. Public Law 895, 84th Congress, 2d Session, approved August 1, 1956. Citations to specific sections are omitted, but the act is reproduced in full as Appendix B.

2. 48 U.S.C.A. 562; Hawaiian Organic Act, Sec. 55. For a definition of "citizens of the Territory," see 48 U.S.C.A. 494; Hawaiian Organic Act, Sec. 4. As to qualifications of voters, see 48 U.S.C.A. 617; Hawaiian Organic Act, Sec. 60.

3. Letter, U. S. Department of the Interior, to Chairman, Committee on Interior and Insular Affairs, U. S. House of Representatives, March 13, 1956, in U.S. Code Congressional and Administrative News, 84th Congress, 2d Session, 1956, Vol. 3, pp. 4059-60.

4. Ibid.

CHAPTER 4

*Reapportionment by Equal Proportions**

Under the 1956 amendment to the Organic Act (Public Law 895, 84th Congress), reapportionment of the territorial House of Representatives is to be made "by the method known as the method of equal proportions." "Equal proportions," the method specified by federal statute for the reapportionment of Congress,¹ was developed by Professor Edward V. Huntington of Harvard University in 1920. It is claimed that by the method of equal proportions the difference between representation in any two districts is the smallest possible. This is true when the difference is measured by either their relative populations or the individual's "share" in a representative (i.e., the ratio of population to representatives).²

Essentially, the method of equal proportions establishes a list of priority numbers, according to which the various districts are allotted representatives. Actually, the method is used after each district is given one representative, the minimum which it must have. Applied to the territorial legislature, then, the priority list begins with the fifth member--after each of the four counties is allotted one representative--and then determines which county gets the fifth member, the sixth, the seventh, etc., until all 51 members are apportioned.

The priority numbers are calculated by a formula which divides the population (registered voters, under Hawaii's Organic Act provisions) by the geometric mean of two succeeding numbers of representatives. For example, if the number of registered voters in a district were 50,000 then its priority for its second representative would be calculated so--

$$\text{Priority number} = \frac{50,000}{\sqrt{1 \times 2}} = \frac{50,000}{\sqrt{2}} = \frac{50,000}{1.4142} = 35,355.7$$

(The expression $\sqrt{1 \times 2}$ calculates the geometric mean of

*This chapter was prepared by Robert M. Kamins.

1 and 2, corresponding to the first and second representatives allotted to a district.)

Similarly the priority number for the third representative of this district would be--

$$\text{Priority number} = \frac{50,000}{\sqrt{2 \times 3}} = \frac{50,000}{\sqrt{6}} = \frac{50,000}{2.4495} = 20,412.3$$

After priority numbers are calculated for each district--for as many representatives as each district can possibly receive, given the size of the legislative body--they are arranged in descending order. The fifth representative³ is then allotted to the district with the highest priority number, the sixth to the second highest priority number, the seventh to the third highest ... and so on until all representatives have been assigned.

APPLICATION OF "EQUAL PROPORTIONS": 1956 REGISTRATION DATA

Hawaii's apportionment law requires, first, the determination of how many of the 51 representatives shall be allotted to each of the four "basic areas" (identical with the four counties, and so referred to in this discussion) and, second, how the number of representatives in each county shall be allotted to representative districts within the county. The basis for allotment, both among and within counties, is the number of voters registered at the last preceding general election--e.g., the reapportionment of 1959 will be based on registration for the general election of November, 1958.

Table III shows how the House of Representatives would have been apportioned in establishing the Thirtieth Legislature (elected in 1958, meeting in 1959), had the registration figures for the 1956 general election been used as the basis of the apportionment. (This was not the case: rather, the composition of the House of the Thirtieth Legislature was set forth in the 1956 amendment to the Organic Act and was originally based on the registration for the special election of 1950 which chose delegates to the constitutional convention.)

It will be observed that Honolulu would have received the fifth to ninth seats; the tenth would have gone to Hawaii as its second representative; Maui would have received its second

representative at the fifteenth assignment; Kauai would have received its second representative at the twenty-second assignment. Looking at the end of the table, Honolulu would have been assigned the last member of the 51-member House, giving it a total of 35 representatives, Hawaii would have had eight, Maui five and Kauai three. Actually, it will be recalled, Honolulu received 33 seats under the 1956 reapportionment statute, Hawaii eight, Maui six and Kauai four. In order to achieve these apportionments for Maui and Kauai under the method of equal proportions, given the registration data for 1956, the House would have had to be expanded to 56 members. (See Table III.)

APPLICATION OF "EQUAL PROPORTIONS": 1958 POPULATION

At this writing in May 1958, it is of course too early to calculate what apportionment the method of equal proportions will yield when applied to 1958 registration data. The results may be approximated, however--knowing the estimated civilian population for each county as of January 1, 1958--by assuming that the percentage of civilians who registered to vote in 1956 in each county will remain the same in 1958. Table IV is calculated, therefore, on the assumption that in November 1958 the number of registered voters in each county will bear the following percentage relationship to the civilian population as of January 1, 1958: Hawaii, 39.56; Honolulu, 31.06; Maui, 35.91; Kauai, 37.68.

As Table IV indicates, if the number of voters registered for the general election of November 1958 actually approximates these percentages, Honolulu would gain four seats over the number allotted in the Thirtieth Legislature, bringing her representation to 37. Each of the other counties would lose representatives--Hawaii from eight to seven, Maui from six to four, and Kauai from four to three.

Table IV shows that, using the method of equal proportions, it would require a House of 56 members to accommodate eight representatives from Hawaii. To restore Kauai's original membership of four, the House would have to be increased to 60--to 64, if Maui were to regain her six representatives.

Summarizing, application of the method of equal proportions to the actual number of registered voters in the 1956 gen-

eral election and to an estimate of the registration in the 1958 election, indicates the distribution of membership in the territorial House of Representatives shown on Table V.

Table III. CALCULATION OF THE APPORTIONMENT OF THE HOUSE OF REPRESENTATIVES ACCORDING TO VOTER REGISTRATION OF NOVEMBER 1956

Seat in House	Priority Number	County	Cumulative Total for County	Seat in House	Priority Number	County	Cumulative Total for County
(First 4 seats automatically allocated, one to each county, since each county must have at least one representative.)				30	5,717	Hawaii	5
				31	5,697	Honolulu	21
				32	5,428	Honolulu	22
				33	5,195	Honolulu	23
				34	4,973	Honolulu	24
5	82,542	Honolulu	2	35	4,837	Maui	4
6	47,650	Honolulu	3	36	4,763	Honolulu	25
7	33,701	Honolulu	4	37	4,669	Hawaii	6
8	26,101	Honolulu	5	38	4,576	Honolulu	26
9	21,315	Honolulu	6	39	4,573	Kauai	3
10	18,080	Hawaii	2	40	4,401	Honolulu	27
11	18,012	Honolulu	7	41	4,249	Honolulu	28
12	15,596	Honolulu	8	42	4,097	Honolulu	29
13	13,763	Honolulu	9	43	3,957	Honolulu	30
14	12,304	Honolulu	10	44	3,945	Hawaii	7
15	11,847	Maui	2	45	3,829	Honolulu	31
16	11,125	Honolulu	11	46	3,746	Maui	5
17	10,437	Hawaii	3	47	3,712	Honolulu	32
18	10,156	Honolulu	12	48	3,595	Honolulu	33
19	9,350	Honolulu	13	49	3,490	Honolulu	34
20	8,650	Honolulu	14	50	3,416	Hawaii	8
21	8,055	Honolulu	15	51	3,385	Honolulu	35
22	7,921	Kauai	2	-----			
23	7,529	Honolulu	16	52	3,292	Honolulu	36
24	7,382	Hawaii	4	53	3,234	Kauai	4
25	7,074	Honolulu	17	54	3,198	Honolulu	37
26	6,839	Maui	3	55	3,117	Honolulu	38
27	6,677	Honolulu	18	56	3,059	Maui	6
28	6,315	Honolulu	19				
29	5,988	Honolulu	20				

Note: This table indicates the way in which the 51-member House of Representatives would have been apportioned, had the apportionment been made on the basis of voter registration for the 1956 general elections.

Table IV. CALCULATION OF THE APPORTIONMENT OF THE HOUSE OF REPRESENTATIVES ACCORDING TO ESTIMATED VOTER REGISTRATION FOR 1958

Seat in House	Priority Number	County	Cumulative Total for County	Seat in House	Priority Number	County	Cumulative Total for County
(First 4 seats automatically allocated, one to each county, since each county must have at least one representative.)				35	5,489	Honolulu	25
				36	5,273	Honolulu	26
				37	5,072	Honolulu	27
				38	4,897	Honolulu	28
				39	4,722	Honolulu	29
5	95,122	Honolulu	2	40	4,612	Maui	4
6	54,913	Honolulu	3	41	4,580	Hawaii	6
7	38,837	Honolulu	4	42	4,560	Honolulu	30
8	30,080	Honolulu	5	43	4,412	Honolulu	31
9	24,564	Honolulu	6	44	4,384	Kauai	3
10	20,757	Honolulu	7	45	4,278	Honolulu	32
11	17,972	Honolulu	8	46	4,143	Honolulu	33
12	17,736	Hawaii	2	47	4,022	Honolulu	34
13	15,860	Honolulu	9	48	3,901	Honolulu	35
14	14,179	Honolulu	10	49	3,870	Hawaii	7
15	12,820	Honolulu	11	50	3,794	Honolulu	36
16	11,704	Honolulu	12	51	3,686	Honolulu	37
17	11,296	Maui	2	-----			
18	10,775	Honolulu	13	52	3,592	Honolulu	38
19	10,239	Hawaii	3	53	3,572	Maui	5
20	9,968	Honolulu	14	54	3,498	Honolulu	39
21	9,282	Honolulu	15	55	3,403	Honolulu	40
22	8,677	Honolulu	16	56	3,351	Hawaii	8
23	8,152	Honolulu	17	57	3,323	Honolulu	41
24	7,695	Honolulu	18	58	3,242	Honolulu	42
25	7,594	Kauai	2	59	3,161	Honolulu	43
26	7,278	Honolulu	19	60	3,101	Kauai	4
27	7,241	Hawaii	4	61	3,094	Honolulu	44
28	6,901	Honolulu	20	62	3,027	Honolulu	45
29	6,565	Honolulu	21	63	2,960	Honolulu	46
30	6,521	Maui	3	64	2,917	Maui	6
31	6,255	Honolulu	22				
32	5,986	Honolulu	23				
33	5,731	Honolulu	24				
34	5,609	Hawaii	5				

Note: This table indicates the way in which the 51-member House of Representatives would have been apportioned in 1958, assuming that the same percentage of population registered in each county in 1958 as actually registered in 1956.

Table V. INDICATED APPORTIONMENT OF THE HOUSE OF REPRESENTATIVES, 1959

County	Actual, Under Reapportion- ment Act	Calculated On 1956 Registration	Estimated On 1958 Registration
Hawaii	8	8	7
Honolulu	33	35	37
Maui	6	5	4
Kauai	4	3	3
Total	51	51	51

APPORTIONMENT WITHIN EACH COUNTY

The second step of the reapportionment process is the allotment of representatives within the four counties ("basic areas," in the language of the Organic Act). For this purpose, representative districts are to be established, the original ones being specified in the 1956 reapportionment act. (See Maps 1, 2 and 3, and Appendix B.)

Table VI. APPORTIONMENT OF REPRESENTATIVES WITHIN MAUI COUNTY BASED ON REGISTRATION FOR 1956 GENERAL ELECTION

Seat in House	Priority Number	District	Cumulative Total For District
1	14,252	Seventh	1
2	10,078	Seventh	2
3	5,818	Seventh	3
4	4,115	Seventh	4
5	3,187	Seventh	5
6	2,602	Seventh	6

7	2,502	Sixth	1
8	2,199	Seventh	7
9	1,904	Seventh	8
10	1,769	Sixth	2

The method of equal proportions must also be used to make this allocation within counties. Priority numbers have to be established for each district in a given county, following the same procedure as that outlined above for apportionment among counties. In Maui county, for example, the number of registered voters in each of the two districts established by the 1956 reapportionment act would be used as the numerator and divided by the geometric mean of each two succeeding numbers of representatives--of the second and third representative, the third and fourth, etc. Table VI shows the results of this calculation in the apportionment of Maui's seats in the House, between the Sixth District (Molokai and Lanai) and the Seventh District (Maui and uninhabited Kahoolawe), using 1956 registration data.

The Organic Act, as modified by the 1956 reapportionment act, requires that each representative district be allotted at least one member. If it were not for this requirement, Table VI shows that by application of the method of equal proportions all of Maui county's six representatives would be chosen from the Seventh District (island of Maui). If the method of equal proportions alone ruled, it would require a Maui county delegation of seven before the Molokai-Lanai area received a representative; a second would not be allotted unless the county delegation were increased to ten.

REDISTRICTING

Section 55 of the Organic Act provides that, upon any reapportionment, should the number of registered voters in any representative district fall below a designated level, the "basic area" (county) within which the district lies shall be reapportioned by the Governor in such a manner that the number of registered voters in each new district does reach that level. The designated minimum is calculated under the terms of Section 55 by dividing the total number of registered voters throughout the Territory by 51, the total membership of the House of Representatives; one-half of this quotient is the minimum number of registered voters required to maintain a district in existence at the time of any reapportionment.

To illustrate, the total registration for the general election of 1956 was 170,258. Dividing by 51 yields a quotient of

3,337. One-half of that number--1,669--would have been the minimum registration necessary for the continuation of any representative district. If the 1958 registration approximates 187,000--an estimate used in calculating Table IV--the minimum number of registered voters for any district would be 187,000 divided by 51 and divided again by 2, or 1,833.

The law does not state what should be done if the number of districts exceeds the number of representatives to which a county is entitled under the method of equal proportions. For example, if the representation of Hawaii county were reduced from eight to four, nevertheless each of the five districts might maintain a sufficient number of registered voters to meet the minimum (estimated at some 1,800 for 1958) required under the formula set forth in Section 55 of the Organic Act. However, this statistical--and political--awkwardness is not likely to occur for many years, until 1970 at the earliest.

FOOTNOTES

1. 2 U.S.C.A. 2a.

2. See Laurence F. Schmeckebier, Congressional Apportionment (The Brookings Institute, 1941), for the authoritative discussion of these and other methods of apportioning representatives.

3. The first four representatives, it will be recalled, are automatically apportioned by the requirement that each county have at least one representative.

APPENDIX A

*Apportionment of Legislatures**

As of December, 1957

35

State or Other Jurisdiction	Basis of Reapportionment		Frequency of Required Reapportionment	Apportioning Agency	Last Re- appor- tioned
	Senate	House			
Alabama	Population, except no county more than one member.	Population, but each county at least one member.	Every 10 years.	Legislature.	1901
Arizona	Districts specifically established by constitution.	Votes cast for Governor at last preceding general election, but not less than if computed on basis of election of 1930.	Biennially--after every gubernatorial election.	No provision for Senate; re-districting for House by County Boards of Supervisors.	1954
Arkansas	Senate is fixed. (a)	Each county at least one member; remaining members distributed among more populous counties according to population.	Every 10 years.	Board of Apportionment (Gov., Sec. of State, and Att. Gen.). Subject to revision by State Sup. Ct.	1951
California	Population, exclusive of persons ineligible to naturalization. No county, or city and county, to have more than one member; no more than three counties in any district.	Population, exclusive of persons ineligible to naturalization.	Every 10 years.	Legislature or, if it fails, a reapportionment commission (Lt. Gov., Controller, Att. Gen., Sec. of State, and Supt. of Public Instruction). In either case, subject to a referendum.	1951
Colorado	Population ratios.	Population ratios.	Every 10 years	General Assembly.	1953

Connecticut	Population, but each county at least one member.	Two members from each town having over 5,000 population; others, same number as in 1874.	Senate, every 10 years.	General Assembly for Senate, no provision for House.	H-1876 S-1941
Delaware	Districts specifically established by constitution.	Districts specifically established by constitution.	. . . . .	No provision.	1897
Florida	Population, but no county more than one member.	3 to each of 5 largest counties, 2 to each of next 18, 1 each to others.	Every 10 years. (b)	Legislature.	1945 (b)
Georgia	Population, but no county or senatorial district more than one member.	Population, i.e., 3 to each of 8 largest counties, 2 to each of next 30, 1 each to others.	Every 10 years.	General Assembly "may" change senatorial districts. Shall change House apportionment at first session after each U.S. census.	1950
Idaho	One member from each county.	Total House not to exceed 3 times Senate. Each county entitled to at least one representative, apportioned as provided by law.	Every 10 years.	Legislature.	1951
Illinois	Fixed districts based on area.	Population.	House, every 10 years; Senate is fixed.	General Assembly or, if it fails, reapportionment commission appointed by Gov.	1955
Indiana	Male inhabitants over 21 years of age.	Male inhabitants over 21 years of age.	Every 6 years.	General Assembly.	1921
Iowa	Population, but no county more than one member.	One to each county, and one additional to each of the nine most populous counties.	Every 10 years.	General Assembly.	H-1927 S-1911
Kansas	Population.	Population, but each county at least one.	Every 5 years.	Legislature.	H-1945 S-1947
Kentucky	Population.	Population, but no more than two counties to be joined in a district.	Every 10 years.	General Assembly.	1942
Louisiana	Population.	Population, but each parish and each ward of New Orleans at least one member.	Every 10 years.	Legislature.	1921

Maine	Population, exclusive of aliens and Indians not taxed. No county less than one nor more than five.	Population, exclusive of aliens. No town more than seven members, unless a consolidated town.	Every 10 years.	Legislature.	H-1955
Maryland	One from each county and from each of six districts constituting Baltimore city.	Population, but minimum of two and maximum of six per county. Each of Baltimore districts as many members as largest county. (c)	No requirements.	Membership frozen for House; 1943 no provision for Senate.	
Massachusetts	Legal voters.	Legal voters.	Every 10 years.	General Court.	H-1947 S-1948
Michigan	Districts specifically prescribed by constitution.	Population. (d)	House, every 10 years; Senate is fixed.	Legislature or, if it fails, State Board of Canvassers (Sec. of State, Treas., Comr. of State Land Office) apportion House.	1953
Minnesota	Population, exclusive of nontaxable Indians.	Population, exclusive of nontaxable Indians.	Every 10 years and after each state census.	Legislature "shall have power."	1913
Mississippi	Prescribed by constitution.	Prescribed by constitution, each county at least one. Counties grouped into three divisions, each division to have at least 44 members.	Every 10 years.	Legislature "may."	1916
Missouri	Population.	Population, but each county at least one member.	Every 10 years.	House: Sec. of State apportion among counties; county courts apportion within counties. Senate: by commission appointed by Gov.	1951
Montana	One member from each county.	Population.	No requirements.	Legislative Assembly.	1943
Nebraska	Unicameral legislature--population excluding aliens.		From time to time.	Legislature "may."	1935
Nevada	One member for each county.	Population.	Every 10 years.	Legislature.	1951

New Hampshire	Direct taxes paid.	Population. (e)	House, every 10 years; Senate, from time to time.	General Court.	H-1951 S-1915
New Jersey	One member from each county.	Population; but at least one member from each county.	Every 10 years.	Legislature.	1941
New Mexico	One member from each county.	At least one member for each county and additional representatives for more populous counties.	Every 10 years.	Legislature "may."	1955
New York	Population, excluding aliens. No county more than 1/3 membership, nor more than 1/2 membership to two adjoining counties.	Population, excluding aliens. Each county (except Hamilton) at least one member.	Every 10 years.	Legislature. Subject to review by courts.	1954
North Carolina	Population, excluding aliens and Indians not taxed.	Population, excluding aliens and Indians not taxed, but each county at least one member.	Every 10 years.	General Assembly.	1941
North Dakota	Population.	Population.	Every 10 years, or after each state census.	Legislative Assembly.	1931
Ohio	Population.	Population, but each county at least one member.	Every 10 years, each biennium. (f)	Gov., Auditor, and Sec. of State, or any two of them.	1957
Oklahoma	Population.	Population, but no county to have more than seven members. (g)	Every 10 years.	Legislature.	1951
Oregon	Population.	Population.	Every 10 years.	Legislative Assembly, or failing that, Sec. of State. Reapportionment subject to Sup. Ct. review.	1954
Pennsylvania	Population, but no city or county to have more than 1/6 of membership.	Population, but each county at least one member.	Every 10 years.	General Assembly.	1953

Rhode Island	Qualified voters, but minimum of 1 and maximum of 6 per city or town.	Population but at least one member from each town or city, and no town or city more than 1/4 of total, i.e., 25.	. . . . .	General Assembly "may" after any Presidential election.	1940
South Carolina	One member from each county.	Population, but at least one member from each county.	Every 10 years.	General Assembly.	1952
South Dakota	Population.	Population.	Every 10 years.	Legislature, or failing that, Gov., Supt. of Public Instruction, Presiding Judge of Sup. Ct., Att. Gen. and Sec. of State.	1951
Tennessee	Qualified voters.	Qualified voters.	Every 10 years.	General Assembly.	1945 (h)
Texas	Qualified electors, but no county more than one member.	Population, but no county more than 7 representatives unless population greater than 700,000, then 1 additional representative for each 100,000.	Every 10 years.	Legislature or, if it fails, Legislative Redistricting Board (Lt. Gov., Speaker of House, Att. Gen., Comptroller of Public Accounts, and Comr. of Gen. Land Office).	1951
Utah	Population.	Population. Each county at least one member, with additional representatives on a population ratio.	Every 10 years.	Legislature.	1955
Vermont	Population, but each county at least one member.	One member from each inhabited town.	Senate, every 10 years or after each state census.	Legislature apportions Senate; no provision for House.	1793 (i)
Virginia	Population.	Population.	Every 10 years.	General Assembly.	1952
Washington	Population, excluding Indians not taxed and soldiers, sailors and officers of U.S. Army and Navy in active service.	Population, excluding Indians not taxed and soldiers, sailors and officers of U.S. Army and Navy in active service.	Every 10 years.	Legislature, or by initiative. (j)	1931
West Virginia	Population, but no two members from any county, unless one	Population, but each county at least one member.	Every 10 years.	Legislature.	1950

	county constitutes a district.				
Wisconsin	Population.	Population.	Every 10 years.	Legislature.	1951
Wyoming	Population, but each county at least one member.	Population, but each county at least one member.		Legislature.	1931
Alaska	Four members from each judicial district.	Population, excluding military and families.	House, every 10 years.	U.S. Director of Census.	1953
Guam	Legislature elected at large.		.....	.....	.....
HAWAII (old)	Population. (k)	Population. (k)	From time to time.	Territorial Legislature.	1900(m)
HAWAII (new)	Senate is fixed.	Registered voters.	Every 10 years. (l)	Governor.	1958 (n)
Puerto Rico	Two senators for each of eight senatorial districts, and 11 at large.	One representative for each of 40 representative districts and 11 at large.	Every 10 years. (o)	Board composed of Chief Justice and 2 additional members representing different political parties, appointed by Gov. with Senate consent.	1917
Virgin Islands	Unicameral legislature. Two Senators for each of two senatorial districts, and one Senator from the third district; six at large.		.....	.....	.....

*Source: Council of State Governments, The Book of the States 1958-59, pp. 52-56. Language in general has been retained; lettering of footnotes has been adjusted; citations have been omitted, titles abbreviated, and data on HAWAII supplemented.

Abbreviations: H--House; S--Senate.

- (a) Amendment adopted November 1956 "froze the senatorial districts as then established.
- (b) Extensive changes in the Florida constitution, approved by the legislature in July 1957 and to be voted on by the electorate November 1958 include an amendment dealing with reapportionment.
- (c) In 1948, membership in House frozen at then-existing level.

- (d) Any county with a moiety of ratio of population is entitled to separate representation.
- (e) Amendment adopted in November 1942 sets the membership of the House of Representatives at not more than 400 and not less than 375.
- (f) Constitution requires reapportionment every ten years and also sets up a ratio and apportionment procedure so that reapportionment is actually accomplished in each biennial period for the succeeding session. This is mandatory.
- (g) In practice no county has less than one member.
- (h) Not a basic reapportionment; two counties moved from one district to another.

- (i) Apportionment plan for House is provided in the constitution with no provisions for reapportionment. House apportionment thus dates from adoption of constitution in 1793.
- (j) Pending constitutional amendment, to be voted on November 3, 1958, would create a five-member "reapportionment and re-districting commission," empowered to reapportion for Congress or the legislature each ten years if the legislature fails to act or if its action is invalidated by the Supreme Court.
- (k) Citizens of the Territory (U.S. citizens residing one year in Territory of Hawaii).

- (l) Reapportionment effective to July 1, 1959, when new reapportionment is required, and every ten years thereafter.
- (m) Date Hawaii became a territory.
- (n) Congress reapportioned in 1956, effective in November 1958.
- (o) Beginning in 1960.

APPENDIX B

Reapportionment Act of 1956

Public Law 895 - 84th Congress
Chapter 851 - 2d Session
H. R. 8837

AN ACT

To amend certain sections of the Hawaiian Organic Act, as amended, relating to the Legislature of the Territory of Hawaii.

- Hawaii.* *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 30 of 31 Stat. 146. the Hawaiian Organic Act (48 U. S. C. 565) is amended to read as follows:
- Number of members. "SEC. 30. SENATE; NUMBER; TERM.—The senate shall be composed of twenty-five members, who shall be elected by the qualified voters of the respective senatorial districts for a term of four years beginning with their election and ending on the day of the second general election after their election: *Provided, however,* That (1) senators elected at the general election of 1956 shall continue to hold office until the expiration of the terms for which they were elected and shall be deemed to have been elected from the new senatorial district in which they resided at the time of their election; and (2) that at the first session of the legislature subsequent to the general election of 1958, the legislature shall so assign the senators to long or short terms, that as nearly as possible one half of them, including the holdover senators, shall hold office for two years and the remaining senators shall hold office for four years. In the event that the legislature fails to make the necessary assignments of short and long terms for senators as herein required, the Governor shall do so."
- Term of office. 31 Stat. 147. SEC. 2. Section 32 of said Act (48 U. S. C. 568) is amended to read as follows:
- "SEC. 32. SENATORIAL DISTRICTS.—For the purpose of representation in the senate, the Territory is divided into the following senatorial districts, namely:
- "First senatorial district: That portion of the island of Hawaii known as Puna, Hilo and Hamakua;
- "Second senatorial district: That portion of the island of Hawaii known as Kau, Kona and Kohala;
- "Third senatorial district: The islands of Maui, Molokai, Lanai and Kahoolawe;
- "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;
- "Fifth senatorial district: That portion of the island of Oahu lying west and north of the fourth senatorial district; and
- "Sixth senatorial district: The islands of Kauai and Niihau."
- 31 Stat. 147. SEC. 3. Section 33 of said Act (48 U. S. C. 569) is amended to read as follows:
- "SEC. 33. APPORTIONMENT OF SENATORS.—The electors in the said senatorial districts shall be entitled to elect senators as follows:
- In the first senatorial district, five;
- In the second senatorial district, two;
- In the third senatorial district, five;
- In the fourth senatorial district, five;

In the fifth senatorial district, five;
In the sixth senatorial district, three."

SEC. 4. Section 35 of said Act (48 U. S. C. 570) is amended to read ³¹ Stat. 147. as follows:

"SEC. 35. HOUSE OF REPRESENTATIVES; NUMBER.—The house of representatives shall be composed of fifty-one members, who shall be elected by the qualified voters of the respective representative districts."

SEC. 5. Section 38 of said Act (48 U. S. C. 574) is amended to read ³¹ Stat. 147. as follows:

"SEC. 38. REPRESENTATIVE DISTRICTS.—For the purpose of representation in the house of representatives, the Territory is divided into the following representative districts:

"First representative district: That portion of the island of Hawaii known as Puna;

"Second representative district: That portion of the island of Hawaii known as South Hilo;

"Third representative district: That portion of the island of Hawaii known as North Hilo and Hamakua;

"Fourth representative district: That portion of the island of Hawaii known as Kau and South Kona and that portion of North Kona, for convenience herein referred to as Keauhou, more particularly described as follows: (1) from a point at the seashore between the lands of Holauloa 1 and 2 and Puapuaa 2 running northeasterly along the boundary of Holualoa 1 and 2 to Puu Laalaa; (2) easterly in a straight line to a point called Naohueleelua being the common corner of the lands of Puuanahulu, Kaohe and Keauhou 2d; (3) southeasterly along the common boundary between Hamakua and North Kona Districts to the summit of Mauna Loa; (4) westerly along the common boundary between Kau and North Kona Districts to the easterly boundary of South Kona District; (5) northerly and westerly along the boundary between North and South Kona Districts to the seashore; and (6) northerly along the seashore to the point of beginning;

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

"Sixth representative district: The islands of Molokai and Lanai;

"Seventh representative district: The islands of Maui and Kahoolawe;

"Eighth representative district: That portion of the island of Oahu known as Koolaupoko and Koolauloa;

"Ninth representative district: That portion of the island of Oahu known as Waialua and Wahiawa;

"Tenth representative district: That portion of the island of Oahu known as Ewa and Waianae;

"Eleventh representative district: That portion of the island of Oahu, for convenience herein referred to as Kalihi, more particularly described as follows: (1) from the intersection of Kalihi and Auiki Streets running westerly along Auiki Street to Mokauea Street; (2) southwestwardly along Mokauea Street extension extended to a point on the outer edge of the reef; (3) westerly along the outer edge of the reef to a point on the Moanalua-Halawa boundary; (4) northerly and northeasterly along the Moanalua-Halawa boundary to the top of Koolau Range; (5) southeasterly along the top of Koolau Range to a place called 'Puu Lanihuli'; (6) southwestwardly along the top of the ridge between the lands of Kalihi, Kapalama and Nuuanu to Kalihi Street; and (7) southwestwardly along Kalihi Street to the point of beginning;

"Twelfth representative district: That portion of the island of Oahu, for convenience herein referred to as Upper Nuuanu, more particularly described as follows: (1) from the intersection of King and Kalihi Streets running northeasterly along Kalihi Street to the ridge

between the lands of Kalihi, Kapalama and Nuuanu; (2) northeasterly along the top of said ridge to a point on the Koolau Range called Puu Lanihuli; (3) easterly along the top of said range to Pali Road at the Nuuanu Pali; (4) southwesterly along Pali Road to Nuuanu Avenue and southwesterly along Nuuanu Avenue to School Street; (5) northwesterly along School Street to the centerline of the Kapalama drainage canal (Waikiki Branch); (6) southwesterly along said canal to the centerline of the main Kapalama drainage canal; (7) southwesterly along said canal to King Street; and (8) northwesterly along King Street to the point of beginning.

"Thirteenth representative district: That portion of the island of Oahu for convenience herein referred to as Kapalama, more particularly described as follows: (1) from the junction of the Honolulu Harbor Channel and the reef running westerly along the outer edge of the reef to Mokauea Street extension extended; (2) northeasterly along Mokauea Street extension extended to Sand Island Road; (3) northeasterly along Mokauea Street extension to Auiki Street; (4) easterly along Auiki Street to Kalihi Street; (5) northeasterly along Kalihi Street to King Street; (6) southeasterly along King Street to the center line of the Main Kapalama drainage canal; (7) northerly along said canal to the center line of the Kapalama drainage canal (Waikiki Branch); (8) northeasterly along said canal to School Street; (9) southeasterly along School Street to Nuuanu Avenue; (10) southwesterly along Nuuanu Avenue to the sea, and (11) southwesterly along the middle of Honolulu Harbor and Honolulu Harbor Channel to the point of beginning.

"Fourteenth representative district: That portion of the island of Oahu, for convenience herein referred to as Pauoa, more particularly described as follows: (1) from the junction of the Honolulu Harbor Channel and the outer edge of the reef running northeasterly along the middle of Honolulu Harbor Channel and Honolulu Harbor to the intersection of Queen Street and Nuuanu Avenue; (2) northeasterly along Nuuanu Avenue to Pali Road and northeasterly along Pali Road to the top of Koolau Range at the Nuuanu Pali; (3) easterly and southerly along the top of the Koolau Range to a point called Puu Konahuanui; (4) southwesterly along the top of the ridge between the lands of Nuuanu, Pauoa and Manoa to a mountain peak called Puu Ohia or Tantalus; (5) southwesterly along the top of the ridge between the lands of Makiki and Kalawahine to the intersection of Nehoa Street and Lewalani Drive; (6) southerly along Lewalani Drive and Piikoi Street to Wilder Avenue; (7) easterly along Wilder Avenue to Punahou Street; (8) southerly along Punahou Street to King Street; (9) westerly along King Street to Kalakaua Avenue; (10) southerly along Kalakaua Avenue to the center line of the Ala Wai Canal; (11) westerly along said canal and along the line of said canal extended to the outer edge of the reef; and (12) westerly along the outer edge of the reef to the point of beginning.

"Fifteenth representative district: That portion of the island of Oahu, for convenience herein referred to as Manoa and Waikiki, more particularly described as follows: (1) from the intersection of Kalakaua Avenue and the center line of the Ala Wai Canal running northerly along Kalakaua Avenue to King Street; (2) easterly along King Street to Punahou Street; (3) northerly along Punahou Street to Wilder Avenue; (4) westerly along Wilder Avenue to Piikoi Street; (5) northerly along Piikoi Street to Lewalani Drive; (6) northerly along Lewalani Drive to Nehoa Street; (7) northeasterly along the top of the ridge between the lands of Makiki and Kalawahine to a mountain peak called Puu Ohia or Tantalus; (8) northeasterly along the top of the ridge between the lands of Pauoa, Manoa and Nuuanu to a point on the Koolau Range called Puu Konahuanui; (9) southeasterly along the top of said range to a place called Mountain Olympus; (10) southwesterly along the top of Waahila Ridge to the top edge of Palolo Valley; (11) southwesterly along the top edge of said

valley to the forest reserve boundary; (12) southwesterly along the southeasterly boundary of Saint Louis Heights tract, series 2 (file plan 464) to the southerly boundary of said tract one hundred feet southeasterly from Alencastre Street; (3) southwesterly parallel to and one hundred feet from Alencastre Street and Saint Louis Drive to Waialae Avenue; (14) westerly along Waialae Avenue to Kapahulu Avenue extended; (15) southerly across Waialae Avenue and along Kapahulu Avenue to Kalakaua Avenue; (16) westerly along Kapahulu Avenue extended to the outer edge of the reef; (17) northwesterly along the outer edge of the reef to a point on the line extended of the center line of the Ala Wai Canal; and (18) easterly along said line to the point of beginning;

"Sixteenth representative district: That portion of the island of Oahu, for convenience herein referred to as Kaimuki and Kapahulu, more particularly described as follows: (1) from a point at the seacoast at a place called Black Point running westerly along the seacoast to Kapahulu Avenue extended to the sea; (2) easterly across Kalakaua Avenue and easterly and northerly along Kapahulu Avenue to Waialae Avenue; (3) easterly along Waialae Avenue to a point one hundred feet easterly of Saint Louis Drive; (4) northeasterly across Waialae Avenue then parallel to and one hundred feet from Saint Louis Drive and Alencastre Street to the southerly boundary of Saint Louis Heights tract, series 2 (file plan numbered 464); (5) northeasterly along the southeasterly boundary of said tract to the forest reserve boundary; (6) northeasterly along the top ridge of Palolo Valley to the top of Waahila Ridge; (7) northeasterly along the top of Waahila Ridge to a point on Koolau Range called Mount Olympus; (8) easterly along the top of the Koolau Range to the top of the ridge between the lands of Waialae Nui and Palolo; (9) southwesterly along the top of said ridge to a place called Kalepeamoa; (10) southwesterly along Maumae Ridge to Sierra Drive; (11) southwesterly along Sierra Drive to Waialae Avenue; (12) easterly along Waialae Avenue to Thirteenth Avenue; (13) southwesterly along Thirteenth Avenue and Ocean View Drive to Kilauea Avenue; (14) westerly along Kilauea Avenue to Makapuu Avenue; (15) southwesterly along Makapuu Avenue to Diamond Head Road; and (16) southeasterly along Diamond Head Road to the military road and along the military road extended to the point of beginning;

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

"Eighteenth representative district: The islands of Kauai and Niihau.

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

Sec. 6. Section 39 of said Act (48 U. S. C. 575) is amended to read 31 Stat. 148. as follows:

"SEC. 39. APPORTIONMENT OF REPRESENTATIVES.—The electors in said representative districts shall be entitled to elect representatives as follows, prior to the first reapportionment: First, one; second, four; third, one; fourth, one; fifth, one; sixth, one; seventh, five; eighth, two; ninth, two; tenth, two; eleventh, three; twelfth, three; thirteenth, three; fourteenth, five; fifteenth, six; sixteenth, four; seventeenth, three; eighteenth, four."

Sec. 7. Section 55 of said Act, as amended (48 U. S. C. 562) is Legislative power, amended in the following respects:

(a) By deleting therefrom the following words: "The legislature, 31 Stat. 150. at its first regular session after the census enumeration shall be ascertained, and from time to time thereafter, shall reapportion the membership in the senate and house of representatives among the senatorial and representative districts on the basis of the population in each of

said districts who are citizens of the Territory; but the", and by inserting in lieu thereof the word "The".

(b) By inserting at the end of said section three new paragraphs as follows:

Reapportionment.

"On or before June 1 of the year 1959, and of each tenth year thereafter, the Governor shall reapportion the members of the house of representatives in the following manner: The total number of representatives shall first be reapportioned among four basic areas; namely, (1) the island of Hawaii, (2) the islands of Maui, Molokai, Lanai and Kahoolawe, (3) the island of Oahu and all other islands not specifically enumerated, and (4) the islands of Kauai and Niihau, on the basis of the number of voters registered at the last preceding general election in each of such basic areas and computed by the method known as the method of equal proportions, no basic area to receive less than one member. Upon the determination of the total number of representatives to which each basic area is entitled, such total shall be reapportioned among the one or more representative districts within each basic area on the basis of the number of voters registered at the last preceding general election within each of such representative districts and computed by the method known as the method of equal proportions no representative district to receive less than one member. Upon any reapportionment, should the total number of voters registered in any representative district be less than one-half of the quotient obtained by dividing the total number of voters registered in the Territory by the total number of members to which the house is entitled; then, as part of such reapportionment, the basic area within which such representative district lies shall be redistricted by the Governor in such manner that the total number of voters registered in each new representative district therein shall be more than one-half of such quotient.

Proclamation.

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

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

Effective dates.

SEC. 8. Subsection (a) of section 7 of this Act shall take effect upon the approval of this Act. The remainder of this Act shall first take effect with respect to the Thirtieth Legislature of the Territory of Hawaii and apply to each Legislature thereafter. The Twenty-eighth and Twenty-ninth Legislatures of said Territory shall continue to be governed by the same provisions of said Organic Act which were in effect prior to the approval of this Act, except that portion of section 55 of said Organic Act which is deleted by subsection (a) of section 7 of this Act.

Approved August 1, 1956.

PRODUCTION NOTE: The body type for this publication was composed in IBM Modern by Rose Y. Tokuyama; maps were prepared by Mary Laune Aitken. Body type was reduced 15 per cent and footnotes 25 per cent; full-page tables were reduced 33-1/3 per cent and appendix chart 40 per cent.

21.5

REAPPORTIONMENT OF THE TERRITORIAL LEGISLATURE

A Supplement to
Report No. 2, 1958

Prepared by
Takaaki Izumi
Research Assistant

December 5, 1958

Legislative Reference Bureau
University of Hawaii
Honolulu, Hawaii

LEGISLATIVE REFERENCE BUREAU

DEC 11 1958

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1959 REAPPORTIONMENT DATA

SUPPLEMENT TO CHAPTER 4

REAPPORTIONMENT OF THE TERRITORIAL LEGISLATURE

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BACKGROUND:

By the Reapportionment Act of 1956, the Governor of Hawaii is mandated to reapportion the House of Representatives of the territorial legislature prior to June 1, 1959. This means that the House of the 31st Legislature, to be elected in 1960, must be reapportioned by the method of equal proportions based on registration figures for the general election of 1958, just concluded. Briefly, the method of equal proportions establishes a list of priority numbers, according to which the various districts are allotted representatives, after each district receives one representative, which it must have by law.

The report on reapportionment* prepared by the Legislative Reference Bureau in May 1958 attempted to estimate the representation of each district after the 1959 apportionment. Registration data had to be estimated, for this purpose, from population figures.

However, official registration data for each district are now available from the general elections of November 1958 and the actual reapportionment which the law requires can now be made. These pages, therefore, supplement the study of Reapportionment of the Territorial Legislature, particularly Chapter 4.

*Reapportionment of the Territorial Legislature, Report No. 2, 1958, p. 27. A more detailed explanation of the method of equal proportions is given in Chapter 4.

VOTER REGISTRATION, 1958 GENERAL ELECTION:

Voter registration throughout the territory for the 1958 general election totaled 175,231 voters. Oahu had 121,631 voters registered; Hawaii had 25,464 voters; Maui had 16,755 voters; and Kauai had 11,381 voters. This, incidentally, was an all-time record for the aggregate number of voters registered for a general election in the territory, and these are the figures on which the following reapportionment is based. Table 1 shows voter registration by representative districts and the subtotals for "basic district" (i.e. county).

REAPPORTIONMENT BY BASIC DISTRICTS:

The method of equal proportions was first applied to the aforementioned voter registration figures for the four "basic districts," made up of the counties of Hawaii, Maui and Kauai and the City and County of Honolulu, to determine what their respective apportionments would be. The results indicate that the three neighboring counties would each lose one seat to the City and County of Honolulu, bringing the latter's apportionment to 36 of the 51 seats in the house—a gain of three seats over the present allotment of 33 seats. Hawaii would retain seven of its present eight seats; Maui five of its present six seats; and Kauai three of its four seats. This gain by Oahu closely reflects the continuing population migration from the other islands to Honolulu. Table 2 lists the distribution of seats to each basic district according to the priority number assigned.

REAPPORTIONMENT BY REPRESENTATIVE DISTRICTS:

The seats apportioned to each county must in turn be further apportioned to the respective representative districts within the counties by the method of equal proportions applied to voter registration for each represent-

ative district. In doing so, however, the law requires that each representative district must receive at least one representative. (See Table 3 for apportionment within each representative district.)

HAWAII. The county of Hawaii is divided into five representative districts, numbered 1st to 5th. Each representative district must first be allotted one seat and the remaining two are apportioned to the 2nd Representative District (South Hilo), which far outnumbers the other districts in registered voters. (If any district can be said to be under-represented by this reapportionment, it is the 2nd District, which will have only three representatives with a total of 13,769 registered voters. By comparison, the 10th District with 12,924 voters, the 17th with 13,454 and the 16th with 13,742 voters, all with fewer voters and all situated on Oahu, are apportioned four seats each. The relationship can be explained, however, by the sparse populations of the other four districts on Hawaii, which have 2,209, 2,641, 2,981 and 3,864 voters registered, respectively, but which get one representative seat each. However, the law does not require re-districting unless the number of registered voters in any district is less than a specified quotient--1,718 voters as applied to 1958 registration figures.)

MAUI. The county of Maui is composed of the 6th and 7th Representative Districts; the former includes the islands of Molokai and Lanai, and the latter Maui and Kahoolawe. Since the 7th District greatly outnumbers the 6th in total registered voters, it will get the remaining three seats after each receives the mandatory one seat. Thus the 6th District gets one seat and the 7th four seats.

KAUAI. Since Kauai is composed of only one representative district, the 18th, the problem of further apportionment does not exist. It retains three seats for the entire county.

CITY AND COUNTY OF HONOLULU. Honolulu is, by far, the largest of the four basic districts, and includes ten representative districts, namely the 8th to the 17th. The 36 seats which will be apportioned to Honolulu are divided among the respective districts as follows: 8th, four (gain of two); 9th, two (unchanged); 10th, four (gain of two); 11th, three (unchanged); 12th, three (unchanged); 13th, two (loss of one); 14th, four (loss of one); 15th, six (unchanged); 16th, four (unchanged); and 17th, four (gain of one). Table 4 outlines the seats apportioned to each representative district according to priority numbers assigned.

Table 1
VOTER REGISTRATION FOR THE 1958 GENERAL ELECTION
BY BASIC AND REPRESENTATIVE DISTRICTS

<u>Basic District</u>	<u>Representative District</u>	<u>Registered Voters</u>	<u>Total</u>
HAWAII	1st	2,209	25,464
	2nd	13,769	
	3rd	2,981	
	4th	3,864	
	5th	<u>2,641</u>	
MAUI	6th	2,560	16,755
	7th	<u>14,195</u>	
HONOLULU	8th	13,876	121,631
	9th	5,928	
	10th	12,924	
	11th	10,525	
	12th	8,370	
	13th	7,613	
	14th	14,134	
	15th	21,065	
	16th	13,742	
	17th	<u>13,454</u>	
KAUAI	18th	<u>11,381</u>	<u>11,381</u>
GRAND TOTAL			175,231

Table 2
CALCULATION OF THE APPORTIONMENT OF THE
HOUSE OF REPRESENTATIVES ACCORDING TO
VOTER REGISTRATION FOR GENERAL ELECTION OF 1958

<u>Seat in House</u>	<u>Priority Number</u>	<u>County</u>	<u>Cumulative Total for County</u>
1-4 Automatically allotted, one to each county.			
5	86,005	Honolulu	2
6	49,650	Honolulu	3
7	35,115	Honolulu	4
8	27,197	Honolulu	5
9	22,210	Honolulu	6
10	18,768	Honolulu	7
11	18,006	Hawaii	2
12	16,250	Honolulu	8
13	14,340	Honolulu	9
14	12,820	Honolulu	10
15	11,848	Maui	2
16	11,591	Honolulu	11
17	10,582	Honolulu	12
18	10,394	Hawaii	3
19	9,743	Honolulu	13
20	9,013	Honolulu	14
21	8,393	Honolulu	15
22	8,048	Kauai	2
23	7,845	Honolulu	16
24	7,371	Honolulu	17
25	7,352	Hawaii	4
26	6,957	Honolulu	18
27	6,839	Maui	3
28	6,580	Honolulu	19
29	6,240	Honolulu	20
30	5,936	Honolulu	21

Table 2 (Continued)

<u>Seat in House</u>	<u>Priority Number</u>	<u>County</u>	<u>Cumulative Total for County</u>
31	5,694	Hawaii	5
32	5,656	Honolulu	22
33	5,413	Honolulu	23
34	5,182	Honolulu	24
35	4,963	Honolulu	25
36	4,837	Maui	4
37	4,768	Honolulu	26
38	4,650	Hawaii	6
39	4,646	Kauai	3
40	4,586	Honolulu	27
41	4,427	Honolulu	28
42	4,269	Honolulu	29
43	4,123	Honolulu	30
44	3,990	Honolulu	31
45	3,929	Hawaii	7
46	3,868	Honolulu	32
47	3,746.4	Maui	5
48	3,746.2	Honolulu	33
49	3,637	Honolulu	34
50	3,527	Honolulu	35
51	3,430	Honolulu	36

52	3,402	Hawaii	8
53	3,333	Honolulu	37
54	3,286	Kauai	4
55	3,246	Honolulu	38
56	3,162	Honolulu	39
57	3,077	Honolulu	40
58	3,060	Maui	6

Table 3

APPORTIONMENT OF THE
TERRITORIAL HOUSE OF REPRESENTATIVES, BASED ON
VOTER REGISTRATION FOR THE GENERAL ELECTION OF 1958

<u>Island</u>	<u>District</u>	<u>Present</u>	<u>After 1959 Apportionment</u>
HAWAII	1st	1	1
	2nd	4	3
	3rd	1	1
	4th	1	1
	5th	<u>1</u>	<u>1</u>
	Total	8	7
MOLOKAI-LANAI	6th	1	1
MAUI-KAHOO LAWE	7th	<u>5</u>	<u>4</u>
Total		6	5
OAHU	8th	2	4
	9th	2	2
	10th	2	4
	11th	3	3
	12th	3	3
	13th	3	2
	14th	5	4
	15th	6	6
	16th	4	4
	17th	<u>3</u>	<u>4</u>
	Total	33	36
KAUAI-NIIHAU	18th	<u>4</u>	<u>3</u>
GRAND TOTAL		51	51

Table 4

DISTRIBUTION OF 36 SEATS APPORTIONED TO
THE CITY AND COUNTY OF HONOLULU, BASED ON VOTER REGIS-
TRATION FIGURES FOR THE GENERAL ELECTION OF 1958

<u>Seat No. of Oahu</u> <u>Apportionment</u>	<u>Priority</u> <u>Number</u>	<u>District</u>	<u>Cumulative</u> <u>Total for</u> <u>District</u>
1-10 Automatic apportionment, one to each district.			
11	14,890	15	2
12	9,994	14	2
13	9,812	8	2
14	9,717	16	2
15	9,513	17	2
16	9,139	10	2
17	8,599	15	3
18	7,442	11	2
19	6,082	15	4
20	5,918	12	2
21	5,770	14	3
22	5,664	8	3
23	5,610	16	3
24	5,492	17	3
25	5,383	13	2
26	5,276	10	3
27	4,710	15	5
28	4,296	11	3
29	4,192	9	2
30	4,081	14	4
31	4,006	8	4
32	3,967	16	4
33	3,834	17	4
34	3,847	15	6
35	3,731	10	4
36	3,417	12	3

37	3,250	15	7
38	3,160	14	5
39	3,108	13	3
40	3,103	8	5