

**HAWAII
CONSTITUTIONAL
CONVENTION STUDIES
1978**

**Constitutional Convention
Organization and Procedures**

Revised By Martha Noyes

**LEGISLATIVE REFERENCE BUREAU
STATE CAPITOL
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Article XV

REVISION AND AMENDMENT

METHODS OF PROPOSAL

Section 1. Revisions of or amendments to this constitution may be proposed by constitutional convention or by the legislature.

CONSTITUTIONAL CONVENTION

Section 2. The legislature may submit to the electorate at any general or special election the question, "Shall there be a convention to propose a revision of or amendments to the Constitution?" If any ten-year period shall elapse during which the question shall not have been submitted, the lieutenant governor shall certify the question, to be voted on at the first general election following the expiration of such period.

ELECTION OF DELEGATES

If a majority of the ballots cast upon such question be in the affirmative, delegates to the convention shall be chosen at the next regular election unless the legislature shall provide for the election of delegates at a special election.

Notwithstanding any provision in this constitution to the contrary, other than Section 3 of Article XIV, any qualified voter of the district concerned shall be eligible to membership in the convention.

Unless the legislature shall otherwise provide, there shall be the same number of delegates to the convention, who shall be elected from the same areas, and the convention shall be convened in the same manner and have the same powers and privileges, as nearly as practicable, as provided for the convention of 1968.

ORGANIZATION; PROCEDURE

The convention shall determine its own organization and rules of procedure. It shall be the sole judge of the elections, returns and qualifications of its members and, by a two-thirds vote, may suspend or remove any member for cause. The governor shall fill any vacancy by appointment of a qualified voter from the district concerned.

RATIFICATION; APPROPRIATIONS

The convention shall provide for the time and manner in which the proposed constitutional revision or amendments shall be submitted to a vote of the electorate. The revision or amendments shall be effective only if approved at a general election by a majority of all the votes tallied upon the question, this majority constituting at least thirty-five percent of the total vote cast at the election, or at a special election by a majority of all the votes tallied upon the question, this majority constituting at least thirty percent of the total number of registered voters.

The provisions of this section shall be self-executing, but the legislature shall make the necessary appropriations and may enact legislation to facilitate their operation. [Am Const Con 1968 and election Nov 5, 1968]

AMENDMENTS PROPOSED BY LEGISLATURE

Section 3. The legislature may propose amendments to the constitution by adopting the same, in the manner required for legislation, by a two-thirds vote of each house on final reading at any session, after either or both houses shall have given the governor at least ten days' written notice of the final form of the proposed amendment, or, with or without such notice, by a majority vote of each house on final reading at each of two successive sessions.

Upon such adoption, the proposed amendments shall be entered upon the journals, with the ayes and noes, and published once in each of four successive weeks in at least one newspaper of general circulation in each senatorial district wherein such a newspaper is published, within the two months' period immediately preceding the next general election.

At such general election the proposed amendments shall be submitted to the electorate for approval or rejection upon a separate ballot.

The conditions of and requirements for ratification of such proposed amendments shall be the same as provided in Section 2 of this article for ratification at a general election.

VETO

Section 4. No proposal for amendment of the constitution adopted in either manner provided by this article shall be subject to veto by the governor.

CONFLICTING REVISIONS OR AMENDMENTS

Section 5. If a revision or amendment proposed by a constitutional convention is in conflict with a revision or amendment proposed by the legislature and both are submitted to the electorate at the same election and both are approved, then the revision or amendment proposed by the convention shall prevail. If conflicting revisions or amendments are proposed by the same body and are submitted to the electorate at the same election and both are approved, then the revision or amendment receiving the highest number of votes shall prevail. [Add Const Con 1968 and election Nov 5, 1968]

Chapter 1

INTRODUCTION

The Constitution of the State of Hawaii in section 1 of Article XV provides 2 methods for initiating amendments to or revising the constitution.

One of these methods is through amendments proposed by the legislature, which has, since 1959, proposed 16 constitutional amendments. Of this number, 11 were ratified, but one was superseded by a similar amendment proposed by the 1968 Constitutional Convention.¹

The second way to initiate constitutional change is through the constitutional convention method. It was employed for the first time in 1968, with the convening of the second constitutional convention in Hawaii since its annexation by the United States in 1898. The 1968 Constitutional Convention proposed 23 amendments of which 22 were ratified by the voters in the general election in November of 1968.

The first constitutional convention held after 1898 was convened in 1950 pursuant to section 1, Act 334, Session Laws of Hawaii 1949:

In order that Hawaii may be admitted into the Union on equal footing with the original states, a convention for the purpose of forming a constitution and state government and otherwise preparing for such admission as a state shall be held, and the acts of said convention shall be submitted to the people as provided in this Act.

Hawaii at that time was organized as a territory, and its powers of government were conferred by an act of Congress, the Hawaiian Organic Act of 1900.² Under such circumstances, the authorization for the holding of a constitutional convention would, ordinarily, have been derived from Congress.³ The 1949 territorial legislature and not Congress, however, authorized the 1950 Constitutional Convention to draft the first Constitution for the State of Hawaii.⁴

ORGANIZATION AND PROCEDURES

The 1968 and 1978 Constitutional Conventions were initiated by the Hawaii State Legislature as provided for in the Hawaii Constitution. The 1978 Constitutional Convention will be held pursuant to Act 2, 1976 Hawaii Session Laws; Act 17, 1977 Hawaii Special Session Laws, and Article XV of the Hawaii Constitution.

Act 2, 1976 Hawaii Session Laws, provided for the submission of the question, "Shall there be a convention to propose a revision of or amendments to the Constitution?"⁵ The question was posed to the electorate at the general election in November, 1976, at which time the majority of the electorate voted in favor of the constitutional convention.⁶

Subsequently, the legislature, in response to the popular affirmation to the constitutional convention question, enacted Act 17, 1977 Hawaii Special Session Laws, which provided the machinery for the election of delegates, for their compensation and other expenses, for submission of the convention's work, and for other convention preparations.

If Act 2, 1976 Hawaii Session Laws, had not been enacted, it would have been obligatory upon the lieutenant governor to submit the constitutional convention question at the general election of 1978. This obligation stems from section 2 of Article XV, Hawaii Constitution:

...If any ten-year period shall elapse during which the question shall not have been submitted, the lieutenant governor shall certify the question, to be voted on at the first general election following the expiration of such period.

The 10-year period begins with the year 1966 since that was the year in which the question of a constitutional convention was last submitted to the voters. The next 10-year period begins in 1976 because of Act 2, 1976 Hawaii Session Laws.

The constitution also provides recourse to the people if Act 17, 1977 Hawaii Special Session Laws, had not been enacted by the legislature or if the legislature had failed to provide for the election of delegates after the question

INTRODUCTION

had been posed and voted in the affirmative by the electorate. The Hawaii State Constitution provides that:⁷

Unless the legislature shall otherwise provide, there shall be the same number of delegates to the convention, who shall be elected from the same areas, and the convention shall be convened in the same manner and have the same powers and privileges as nearly as practicable, as provided for the Constitutional Convention of 1968.

The same section further states:⁸

The provisions of this section shall be self-executing, but the legislature shall make the necessary appropriations and may enact legislation to facilitate their operation.

Chapter 2

CONSTITUTIONAL CONVENTION POWERS— SCOPE AND LIMITATIONS

A constitutional convention may be defined as an assembly of delegates or representatives selected by the people for the purpose of forming or revising the constitution or portions thereof.¹ As such, it:

- (1) Has the right to exercise all powers necessary for the accomplishment of this purpose; but
- (2) Exercises delegated powers and not inherent powers which rest with the people.

The identification of these powers can be brought to light by first examining the restrictions and limitations on the powers of the Hawaii Constitutional Convention.

Limitations Imposed by the United States Constitution

A limitation on the powers of the constitutional convention is the United States Constitution which provides the following:

No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Control of the Congress.

No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power,

CONVENTION POWERS

or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.²

The constitutional convention is subject to this and all other provisions of the U.S. Constitution since the U.S. Constitution is the "Supreme Law of the Land".³

The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

This is the only limitation on the internal government structure of the state. The republican form of government, referred to, has been defined as "a government by representatives chosen by the people".⁵

By summary, the Bill of Rights⁶ in:

- (1) Amendment 1 guarantees the freedom of speech, press, assembly, and religion;
- (2) Amendments 2 and 3 are concerned with the right of the people to keep and bear arms and the quartering of soldiers;
- (3) Amendments 4 through 8 cover procedural protection in criminal and civil trials, and eminent domain proceedings and prohibits the deprivation of "life, liberty or property without due process of law"; and
- (4) Amendments 9 and 10 confirm the idea of reserved powers to the States or to the people and "exclude any interpretation by which powers beyond those which were granted might be assured."⁷

The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.⁸

Prior to the Civil War, there was question whether 2 sections of the U.S. Constitution, the due process clause of the Fifth Amendment and the privileges and immunities clause of Article IV, could limit the powers of the state just as it limited the powers of the national government. The U.S. Supreme Court, however, narrowly interpreted these 2 sections as applicable only to the national

ORGANIZATION AND PROCEDURES

government.⁹ The ratification of the Fourteenth Amendment resurfaced the question of the limitations imposed upon the states by these U.S. constitutional provisions allowing a more liberal interpretation by the Supreme Court.¹⁰

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

This section, part of the Fourteenth Amendment, includes the guarantees of (1) equal protection, (2) due process, and (3) privileges and immunities, concepts which have been defined and expanded by Congress and the Supreme Court to assure the protection of civil liberties of all persons in the United States against actions by the states. Therefore, the U.S. constitutional provisions relating to civil liberties and immunities are valid limitations upon the powers of the states and their constitutional conventions.¹¹

Another limitation on the constitutional convention is the prohibition against withdrawing a state from the Union. This limitation is not based on a specific provision of the U.S. Constitution, but on a legal viewpoint of the whole document; "The Constitution, in all its provisions, looks to an indestructible Union, composed of indestructible States."¹²

Limitations Imposed by the Congressional Enabling Act

Another area of federal limitations upon the states is through the congressional enabling act providing for the constitutional convention which drafts the first state constitution. The authority of Congress to enumerate such limitations is predicated upon its constitutional power to admit new states into the Union and its constitutional duty to guarantee a republican form of government to each state.

CONVENTION POWERS

With regards to Congress' power over the admission of a state:¹³

- (1) [Provisions Fulfilled by Admission of the State.] ...congress may require, under penalty of denying admission, that the organic law of a new state at the time of admission shall be such as to meet its approval; thus, congress may require, as a condition to its consent, that any provision which it thinks proper shall be embodied in the organic law of the proposed state at the time of admission, and, until altered or repealed by proper state action after admission, such a condition is to be taken as a part of the fundamental law of the state....
- (2) [Compacts or Legislation Intended to Operate in the Future and within Conceded Powers of Congress over the Subject.] ...derive their force from the existing powers of congress under other provisions of the federal Constitution, rather than from any compact or consent by the state, and are valid as, in so far as they are proper federal legislation, regardless of the form in which they are enacted.
- (3) [Compacts or Legislation Intended to Operate in the Future but which Restrict the Powers of the New State in Matters Otherwise Exclusively within the Sphere of State Power.] ...there is no power in congress to prescribe...conditions, operating to limit in the future the legislative power of a new state over matters in their nature confided exclusively to the states as a part of their sovereign powers; their equality with the older states cannot be impaired in such matters by the provisions of enabling acts or conditions otherwise imposed by congress on, and at the time of, admission.

The Admission Act for Hawaii¹⁴ includes:

- (1) The boundaries of the state;
- (2) The adoption of the Hawaiian Homes Commission Act of 1920 as part of the state constitution; and
- (3) The conditions and reservations concerning grants of land and other property.

Although, the acceptance of these limitations was a requisite to admission to the United States in 1959, there exists, some question whether the 1978 Constitutional Convention would be bound by the same limitations binding the original constitutional convention or constitution.¹⁵

ORGANIZATION AND PROCEDURES

In the landmark case of Coyle v. Smith,¹⁶ the U.S. Supreme Court held that the limitations imposed upon the state as a condition of admission into the Union remain valid if such limitations are based on Congress' constitutional power over subject matter.¹⁷ Therefore, the 1978 Constitutional Convention, in defining its powers with respect to the Admission Act, must review the validity of each limitation in the light of whether they fall within the conceded powers of Congress.¹⁸

Limitations Imposed by the State Constitution

Although some state constitutions have provisions which state, for instance, that the bill of rights may never be changed by future constitutional conventions, "as a general principle... the convention is independent of any restrictions on its powers contained in a previous constitution.... The very purpose of a convention is to revise and amend the previous constitution, and nothing therein contained can prevent its doing so if the people have conferred plenary power upon the convention."¹⁹ The provisions relating to the constitutional amendment and revision process and procedures are exceptions to the general principle, however.

In the Hawaii Constitution there are only a few limitations on constitutional conventions. These are outlined as follows:

The Legislature. The extent of legislative restrictions on convention powers has been a subject of much debate. A survey of the history of the constitutional convention has revealed that there are varying opinions concerning its powers, ranging from the Supreme Sovereign theory to that of a body limited by, and subordinate to, the legislature. Full support is not given to either theory:²⁰

The first appears to run counter to the concept of ordered and stable government; the second may easily cripple the freedom of action of the convention.

CONVENTION POWERS

Generally, it can be said that:

- (1) The Supreme Sovereign theory, an outgrowth of the revolutionary constitutional conventions of the colonial period, holds little effectiveness today because of the established procedures for revising the constitution;²¹ and
- (2) The constitutional convention, like the legislature, is a regular organ of the state; neither is subordinate to the other and each operates independently within its proper sphere of power.²²

The primary purpose or power of the constitutional convention is to propose a revision of or amendments to the constitution. On the other hand, the power to enact legislation belongs exclusively to the legislature.²³

These distinctions would seem to preclude the convention from appropriating state funds²⁴ or passing legislation such as a constitutional ordinance which "resembles an ordinary act of legislation dealing with specific matters, but...takes precedence over the existing constitution and is unchangeable by ordinary legislation".²⁵

The 1950 Constitutional Convention was empowered to adopt ordinances which would require ratification by the people to become effective, but the power to adopt ordinances was never exercised by the 1950 delegates. The reason for this might have been as stated in standing committee report no. 70 of the 1950 Constitutional Convention dated June 13, 1950:

Although this Convention, under H.R. 49, has authority to amend Section 213 of the Act [Hawaiian Homes Commission Act of 1920], either in the Constitution or by ordinance, it was the opinion of the Committee that it was preferable to leave matters of such statutory nature to the Legislature, and that inclusion of such matters may tend to confuse the electors who have the right and duty of ratification of the Constitution.²⁶

While the constitutional convention is not subordinate to the legislature, the act of the legislature, which provides for the convention call and in which the limitations are stated, may become a restriction upon the convention when approved by the people.²⁷ Likewise the legislative provisions for the election of delegates pursuant to the convention call are also binding:

ORGANIZATION AND PROCEDURES

...if the legislature in calling the convention provides that it shall be restricted in power and the delegates are elected pursuant to the act, the restraint on the power of the convention is really imposed not by the legislature but by the people.²⁸

In Hawaii, legislative restrictions in the convention call are precluded by the constitution since the convention call question is specifically stated:²⁹

Shall there be a convention to propose a revision of or amendments to the Constitution?

Legislative restrictions on the constitutional convention itself would also seem to be precluded by the Hawaii Constitution, which expressly provides that the provisions of Article XV, section 2, relating to the constitutional convention shall be self-executing. Since the intent of a self-executing clause is to make the provision complete in itself without the aid of supplemental or enabling legislation, it would appear that the legislature could neither abridge, extend, nor otherwise alter the existence of the constitutional convention.³⁰

The Hawaii Constitution also provides, however, that "the legislature shall make the necessary appropriations and may enact legislation to facilitate their operation".³¹ The constitution does not mention what course of action would be available to the constitutional convention should the legislature decide not to appropriate any money or decide to limit so severely the appropriations that convention activities would be hampered. Fortunately it does not appear that this problem will be encountered by the 1978 Constitutional Convention, since the legislature has already made the necessary appropriations for the convention.³²

Another possible threat to the autonomy of the constitutional convention is the provision, "Unless the legislature shall otherwise provide, there shall be the same number of delegates to the convention, who shall be elected from the same areas, and the convention shall be convened in the same manner and have the same powers and privileges, as nearly as practicable, as provided for the convention of 1968."³³ (emphasis added). Should conditions and circumstances change such that it is necessary that a subsequent constitutional convention

CONVENTION POWERS

acquire additional powers and privileges than as provided for the convention in 1968, only the legislature would be able to provide that change. Just as the legislature could decide not to make any appropriations, they could also decide not to provide for any change in powers and privileges.

Once the convention has been called together, however, it appears that the legislature may no longer exercise control.³⁴

The Judiciary. The judiciary may limit the powers of the convention. Traditionally, however, the courts are reluctant to interfere when the constitutional convention exercises irregular powers or proposes irregular amendments to or revisions of the constitution. There are instances of judicial interference but "these cases are of little help in discovering what a convention has a right to do...they merely indicate what a convention has been able to accomplish".³⁵

The courts may intervene before the work of the convention is submitted to the people or if the constitutional convention were illegally constituted. It is questionable, however, whether the courts will intervene after the constitutional amendment or revision has been ratified by the people. It is generally believed that the court will decline to question the validity of the amendments or the new constitution once it has been acquiesced to by the people.³⁶

The Executive. The executive branch may also become a limiting factor upon the constitutional convention. However, such a limitation would probably occur prior to the convening and need not concern the assembled convention. The governor may hinder the convention by vetoing the bill setting up the machinery for the convention, which is a legislative act. For some states, the only censure upon the governor would be the legislature, by overriding the veto, or the people at the polls. Although unlikely, if the governor of Hawaii should veto such a bill, for example Act 17, 1977 Hawaii Special Session Laws, and the legislature did not override his veto, it appears that the self-executing provisions of Article XV of the constitution regarding the election of delegates would go into operation.

ORGANIZATION AND PROCEDURES

If the legislature did not override a veto of legislation appropriating funds for convention expenses or if the governor restricts appropriated funds, it is unclear what action would be available to the convention.

The Constitutional Convention. The 1978 Constitutional Convention has full control and power over its internal procedures and organization. This includes the power to:

- (1) Organize and develop its rules of procedure;
- (2) Judge the elections, returns, and qualifications of its members;
- (3) Suspend or remove its members for cause; and
- (4) Provide for the submission of its work to the electorate.

These powers are guaranteed by section 2 of Article XV of the Hawaii State Constitution.³⁷

Another power often exercised by conventions is the power to call upon witnesses to testify. In Hawaii, the constitution makes no mention of this power but the problem has been avoided by a legislative proviso in Act 17, 1977 Hawaii Special Session Laws, which grants the 1978 Constitutional Convention all powers exercised by legislative committees. These powers are:³⁸

- (1) Power to take testimony and other evidence and to issue subpoenas compelling the attendance of witnesses or the submission of records and other documents to the convention;
- (2) Power to discipline summoned witnesses who fail to make oath or give testimony or to answer questions or who fail to produce records or papers, or who fail to appear, by a fine of not more than \$1,000 or imprisonment of one year, or both; and
- (3) Power to compel the cooperation of state officers and employees in furnishing information as may be needed in connection with the convention's research activities.

The Electorate

The check on the constitutional convention exercised by the electorate is two-fold. The electorate must first decide, by a majority vote, whether there should be a constitutional convention at all. The electorate must also decide whether to accept the convention's proposals for amendments to, or revision of, the constitution. The revision or amendments are effective only if at a general election, or a majority of the votes cast at a special election if the majority constitutes at least 30 per cent of the total number of registered voters.³⁹

Chapter 3 THE DELEGATES

The office of delegate to the 1978 Constitutional Convention is governed by the provisions of Act 17, 1977 Hawaii Special Session Laws, and the Hawaii Constitution. In 1968, the delegates were governed by the provisions of Act 222, 1968 Hawaii Session Laws.

Election of Delegates

The 102 delegates to the 1978 Constitutional Convention shall be chosen at a special election held on May 20, 1978, pursuant to a proclamation issued by the governor in accordance with Act 17, 1977 Hawaii Special Session Laws.¹

These delegates shall be elected from the following representative districts and precincts:

First representative district: 2 delegates at large
(see Map 1).

Second representative district: 4 delegates to be elected 2 delegates from combined precincts of 1, 2, 3, 4, 5, 6, and 12; and 2 delegates from combined precincts of 7, 8, 9, 10, 11, 13, and 14 (see Map 1).

Third representative district: 2 delegates at large
(see Map 1).

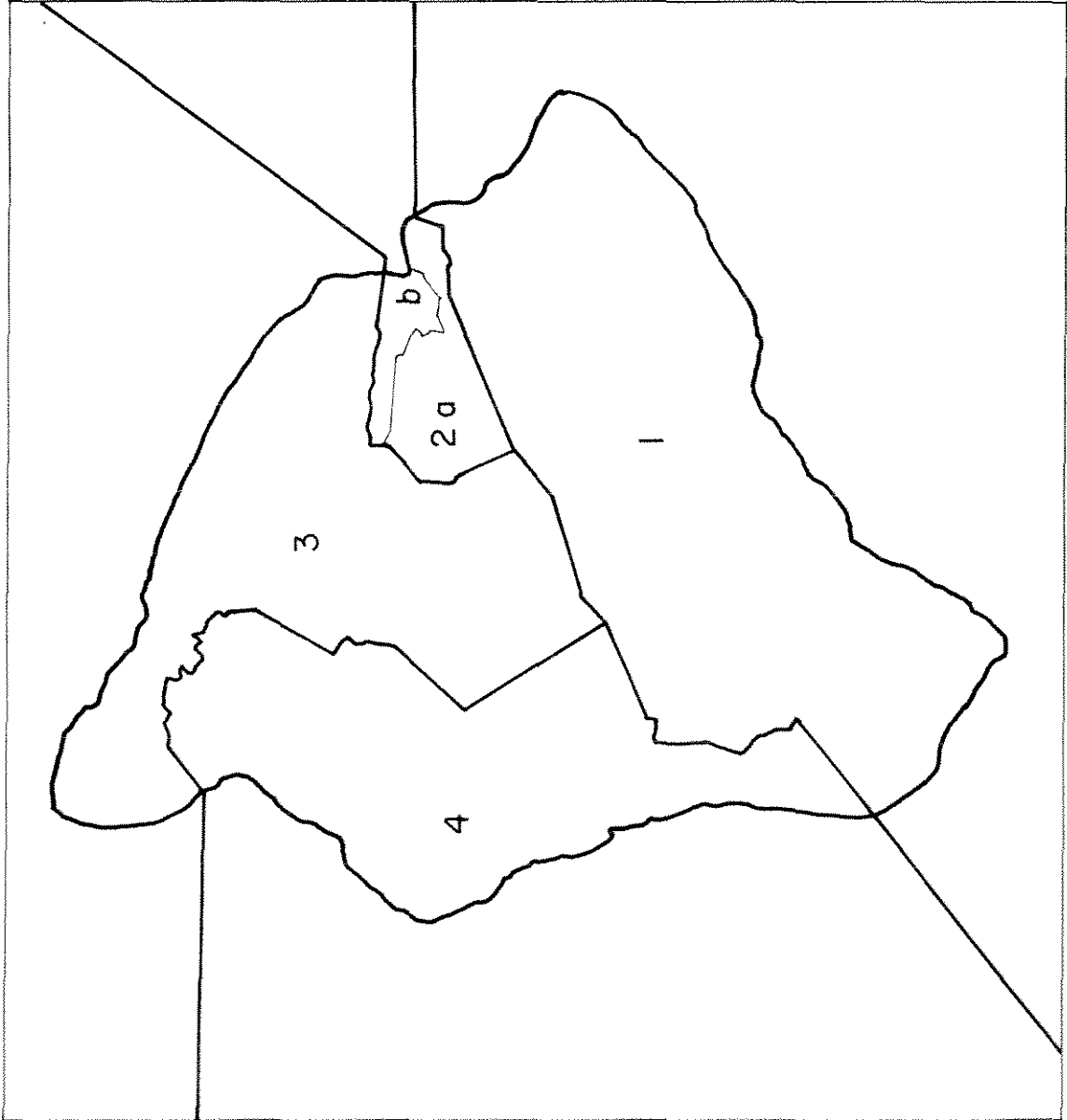
Fourth representative district: 2 delegates at large
(see Map 1).

Fifth representative district: 4 delegates to be elected 2 delegates from combined precincts of 1, 2, 3, 4, 5, 6, 7, and 8; and 2 delegates from combined precincts of 9, 10, 11, 12, 13, 14, and 15 (see Map 2).

Sixth representative district: 4 delegates to be elected 2 delegates from combined precincts of 1, 2, 3, 4, 5, 6, 10, 11, 12, and 13; and 2 delegates from combined precincts of 7, 8, 9, 14, 15, and 16 (see Map 2).

MAP 1, COUNTY OF HAWAII, ISLAND OF HAWAII

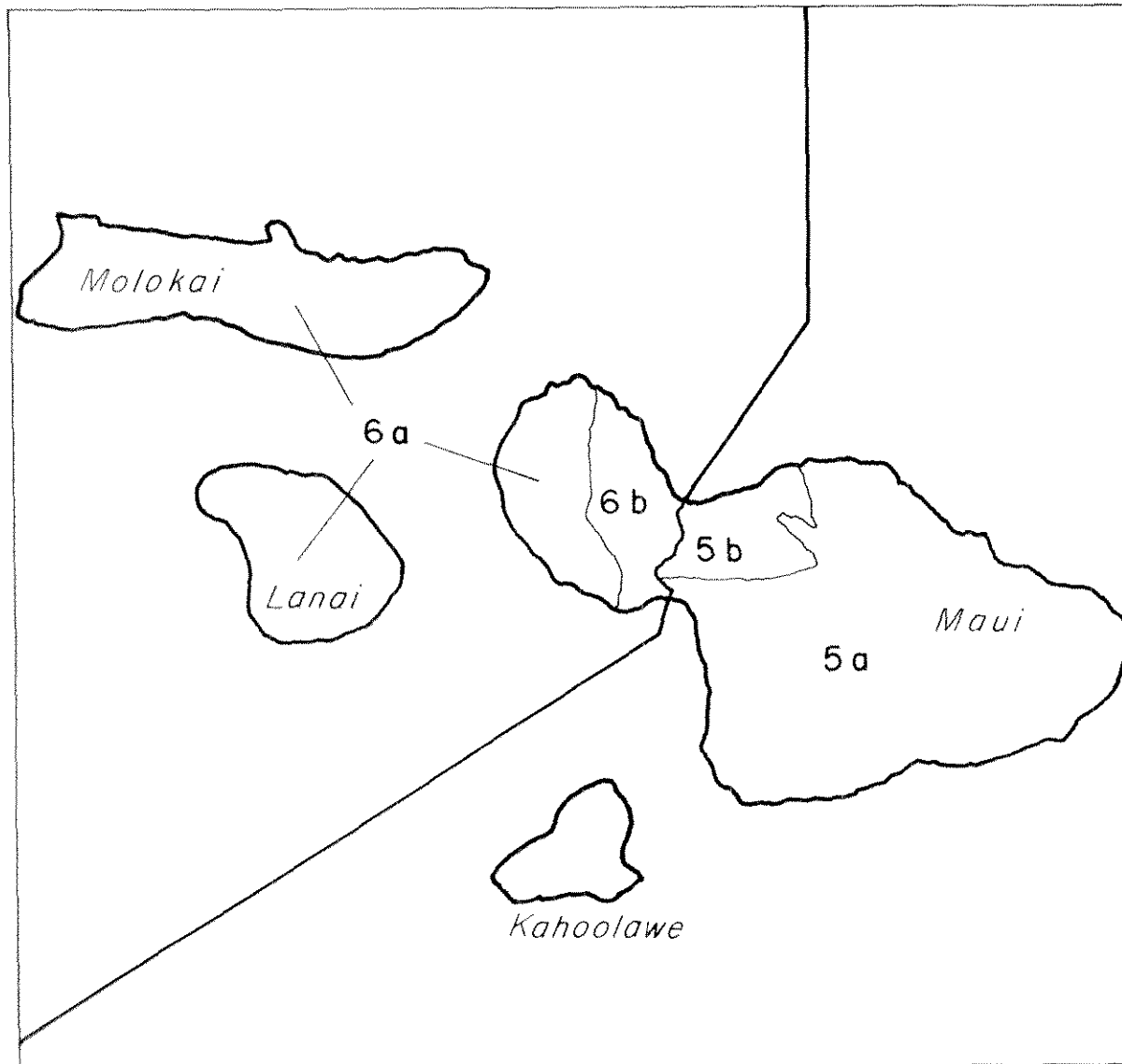
Showing apportionment of Constitutional Convention Delegates among the First through Fourth Representative Districts.



1	(At-Large)	2
2-A	(Prec. 1 to 6, 12)	2
2-B	(Prec. 7 to 11, 13, 14)	2
3	(At-Large)	2
4	(At-Large)	2
Total Delegates		10

MAP 2, COUNTY OF MAUI, ISLANDS OF MAUI, MOLOKAI, AND LANAI

Showing the apportionment of Constitutional Convention Delegates among the Fifth Representative District (Maui) and the Sixth Representative District (Maui, Molokai, and Lanai).



Districts, Precincts and Number of Delegates

5-A	(Prec. 1 to 8)	2
5-B	(Prec. 9 to 15)	2
6-A	(Prec. 1 to 6, 10 to 13)	2
6-B	(Prec. 7 to 9, 14 to 16)	2
Total Delegates		8

MAP 3, CITY AND COUNTY OF HONOLULU, ISLAND OF OAHU (7th to 18th Representative Districts)

Showing the apportionment of Constitutional Convention Delegates among the Seventh to Eighteenth Representative Districts.



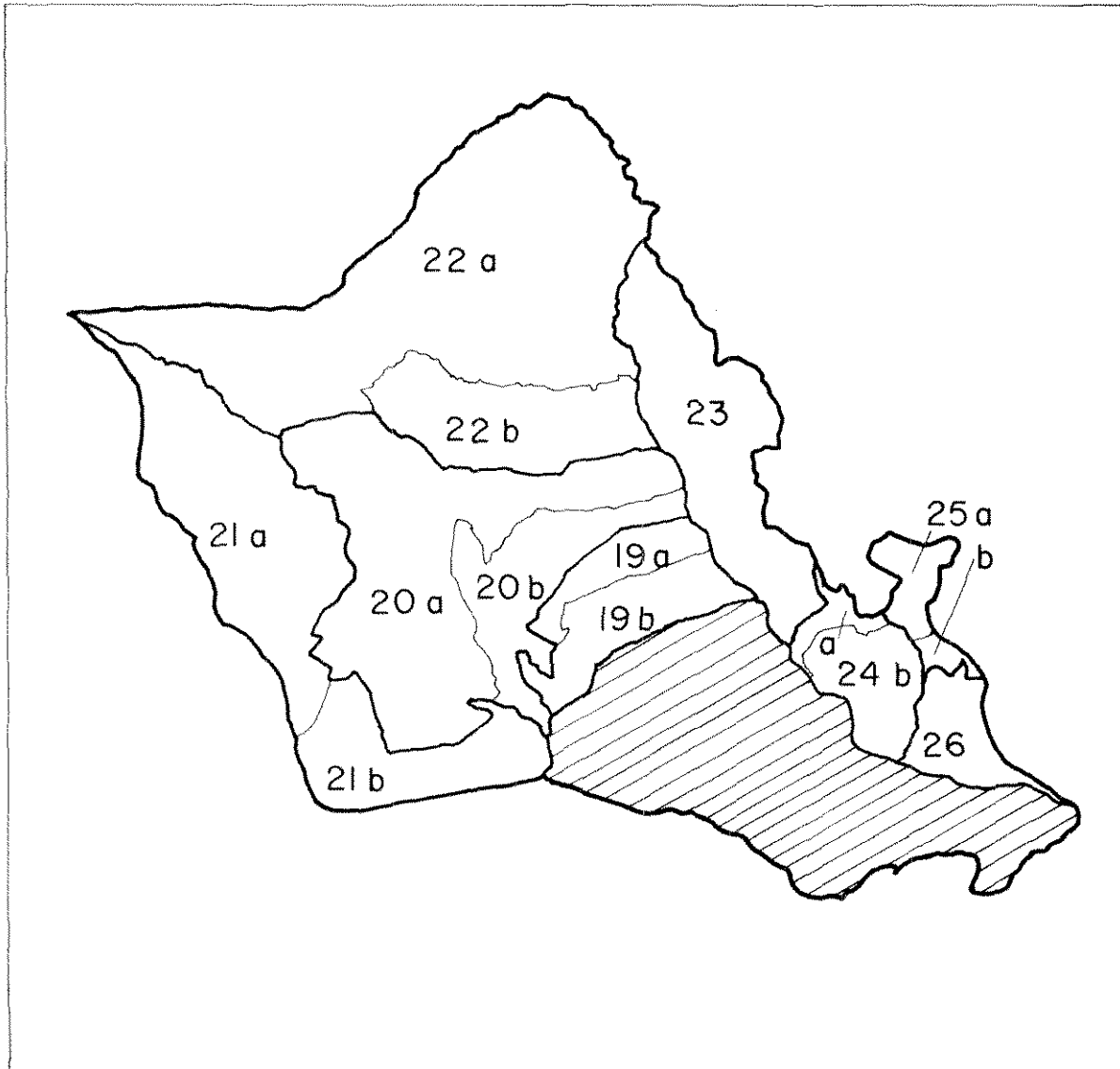
Districts, Precincts and Number of Delegates

7-A	(Prec. 1 to 4)	2
7-B	(Prec. 5 to 8)	2
8-A	(Prec. 1 to 3)	2
8-B	(Prec. 4 to 7)	2
9-A	(Prec. 1, 3, 7, 8)	2
9-B	(Prec. 2, 4 to 6)	2
10-A	(Prec. 1 to 3)	2
10-B	(Prec. 4 to 7)	2
11-A	(Prec. 1, 2, 4)	2
11-B	(Prec. 3, 5, 6)	2
12-A	(Prec. 1, 3, 5)	2
12-B	(Prec. 2, 4, 6, 7)	2
13-A	(Prec. 1 to 3)	2
13-B	(Prec. 4, 5, 9)	2
13-C	(Prec. 6 to 8)	2
14-A	(Prec. 1 to 3, 6)	2
14-B	(Prec. 4, 5, 7)	2
15-A	(Prec. 1 to 4)	2
15-B	(Prec. 5 to 8)	2
16-A	(Prec. 1, 6 to 8)	2
16-B	(Prec. 2 to 5)	2
17-A	(Prec. 1 to 3)	2
17-B	(Prec. 4 to 7)	2
18-A	(Prec. 1 to 3, 5)	2
18-B	(Prec. 4, 6 to 8)	2
Total Delegates		50

MAP 4, CITY AND COUNTY OF HONOLULU, ISLAND OF OAHU (19th to 26th Representative Districts)

Showing the apportionment of Constitutional Convention Delegates among the Nineteenth to Twenty-sixth Representative Districts.

18

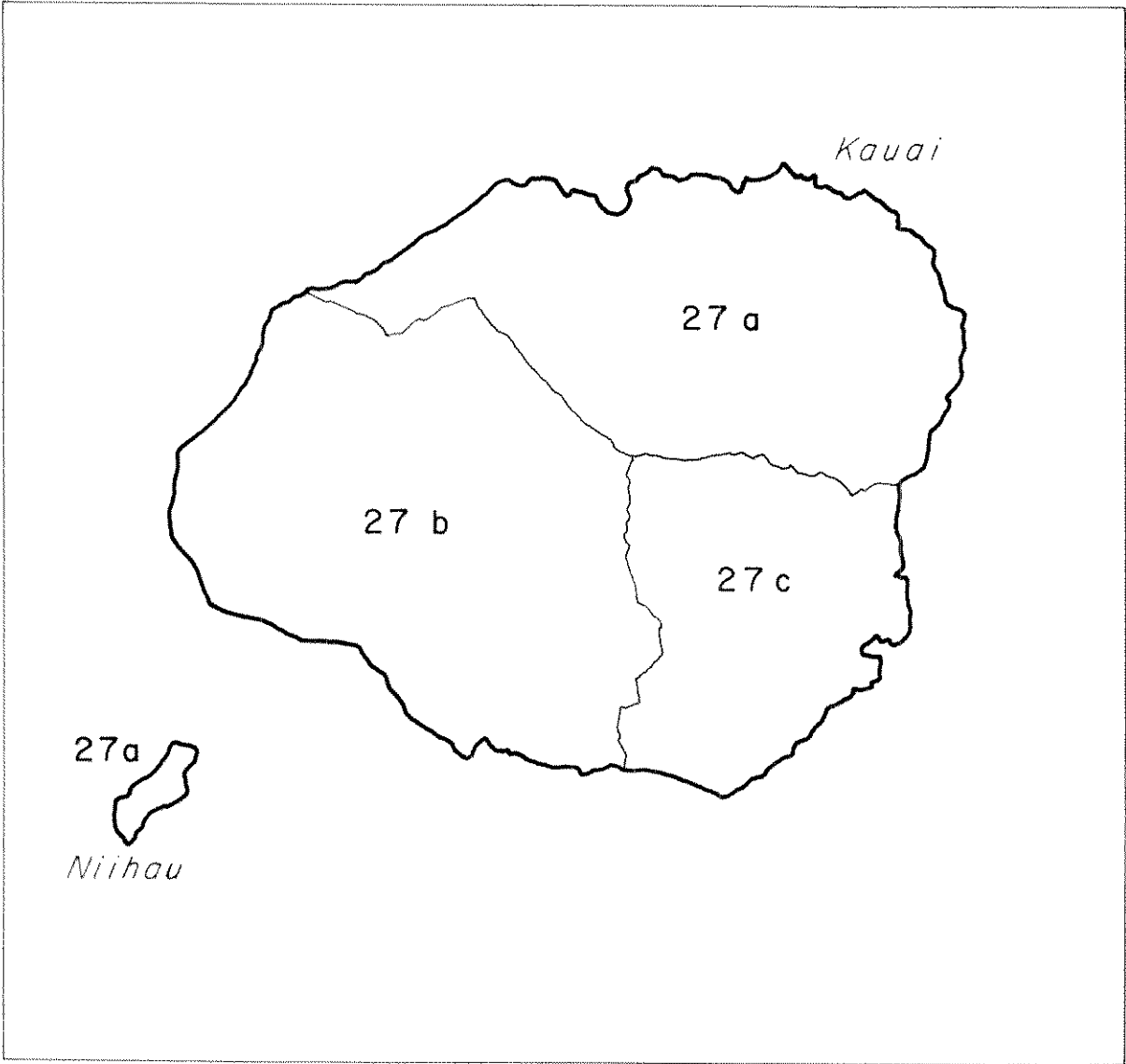


Districts, Precincts and Number of Delegates

19-A	(Prec. 1 to 3)	2
19-B	(Prec. 4 to 6)	2
20-A	(Prec. 1 to 4)	2
20-B	(Prec. 5 to 8)	2
21-A	(Prec. 1 to 3)	2
21-B	(Prec. 4 to 6)	2
22-A	(Prec. 1 to 4)	2
22-B	(Prec. 5 to 8)	2
23	(At-Large)	2
24-A	(Prec. 1 to 3)	2
24-B	(Prec. 4 to 6)	2
25-A	(Prec. 1 to 3)	2
25-B	(Prec. 4 to 7)	2
26	(At-Large)	2
Total Delegates		28

MAP 5, COUNTY OF KAUAI, ISLANDS OF KAUAI AND NIIHAU

Showing the apportionment of Constitutional Convention Delegates in the Twenty-seventh Representative District.



Districts, Precincts and Number of Delegates

27-A	(Prec. 1, 10 to 13)	2
27-B	(Prec. 2 to 7)	2
27-C	(Prec. 8, 9)	2
Total Delegates		6

ORGANIZATION AND PROCEDURES

Seventh representative district: 4 delegates to be elected. 2 delegates from combined precincts of 1, 2, 3, and 4; 2 delegates from combined precincts of 5, 6, 7, and 8 (see Map 3).

Eighth representative district: 4 delegates to be elected. 2 delegates from combined precincts of 1, 2, and 3; and 2 delegates from combined precincts of 4, 5, 6, and 7 (see Map 3).

Ninth representative district: 4 delegates to be elected. 2 delegates from combined precincts of 1, 3, 7, and 8; and 2 delegates from combined precincts of 2, 4, 5, and 6 (see Map 3).

Tenth representative district: 4 delegates to be elected. 2 delegates from combined precincts of 1, 2, and 3; and 2 delegates from combined precincts of 4, 5, 6, and 7. (see Map 3).

Eleventh representative district: 4 delegates to be elected. 2 delegates from combined precincts of 1, 2, and 4; and 2 delegates from combined precincts of 3, 5, and 6 (see Map 3).

Twelfth representative district: 4 delegates to be elected. 2 delegates from combined precincts of 1, 3, and 5; and 2 delegates from combined precincts of 2, 4, 6, and 7 (see Map 3).

Thirteenth representative district: 6 delegates to be elected. 2 delegates from combined precincts of 1, 2, and 3; 2 delegates from combined precincts of 4, 5, and 9; and 2 delegates from combined precincts of 6, 7, and 8 (see Map 3).

Fourteenth representative district: 4 delegates to be elected. 2 delegates from combined precincts of 1, 2, 3, and 6; and 2 delegates from combined precincts of 4, 5, and 7 (see Map 3).

Fifteenth representative district: 4 delegates to be elected. 2 delegates from combined precincts of 1, 2, 3, and 4; and 2 delegates from combined precincts of 5, 6, 7, and 8 (see Map 3).

Sixteenth representative district: 4 delegates to be elected. 2 delegates from combined precincts of 1, 6, 7, and 8; and 2 delegates from combined precincts of 2, 3, 4, and 5 (see Map 3).

Seventeenth representative district: 4 delegates to be elected. 2 delegates from combined precincts of 1, 2, and 3; and 2 delegates from combined precincts of 4, 5, 6, and 7 (see Map 3).

Eighteenth representative district: 4 delegates to be elected. 2 delegates from combined precincts of 1, 2, 3, and 5; and 2 delegates from combined precincts of 4, 6, 7, and 8 (see Map 3).

Nineteenth representative district: 4 delegates to be elected. 2 delegates from combined precincts of 1, 2, and 3; and 2 delegates from combined precincts of 4, 5, and 6 (see Map 4).

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Twentieth representative district: 4 delegates to be elected. 2 delegates from combined precincts of 1, 2, 3, and 4; and 2 delegates from combined precincts of 5, 6, 7, and 8 (see Map 4).

Twenty-first representative district: 4 delegates to be elected. 2 delegates from combined precincts of 1, 2, and 3; and 2 delegates from combined precincts of 4, 5, and 6 (see Map 4).

Twenty-second representative district: 4 delegates to be elected. 2 delegates from combined precincts of 1, 2, 3, and 4; and 2 delegates from combined precincts of 5, 6, 7, and 8 (see Map 4).

Twenty-third representative district: 2 delegates at large (see Map 4).

Twenty-fourth representative district: 4 delegates to be elected. 2 delegates from combined precincts of 1, 2, and 3; and 2 delegates from combined precincts of 4, 5, and 6 (see Map 4).

Twenty-fifth representative district: 4 delegates to be elected. 2 delegates from combined precincts of 1, 2, and 3; and 2 delegates from combined precincts of 4, 5, 6, and 7 (see Map 4).

Twenty-sixth representative district: 2 delegates at large (see Map 4).

Twenty-seventh representative district: 6 delegates to be elected. 2 delegates from combined precincts of 1, 10, 11, 12, and 13; 2 delegates from combined precincts of 8 and 9; and 2 delegates from combined precincts of 2, 3, 4, 5, 6, and 7 (see Map 5).

The delegates to the 1968 Constitutional Convention were chosen at a special election held on June 1, 1968. In accordance with Act 222, 1967 Hawaii Session Laws, 82 delegates were elected from the 18 representative districts existing at that time.

Both the 1968 and 1978 elections for delegates to the constitutional convention are nonpartisan elections which means that no reference to or designation of the political affiliation of the candidate is made.

Vacancies

The Hawaii Constitution in Article XV, section 2, and Act 17, 1977 Hawaii Special Session Laws, provide that the governor shall fill any vacancy in the

ORGANIZATION AND PROCEDURES

office of delegate by appointment of a qualified voter from the constitutional convention district in which the vacancy occurs.

In 1968, in accordance with Act 222, 1967 Hawaii Session Laws, vacancies in the delegate's office were handled in the same manner.²

Qualification of Delegates

Candidates for the office of delegate to the 1978 Constitutional Convention must satisfy the following qualifications:

- (1) United States citizenship.
- (2) Minimum age of at least 18 years.
- (3) Qualified elector of the district or combination of precincts in which running as a candidate.

These standards are enumerated in Article II, section 1, of the Hawaii Constitution and Act 17, 1977 Hawaii Special Session Laws.

The candidates in 1968 had to satisfy the same requirements excepting that the minimum age requirement was 20 years and they had to have the ability to speak, read, and write English or Hawaiian.

Similar to the situation in 1968, state and county officers and employees, including legislators, are not precluded from holding office as delegates in the 1978 Constitutional Convention.³

Disqualification of Delegates

A delegate to the 1978 Constitutional Convention may be disqualified under Article XIV, section 3, of the Hawaii Constitution, and under Article XV, section 2, a delegate may be removed from office by two-thirds vote of the convention for cause.⁴

THE DELEGATES

Oath of Loyalty and Oath of Office

Pursuant to sections 3 and 4 of Article XIV of the Hawaii Constitution and section 85-32, Hawaii Revised Statutes, the 1978 Constitutional Convention delegates must subscribe to the loyalty oath and oath of office.

The loyalty oath provided for in section 85-32, Hawaii Revised Statutes, is as follows:

I,, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Hawaii, and that I will faithfully do my duties as to the best of my ability. So help me God (and so I do affirm).

The oath of office is provided in Article XIV, section 4, of the Hawaii Constitution and reads as follows:

I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution of the State of Hawaii, and that I will faithfully discharge my duties as to the best of my ability.

The 1968 Constitutional Convention delegates subscribed to the same loyalty oath.

Decorum and Discipline

According to Article XV, section 2, of the Hawaii Constitution, the convention shall fix its own rules of procedure and may, by two-thirds vote, suspend or remove any member for cause. Pursuant to these provisions, the 1978 Constitutional Convention is authorized to preserve decorum during its meeting and to take disciplinary action against delegates who commit breaches of decorum or who are disorderly.

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The 1950 Constitutional Convention referred to Cushing's Manual of Parliamentary Practice. The 1968 Constitutional Convention referred to Robert's Rules of Order. These manuals state essentially the same rules for decorum and are applicable both to the assembly as a whole and to members in debate.⁵ The following points are stressed:

- (1) During debate a member must confine remarks to the merits of the pending question;
- (2) When a question is pending a member cannot attack another member's motives;
- (3) Members of an assembly must address each other through the chair; they may not address each other directly;
- (4) Members should avoid using other members' names during debate; officers of the assembly should always be referred to by their titles;
- (5) Members may not speak against their own motions or against a prior action of the assembly;
- (6) Unless there is no objection a member may not read from reports or quotations;
- (7) Whenever the presiding officer of the assembly rises to speak within the privilege of that office, any member who is speaking should be seated;
- (8) During debate, voting, or remarks made by the presiding officer, no member should be permitted to disturb the assembly; and
- (9) General principles of politeness, such as avoiding interruption of other members, not coughing, spitting, or hissing, etc., should always be observed.

The Rules for the Constitutional Convention of Hawaii, 1968, contain these specific rules relating to decorum:

RULE 41. No delegate shall speak more than twice on one question, or longer than ten minutes the first, or longer than five minutes the second time, or more than once until other delegates who have not spoken shall speak if they so desire, without first obtaining leave of the Convention; and the mover of the proposition shall have the right to close the debate, provided that the person in charge of a proposal on Third Reading and final agreement shall have

THE DELEGATES

the right, if he desires, to close the debate and he may announce such desire at any time before the taking of the vote on the question.

RULE 42. No delegate rising to speak shall proceed until he shall have addressed the President and been recognized by him as entitled to the floor.

RULE 43. While the President is putting a question or a count is being had no delegate shall speak or leave his place, and while a member is speaking no delegate shall engage in any private discourse or pass between him and the chair.

RULE 44. When a motion to adjourn, or for recess, shall be carried, no delegate or officer shall leave his place until the adjournment or recess shall be declared by the President.

RULE 45. A proposal may be recalled from a committee by the affirmative vote of 25 delegates, provided that the committee has reported on the subject matter of such proposal for passage on Second Reading.

RULE 46. Any delegate may at any time rise and speak to a question of personal privilege.

Under the Rules of the 1968 Constitutional Convention the convention was also empowered to preserve decorum through the presiding officer and take disciplinary action for any breaches of decorum or disorder on the part of the delegates.⁶

Although unstated in the constitution or in the statutes or, in the Convention Rules of Procedure, it can generally be assumed that the convention, through its presiding officer, may require the observance of decorum by nondelegates in its presence or any committee thereof.⁷ Unlike the legislature, however, it is doubtful that the convention has the power to impose such severe punishments as a fine or the imprisonment of nonmembers.⁸

Threats and Attempted Bribery

Section 710-1040, Hawaii Revised Statutes, provides that bribes to public officers, or attempts to influence such officers, either directly or indirectly, are felonies and are punishable as such. Section 710-1040, Hawaii Revised

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Statutes, also states that an officer who accepts bribes intended to affect the execution of official duties commits a felony. These provisions may be construed as applicable to the delegates of the 1978 Constitutional Convention.

The 1968 Constitutional Convention delegates were subject to similar laws regarding bribery or attempts to influence public officers.

Code of Ethics

While there is legislation which protects the delegate from bribery, it is perhaps necessary to protect the delegate from situations not so blatantly criminal; that is protection of the delegate from conflict-of-interest situations by a code of ethics.

Chapter 84, Hawaii Revised Statutes, is intended to promote high standards of ethical conduct in state government. The provisions of this chapter apply to the delegates of the 1978 Constitutional Convention.

Legal Immunities and Privileges

The Hawaii Constitution in section 8 of Article III grants legal immunities to a legislator while in the exercise of legislative functions. Furthermore, a legislator is privileged from arrest while going to and from and while attending legislative sessions.

The 1968 delegates were guaranteed:⁹

- (1) The opportunity for free speech and debate by the granting of immunity from civil and criminal liability. While such liability immunity may be provided for by convention rule, it is not a firm authority and "furthermore, it is not persuasive that the convention has the authority to circumscribe the civil remedies of persons not delegates to the convention."

THE DELEGATES

- (2) The internal disciplinary power of the convention over a delegate who defames; and
- (3) Privilege from arrest while going to and from and while attending sessions of the convention in order that the delegate may not suffer interruption in the exercise of official duties.

The Ninth State Legislature enacted legislation, Act 17, which grants delegates privilege from arrest while going to and from and attending convention sessions, except in cases of felony or breach of the peace.

Compensation of the Delegates

The delegates to the 1978 Constitutional Convention shall be paid a salary of \$1,000 a month, but not more than \$4,000 for their services in the convention and per diem as follows:

- (1) \$10 a day for delegates from Oahu; and
- (2) \$30 a day for delegates from the islands of Hawaii, Maui, Molokai and Lanai, and Kauai and Niihau.

The salary payments to delegates will be \$500 semi-monthly, with the first payment for the period beginning May 21, 1978. Those delegates who are state or county officers or employees must take leave of absence from work without pay.¹⁰

The delegates to the 1968 Constitutional Convention were paid a salary of \$2,500 and mileage at the rate of 20 cents a mile each way, to and from the convention. They received a per diem allowance of \$32.50 for delegates from Oahu, and \$45 for delegates from the islands of Hawaii, Maui, Molokai, Lanai, Kauai, and Niihau.

Chapter 4

CONVENTION ORGANIZATION¹

The 1978 Constitutional Convention will convene on July 5, 1978 in Honolulu at a place designated by the governor in accordance with Act 17, 1977 Hawaii Special Session Laws. It will be called to order by the temporary chairperson, the delegate with the highest number of votes from the first representative district, and proceed with the organization of the convention. Once it has convened it will not be limited as to the number of days it may remain in convention.

The 1968 Constitutional Convention convened in Honolulu on July 15, 1968, at 10:03 a.m. in the Auditorium of McKinley High School amid much ceremony. It, too, was an unlimited convention in terms of time.² The delegates met from July 15 for 57 convention days, or over a 72-calendar-day period.

The formal organization of the 1968 Constitutional Convention began after the call to order by the delegate from the first representative district pursuant to Act 222, 1967 Hawaii Session Laws, who acted as temporary chairperson. This was followed by the adoption of a resolution certifying the election of the delegates, the signing of the oath of loyalty and the administering of the oath of office. Then the convention proceeded to adopt rules and elect permanent officers and employees. Committees were formed and delegates received their committee assignments.

The informal organization of the 1968 Constitutional Convention began during the pre-convention period. Caucuses were held by those delegates-elect seeking convention office.

It appears that the caucuses were successful and were a factor in the almost unanimous election of the convention officers. Another factor appears to be the widespread reputation of these officer-delegates who were active members of the then dominant political party.³

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Officers of the Convention

The officers of the convention were:

- (1) President;
- (2) Vice-president(s), 5 in 1968; one each from the counties of Hawaii, Maui, and Kauai, and 2 from the city and county of Honolulu;
- (3) Secretary; and
- (4) Assistant secretary.

These officers were elected by ballot by an affirmative vote of the majority of the membership, 42 in 1968.⁴

All officers were elected unanimously in the 1968 Constitutional Convention.

According to Rules 3 and 4 of the Rules for the 1968 Constitutional Convention of Hawaii, the president was responsible for:

- (1) Calling the convention to order each day;
- (2) Preserving order and decorum;
- (3) Confining members to the question under discussion;
- (4) Naming the delegate entitled to the floor when 2 members rise at the same time;
- (5) Deciding on all questions of order, subject to appeal to the convention. The president had the right to state the reason for the president's decision on each appeal.⁵
- (6) Appointing all committees, except when the convention orders otherwise;
- (7) Naming the chairman to preside over the committee of the whole;
- (8) Certifying with the secretary of the convention, all official acts and all vouchers for the payment of the expenses of the convention;

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- (9) Designating and assigning seats or authorizing the seating of public press, radio, and television reporters within the convention hall; and
- (10) Declaring the vote and announcing the results on all questions and decisions.

In addition, the president was allowed to:

- (11) Substitute a member to perform the duties of the chair in the president's presence, but such a substitution could not last longer than that day without special consent of the convention; and
- (12) Serve as an ex officio member without vote on all committees to which the president was not specifically appointed.

Excepting for decisions on appeals, the president was not allowed to state an opinion on a question or to engage in any debate without first calling on a delegate to occupy the chair.

In case of a vacancy in the office of the president, Rule 5 provided for the election of a new president by majority vote.

As provided in Rule 5, the duties and responsibilities of the president during temporary absence devolved from day to day upon one of the vice-presidents present, in alphabetical rotation. By Rule 6 vacancies in the office of vice-president were filled in the same manner as for the president. Rule 6 also provided for the designation or appointment of a delegate to discharge the duties of the office of vice-president during the temporary absence of all 5 officers or their temporary inability to discharge their official duties.

The secretary was the officer in charge of the administrative, clerical, and custodial activities of the 1968 Constitutional Convention, which position requires administrative talent, as well as an understanding of the issues before the convention. The secretary's duties, enumerated in Rules 7-13, were:

CONVENTION ORGANIZATION

- (1) Keeping a journal of the proceedings of the convention;
- (2) Preparing the calendar of business of the convention;
- (3) Preparing all proposals and documents for printing in proper form;
- (4) Numbering of proposals of individual delegates and committee proposals consecutively, in separate series, upon introduction;
- (5) Preserving all proposals, documents and other papers of the convention and delivery of these to the archives after the adjournment of the convention or disposal in some other manner as the convention shall direct;
- (6) Certifying, together with the president, all official acts and vouchers for the payment of the expenses of the convention;
- (7) Delivering one copy of the final draft of any proposal or committee report to the Archives; and
- (8) Performing such other duties as are from time to time required by the convention or the rules.

By Rule 13, the secretary was allowed to delegate all of the duties to the assistant secretary, excepting the certification of official acts, documents, and vouchers.⁶

It appears that the delegates to the 1968 Constitutional Convention were in general agreement that the powers and duties granted those officers by the 1950 rules were appropriate to their office.

The Committee System and Structure of the Constitutional Convention

The 1968 Constitutional Convention provided for 2 types of committees, the standing committee and the committee of the whole.⁷

Rule 17 of the Rules for the 1968 Constitutional Convention for Hawaii lists 2 classes of standing committees:

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GENERAL STANDING COMMITTEES:

- (1) Committee on Bill of Rights, Suffrage and Elections, 23 members.
- (2) Committee on Legislative Powers and Functions, 23 members.
- (3) Committee on Legislative Apportionment and Districting, 23 members.
- (4) Committee on the Executive, 23 members.
- (5) Committee on Judiciary, 23 members.
- (6) Committee on Taxation and Finance, 23 members.
- (7) Committee on Local Government, 23 members.
- (8) Committee on Public Health, Education and Welfare, 23 members.
- (9) Committee on Agriculture, Conservation and Land and Hawaiian Homes, 23 members.
- (10) Committee on Revision, Amendment and Other Provisions, 23 members.
- (11) Committee on Style, 17 members.
- (12) Committee on Submission and Information, 16 members, and in addition, the vice presidents, secretary, assistant secretary, and the chairperson of the standing committees were members ex officio.

ADMINISTRATIVE STANDING COMMITTEES:

- (1) Committee on Accounts and Printing, 15 members.
- (2) Committee on Rules, 15 members.

Rule 18 enumerates the functions of these committees:

- (1) Each standing committee shall consider all matters referred to it and submit to the convention a report or reports in writing, setting forth the results of its deliberations and its recommendations on all matters referred to it, in the same number and form as prescribed in the rules for proposals.

No standing committee may hold a public hearing unless it has given reasonable written notice to the secretary who

CONVENTION ORGANIZATION

shall give public notice thereof. All committee meetings shall be open to the public. No standing committee shall sit during the session of the convention without special leave.

- (2) The Committee on Style is responsible for examining and correcting the proposals referred to it for the purpose of avoiding inconsistencies, inaccuracies, and repetition and for the purpose of arranging such proposals in proper order. The committee may rephrase but not change the sense or purpose of any proposal.⁸ The committee shall notify the convention of all proposals referred to it which are inconsistent or in conflict with a proposal already acted upon at Second Reading, and wait upon the convention's instructions.
- (3) The Committee on Submission and Information shall prepare and present to the convention for its approval a plan or method of informing the people of changes or proposed amendments to the constitution and shall prepare and present for the convention's approval a report to the people outlining the results of the convention's work.⁹ This committee shall also make other reports as required by law or by the convention.
- (4) The Committee on Rules is responsible for considering and reporting upon changes in the rules and organization of the convention as are referred to it by the convention.
- (5) The Committee on Accounts and Printing is responsible for the business affairs of the convention,¹⁰ and for supervising all printing for the convention.

Under Rule 16, the members of the standing committees were appointed by the president unless the convention ordered otherwise. The first person and second person named became the committee chairperson and vice-chairperson, respectively.

The second type of committee was the Committee of the Whole, which is a committee consisting of the entire membership of the convention. This committee, like the standing committee, considered and reported on all proposals and amendments thereto, reports, resolutions, and other matters submitted to it. Its value lay in the fact that a convention, when resolved into such a committee, was able to debate most fully and discuss most freely the issues before it. Rules 22-26 of the Rules for the 1968 Constitutional Convention of Hawaii enumerate its functions and procedure.

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Ideally, a committee system allows the convention to:

- (1) Distribute the workload and make initial and tentative decisions which permit the convention to proceed more smoothly and efficiently;
- (2) Perform detailed and intensive research and identify pertinent facts and varying points of view before sending the issues to the convention floor for settlement; and
- (3) Advance the work on several subjects at the same time thereby reducing the amount of time required for the task of constitutional revision; and generally to function as a responsible and effective body.

Two types of standing committees seem advisable:

- (1) Substantive committees which delve into the substantive issues of constitutional revision, such as the general standing committees of the 1968 Convention; and
- (2) Auxiliary committees which are primarily working rather than debating committees, such as the administrative standing committees of the 1968 Convention.

The determination of the number of standing committees and their membership should perhaps be made with the purpose of the convention, the comprehensive and objective consideration of the fundamental law in mind. Generally, it may be said that if this purpose is solely considered, a minimum number of committees will be established.

The establishment of committees according to the number and subject matter of the articles of the Constitution is a simple approach, but it may tend to limit the perspective of the convention and lessen the chances that the convention will take a fresh approach to the constitutional structure. On the other hand, a complicated organization makes it difficult to explain to the general public what is happening in the convention.

A large number of committees may be established,¹¹ perhaps to increase the opportunities for delegates to serve as chairperson or to satisfy pressure groups with special interests; but it may also dilute a delegate's effectiveness

by overloading the delegate with committee assignments and the overlapping memberships may present problems in coordinating and scheduling committee meetings. In this respect, the number of committees established by the 1968 Convention appears reasonable and presented little problems of this nature.

The Employees of the Convention¹²

The employees of the 1968 Convention were either elected by the delegates or appointed by the president subject to the approval of the convention.

The elected employees were chosen by ballot by affirmative vote of the majority of the delegates, at least 42 delegates in 1968. They were:

- (1) Chief clerk; and
- (2) Assistant clerk.

The duty of the chief clerk was to perform all those duties delegated by the secretary of the convention except the certification of all official acts and vouchers for the payment of convention expenses, a responsibility which, by Rule 13, the secretary could not delegate.

If the 1978 Convention has similar elected employees, the chief clerk may be required to execute those duties delegated by the secretary of the convention. Should the chief clerk be unfamiliar with the administrative details and practices of that office, consultation with the present chief clerks of the legislature, both of whom are knowledgeable in this area may be helpful.

The duties of the convention employees are not enumerated in the rules of the convention, however, the following applicable sections from the Official Rules of Procedure Adopted by the House of Representatives, Regular Session of 1977, may be consulted as a guideline enumerating the duties appropriate to major convention employees.¹³

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Rule 5. The Clerk

5.1 The Clerk of the House of Representatives shall be responsible for the safekeeping of all records of the House. He shall retain possession of all original documents, unless the Speaker orders him to release them to someone else.

5.2 The Clerk shall make a concise, complete and verbatim record each day of all matters brought before the House. This record shall state the nature of the matters brought before the House, the names of their introducers, and the date and day of the session on which the House considered the matters. This daily record and such additional matters as the Speaker may order the Clerk to include in it shall constitute the Journal of the House, a copy of which shall be placed on the desk of each member on the following session day or as soon thereafter as practicable. The House shall approve the Journal, subject to corrections, by vote of the House. However, the House may dispense with the reading of the Journal by majority vote.

5.3 The Clerk shall read all bills, resolutions and other matters aloud to the House when the House requires it.

5.4 The Clerk shall forward all communications and other matters he receives immediately to the parties to whom they are addressed.

5.5. The Clerk shall deliver immediately to the Chairman of the appropriate committees all matters duly referred to those committees.

5.6. The Clerk shall maintain for the committees of the House a record of subjects contained in messages from the Governor, which are referred to the committees.

5.7. The Clerk shall keep a record of all questions of order and the decision on each of them, and the Clerk shall append this record to the Journal at the close of the session.

5.8. The Clerk shall perform all other duties appropriate to his office that the House or the law assigns.

Rule 6. Assistant Clerk

6.1. The Assistant Clerk of the House shall assist the Clerk in all duties. In the absence of the Clerk, the Assistant Clerk shall perform all duties of the Clerk.

In addition, the convention may wish to have a chaplain open each session.

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Rule 7. Chaplain

A chaplain shall attend each day's sitting of the House, and open the same with prayers.

It should be noted that a chaplain in the House of Representatives is not an elective employee and does not receive compensation for his services. By practice, the House calls upon the clergy from all religions and denominations to deliver the opening prayer.

Rule 8. The Sergeant-at-arms

8.1. The Sergeant-at-Arms shall execute the orders of the Speaker, attend every meeting of the House, maintain order among persons who attend sessions of the House, and notify the presiding officer of the presence of persons who have communications for the House or who otherwise are of interest to the House. If requested, the Sergeant-at-Arms shall likewise attend upon the committees of the House. The Sergeant-at-Arms shall serve all orders or process directed by the Speaker of the House, make all arrests ordered by the Speaker of the House, and restrain persons in custody. The Sergeant-at-Arms shall keep the entrances and exits of the House clear at all times, and keep from the floor of the House all persons except members of the House, authorized employees of the House and guests of the House. The Sergeant-at-Arms shall wear a badge to symbolize the authority of the office of the Sergeant-at-Arms.

8.2 The Sergeant-at-Arms shall be responsible for making purchases for the House in accordance with Title 3 of the House Manual.

8.3 The Sergeant-at-Arms shall be custodian of all property of the House and shall perform all duties related to its safeguard, care, and maintenance as provided in Title 8 of the House Manual.

The 1968 Convention rules provided for 2 sergeants-at-arms. The House of Representatives has one sergeant-at-arms and an assistant sergeant-at-arms whose duties are enumerated in House Rule 9:

Rule 9. Assistant Sergeant-at-Arms

9.1. The Assistant Sergeant-at-Arms shall assist the sergeant-at-arms in all duties. In the absence of the Sergeant-at-Arms, the designated Assistant Sergeant-at-Arms shall perform all duties of the Sergeant-at-Arms.

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The compensation of certain employees are listed in the following table along with a comparison of the compensation of similar employees of the House of Representatives, Regular Session of 1949, General Session of 1967, Constitutional Convention sessions of 1950 and 1968, and the Regular Session of 1977.¹⁴

This table may give the 1978 Convention some idea of the kind of personnel which will be required in the course of the Convention's work and their compensation. As was the case in 1968, the employees of the 1978 Convention may be hired without regard to civil service laws. In addition, contracts for legal and consultant services of qualified persons may be made.¹⁵

Patronage was used in the appointment of the employees of the 1968 Convention. After the president and other officers had been decided upon by the caucus, the president accepted advice from 2 legislative clerks on how many patronage positions were necessary for the conduct of the convention.

The compensation rates of the 1968 Convention employees appear to have been determined primarily by the rates of pay for the House of Representatives.

TABLE
ELECTIVE AND APPOINTED EMPLOYEES OF THE 1950 AND 1968 CONSTITUTIONAL CONVENTIONS
AND THE HOUSE OF REPRESENTATIVES, REGULAR SESSION OF 1949,
GENERAL SESSION OF 1967, AND REGULAR SESSION OF 1977:
TYPE AND COMPENSATION

Position	House of ² Representatives Regular Session, 1949 Rate of Pay		1950 Constitutional ¹ Convention Rate of Pay		House of ² Representatives General Session, 1967 Rate of Pay		1968 Constitutional ³ Convention Rate of Pay		House of ⁴ Representatives Regular Session, 1977 Rate of Pay	
	Monthly	Daily	Monthly	Daily	Monthly*	Daily	Monthly*	Daily	Monthly**	Daily*
Chief Clerk	\$ 945.00	\$ 45.00	\$800.00	\$38.10	\$1,197.00	\$57.00	\$11,250.00 (for session)		\$2,429.00	\$115.00
Asst. Chief Clerk	787.50	37.50	650.00	30.95	1,039.50	49.50	6,000.00 (for session)		1,472.00	70.00
Sgt.-at-Arms	472.50	22.50	400.00	19.05	882.00	42.00	882.00	42.00	1,295.00	62.00
Asst. Sgt.-at-Arms	--	--	--	--	630.00	30.00	--	--	900.00	43.00
Supervising Secretary	--	--	550.00	26.19	--	--	--	--	--	--
Engrossing Clerk	367.50	17.50	400.00	19.05	588.00	28.00	682.50	32.50	760.00	36.00
Stenos, Secretaries, Legal	367.50- 525.00	17.50- 25.00	400.00	19.05	651.00	31.00	651.00	31.00	720.00	34.00
Record Clerk	420.00	20.00	350.00	16.67	682.50	32.50	682.50	32.50	720.00	34.00
Messengers	252.00- 262.50	12.00- 12.50	250.00	11.90	409.50	19.50	420.00	20.00	520.00	25.00
File Clerks	262.50- 315.00	12.50- 15.00	250.00	11.90	399.00	19.00	420.00	20.00	--	--
Printing Machine Operator	273.00- 315.00	13.00- 15.00	300.00	14.29	483.00	23.00	577.50	27.50	640.00	30.00
Accounts Property Clerk	--	--	500.00	23.81	609.00	29.00	630.00	30.00	750.00	36.00
Assistant Accounts Property Clerk	--	--	250.00	11.90	126.00- 525.00	6.00- 25.00	--	--	--	--
Watchman	210.00	10.00	250.00	11.90	399.00	19.00	210.00- 420.00	10.00- 20.00	520.00	25.00
Janitors, Custodians	220.50- 420.00	10.50- 20.00	250.00	11.90	399.00	19.00	378.00	18.00	500.00	24.00
Sound Technician	--	--	350.00	16.67	--	--	598.50	28.50	--	--
Bookkeeper	--	--	300.00	14.29	--	--	--	--	--	--
Utility, Inventory, Supply Clerk	315.00	15.00	--	--	525.00	25.00	630.00	30.00	680.00	32.00
Doorman	262.50	12.50	--	--	409.50	19.50	--	--	520.00	25.00

Position	House of ¹ Representatives Regular Session, 1949 Rate of Pay		1950 Constitutional ¹ Convention Rate of Pay		House of ² Representatives General Session, 1967 Rate of Pay		1968 Constitutional ³ Convention Rate of Pay		House of ⁴ Representatives Regular Session, 1977 Rate of Pay	
	Monthly	Daily	Monthly	Daily	Monthly*	Daily	Monthly	Daily	Monthly**	Daily*
Research Asst. of Committees or Officers	--	--	--	--	294.00- 840.00	14.00- 40.00	840.00	40.00	900.00- 940.00	43.00- 45.00
Journal Clerks	--	--	--	--	745.50	35.00	798.00	38.00	1,000.00	48.00
Aides	--	--	--	--	294.00- 672.00	14.00- 32.00	657.00	31.00	--	--
Accountant	--	--	--	--	--	--	840.00	40.00	--	--
Attorneys	5,250.00	250.00	--	--	1,050.00- 1,620.00	50.00- 77.00	5,500.00- 8,250.00 (for session)		1,500.00- 2,250.00	71.00- 107.00
Administrator of Convention	--	--	--	--	--	--	10,555.54 (for session)		--	--

Source: * Estimated on basis of 21 working days per month.

1. Taken from Hawaii Constitutional Convention Studies, Constitutional Convention Organization and Procedures, Legislative Reference Bureau, 1968.
2. Taken from House Journal, 1967.
3. Taken from Proceedings of the Constitutional Convention of Hawaii of 1968, Vol. 1.
4. Taken from House Resolution Number 251, Regular Session of 1977.

** Each member of the House was allocated \$1,500.00 per month for personal staff; i.e., administrative aide, secretary, and other personal aides.

Chapter 5

DAILY CONVENTION AND COMMITTEE PROCEDURE

In 1968, daily convention business was considered according to the procedure enumerated in the order of business provided for in the rules of convention. The order of business is a schedule which specified the order of consideration of the various subjects coming before the convention on a particular day. Thus, when subjects are assigned to be considered on a particular day, they are placed in appropriate order on the order of business for that day.

Order of Business on the Convening Day of the Constitutional Convention

The order of business for the first day varied from other convention meeting days simply because of the organizational requirements, such as the seating and swearing in of delegates and, of course, because of the ceremonies which accompany the convening day.

The procedure for the convening day, July 15, 1968, was as follows:

- (1) Calling of convention to order by the temporary chairperson at 10:00 a.m.
- (2) Invocation of the Divine Blessing.
- (3) Address to the convention by the temporary chairperson.
- (4) Appointment of a temporary clerk of the convention by the temporary chairperson.
- (5) Appointment by the temporary chairperson of a Committee on Credentials to examine the certificates of election of the members of the constitutional convention.
- (6) Report by the Committee on Credentials and adoption of the committee's report.

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- (7) Roll call indicating the presence of all delegates.
- (8) Administration to the delegates of the oath of office by Chief Justice Richardson.
- (9) Introduction and adoption of a resolution to adopt the rules of the convention.
- (10) Election of convention officers.
- (11) Nomination and election of chief clerk, appointment of administrator of the convention, nomination, and election of assistant clerk.
- (12) Naming of the chairperson, vice-chairperson, and members of the standing committees and ratification by convention.
- (13) Resolution, and adoption of the resolution, to invite the governor to address the convention.
- (14) Address by Governor John A. Burns.
- (15) Letters, telegrams, and other communications to the constitutional convention read.
- (16) Benediction.
- (17) Adjournment for the day.

Should the procedure for the convention convening day, July 5, 1978, be similar, the following procedure is submitted for consideration by the delegates:

- (1) Calling the convention to order by the delegate from the first representative district in accordance with Act 17, 1977 Hawaii Special Session Laws.
- (2) Invocation of the Divine Blessing.
- (3) Remarks by the delegate with the highest number of votes from the first representative district (temporary chairperson).
- (4) Introduction of honored guests.
- (5) Selection of temporary clerk either by election or appointment by temporary chairperson.
- (6) Introduction of a resolution certifying the election of the delegates or appointment of a special committee on credentials to examine the certificate of election of the delegates and

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report thereon, and adoption of the special committee report by the convention.

- (7) Roll call by temporary clerk.
- (8) Appointment of committee to wait upon the chief justice and to request the chief justice to administer the oath of office to the delegates.
- (9) Adoption of rules.
- (10) Election of permanent officers; if chairperson is nominated for president, another delegate should take the chair.
- (11) Selection of employees, such as the chief clerk.
- (12) Announcement of names of chairperson, vice chairperson, and members of standing committees and adoption of resolution ratifying such announcement.
- (13) Adoption of resolution inviting the governor to address the convention and appointment of special committee of 3 delegates to escort the governor to the rostrum. Recess may be necessary to escort governor to rostrum.
- (14) Message of welcome by the governor.
- (15) Reading of miscellaneous communications by clerk.
- (16) Benediction.
- (17) Adjournment for the day.

The organization of the convention becomes complete upon the appointment of staff and other employees pursuant to convention rules.

Order of Business; Regular Convention Meeting Day

The order of business for a regular convention meeting day, specified in Rule 27 of the 1968 Constitutional Convention, was as follows:

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- (1) Calling of the convention to order by the president.
- (2) Invocation.
- (3) Determination of quorum.
- (4) Reading of the journal.
- (5) Presentation of petitions, memorials, and communications.
- (6) Reports of standing committees.
- (7) Reports of select committees.
- (8) Introduction and first reading of proposals.
- (9) Referral of proposals.
- (10) Motions and resolutions.
- (11) Unfinished business.
- (12) Special orders of the day. Any matter may be made the special order of a particular day or time by majority vote of the delegates present. Any matter which was made a special order for that day and whose consideration was not reached for that day shall be considered under the order of unfinished business on the next succeeding convention day.
- (13) General orders of the day. Consideration of the general orders of the day shall be, by Rule 28, in the following order:
 - (A) Consideration by Committee of the Whole.
 - (B) Reports of the Committee of the Whole.
 - (C) Committee reports and proposals reported from committees.
 - (D) Second reading.
 - (E) Action on reports of the Committee on Style as to arrangement and phraseology only.
 - (F) Third reading and agreement.

Rule 28 of the 1968 Constitutional Convention further states that any matter which was not considered in its order loses precedence for the day and shall appear on the following day in its regular order.

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Standing Committee Procedure

While the rules of the 1968 Convention specify the functions and duties of standing committees, they do not specify the procedure by which such committees may conduct their business excepting:

- (1) Rule 18(f) which states that no public hearings may be held by standing committees except after reasonable written notice is given to the secretary who in turn shall notify the public;
- (2) Rule 18(g) which states that all committee meetings will be open to the public; and
- (3) Rule 21 which states that no committee shall meet during convention sessions without special leave.

Therefore, Cushing's Manual, as used by the 1950 Constitutional Convention or Robert's Rules of Order as used by the 1968 Constitutional Convention, may be relied upon for standing committee procedures:

Standing committees are constituted to perform a continuing function and remain in existence for the life of the assembly which establishes them. Standing committees must be constituted by name by a specific provision of the by-laws or by a resolution requiring two-thirds vote for adoption.

When a committee has been appointed, the committee's chairperson should call it together, but if the chairperson fails to call a meeting any 2 members of the committee may call it together (unless the by-laws of the assembly state otherwise). Each meeting of the committee constitutes a session.

A committee does not have the power to punish its members for disorderly conduct. It must report the facts of disorderly conduct to the assembly.

When a Committee is Free to Meet Where it Pleases

A committee, which is under no directions as to the time and place of meeting, may meet when and where it pleases, and adjourn itself from day to day, or otherwise until it has gone through with the business committed to it; but, if it is ordered to meet at a particular time, and it fails of doing so, for any cause, the committee is closed, and cannot act without being newly directed to sit.

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Order of Proceeding

When any paper is before a committee, whether select or of the whole, it may either have originated with the committee or have been referred to it. In either case when the paper comes to be considered, the course for it is to be first read entirely through by the clerk of the committee, if there is one, otherwise by the chairman; and then to be read through again by paragraphs by the chairman; pausing at the end of each paragraph, and putting questions for amending, either by striking out or inserting, if proposed. This is the natural order of proceeding in considering and amending any paper, and is to be adhered to strictly in the assembly; but the same strictness does not seem necessary in a committee.

Original Paper, How Treated

If the paper before a committee is one which has originated with the committee, questions are put on amendments proposed, but not on agreeing to the several paragraphs of which it is composed, separately, as they are gone through with; this being reserved for the close, when a question is to be put on the whole for agreeing to the paper as amended or unamended.

Referred Papers, How Treated

If the paper be one which has been referred to the committee, they proceed as in the other case to put questions of amendment, if proposed, but no final question on the whole; because all the parts of the paper having been passed upon, if not adopted by the assembly as the basis of its action, stand, of course, unless altered or struck out by a vote of the assembly. And even if the committee are opposed to the whole paper, and are of opinion that it cannot be made good by amendments, they have no authority to reject it; they must report it back to the assembly, without amendments (specially stating their objections, if they think proper), and there make their opposition as individual members.* (*This rule is not applicable, of course, to those cases in which the subject (as well as the form or details of a paper) is referred to the committee.)

Report on Paper Originating With Committee

In the case of a paper originating with a committee, they may erase or interline it as much as they please; though, when finally agreed to, it ought to be reported in a clear draft, fairly written, without erasure or interlineation.

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Report on Paper Referred To Committee

But, in the case of a paper referred to a committee, they are not at liberty to erase, interline, blot, disfigure, or tear it, in any manner; but they must, in a separate paper, set down the amendments they have agreed to report, stating the words which are to be inserted or omitted, and the places where the amendments are to be made, by references to the paragraph or section, line, and word.

Amended Draft by Committee

If the amendments agreed to are very numerous and minute, the committee may report them altogether, in the form of a new and amended draft.

When Committee Has Agreed Upon a Report

When a committee has gone through the paper, or agreed upon a report on the subject, which has been referred to them, it is then moved by some member, and thereupon voted, that the committee rise, and that the chairman, or some other member, make their report to the assembly.

Making Report to the Assembly

When the report of a committee is to be made, the chairman, or member appointed to make the report, standing in his place, informs the assembly that the committee to whom was referred such a subject or paper have, according to order, had the same under consideration, and have directed him to make a report thereon, or to report the same with sundry amendments, or without amendment, as the case may be, which he is ready to do when the assembly shall please; and he or any other member may then move that the report be now received. On this motion being made the question is put whether the assembly will receive the report at that time, and a vote passes, accordingly, either to receive it then, or fixing upon some future time for its reception.

In 1968, the standing committees, not being able to meet during convention sessions, usually met in the afternoon or evenings to consider matters referred to them and to hold public hearings. Their meetings were open to the public and were frequently attended by other delegates, who apparently were able to participate in the meetings. Guest speakers on the subject under consideration were also invited to present their views. Towards the end of the

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convention, in order to speed up the work of the standing committees, the convention met in the late morning hours, thus enabling the standing committees to meet earlier and prepare reports for presentation to the convention which convened later in the day.

Committee of the Whole Procedure¹

Rules 22-26 of the Rules for the Constitutional Convention of Hawaii, 1968, provided for the operations of the committee of the whole:

RULE 22. The Convention may upon motion resolve itself into a Committee of the Whole for the consideration of any matter. In forming the Committee of the Whole, the president of the Convention shall appoint a chairman to preside.

RULE 23. Upon consideration of the report or proposal of any standing committee by the Committee of the Whole, consideration of all matters on the same subject shall be in order. All amendments made to proposals, reports, resolutions and other matters submitted to the Committee of the Whole shall be noted and reported.

RULE 24. The rules of the Convention shall be observed in the Committee of the Whole so far as they may be applicable except that the Committee of the Whole cannot adjourn the Convention; no question may be laid on the table; the previous question shall not be ordered; and the motion to postpone indefinitely shall not be in order.

RULE 25. Forty-two delegates shall be a quorum for the Committee of the Whole to do business.

RULE 26. A motion for the rising of the Committee of the Whole shall always be in order unless a member of the committee is speaking or a vote is being taken, and shall be decided without debate.

When the chairperson of the Committee of the Whole took the chair, the following usually took place:

- (1) Calling of the committee to order.
- (2) Announcement of the proposal, standing committee report, resolution or any other matter which was scheduled to be considered by the committee of the whole on that day.

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- (3) Explanation of the standing committee report and/or provisions of the committee proposal by the chairperson of the standing committee which submitted such report and proposal; and/or
- (4) Immediate discussion, debate, and amendment and/or adoption of sections of the standing committee report and committee proposal. If debate occurs, the following convention rule applies, unless the delegates determine otherwise in plenary convention session:

RULE 41. No delegate shall speak more than twice on one question, or longer than ten minutes the first, or longer than five minutes the second time, or more than once until other delegates who have not spoken shall speak if they so desire, without first obtaining leave of the Convention; and the mover of the proposition shall have the right to close the debate, provided that the person in charge of a proposal on Third Reading and final agreement shall have the right, if he desires, to close the debate and he may announce such desire at any time before the taking of the vote on the question.

During debate, no delegate may mention any other delegate, then present, by name. The delegate may describe the other delegate by that delegate's seat in the convention or in some other manner, such as the member on the other side of the question. In this way, hostility and excitement of personal feelings are prevented.

- (5) Rising of the Committee of the Whole and reconvening of the plenary convention session after agreement on the standing committee report and proposal has been reached. Agreement may be tentative or only on portions of the report and proposal. In this case, the Committee of the Whole may meet again until full agreement is reached.
- (6) Report by the chairperson of the Committee of the Whole in plenary convention session on the tentative or full agreement.²

According to Cushing's Manual of Parliamentary Practice and Robert's Rules of Order, which were the parliamentary authorities of the 1950 and 1968 Conventions, respectively, only 3 types of motions are in order in a Committee of the Whole:

- (1) Motions to adopt;

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- (2) Motions to amend; and
- (3) Motions to rise and report.

Further rules of procedure of a Committee of the Whole are provided in Cushing's Manual and in Robert's Rules of Order.

The Committee of the Whole is a device which permits the full assembly to consider matters in detail under the more informal conditions of a committee.

A motion to go into the Committee of the Whole is made by a member of the assembly; and, if the motion is adopted, the presiding officer of the assembly calls another member to the chair and becomes a member of the Committee of the Whole.

During time spent in the Committee of the Whole, any member can speak in debate on the main question, or any amendment, for the same length of time members are allowed by the assembly's rules. Members may speak as often as they are able to get the floor.

Other rules affecting the Committee of the Whole are the following:

- (1) A Committee of the Whole cannot appoint a subcommittee or refer the matter to an ordinary committee.
- (2) An appeal from a decision of the chair must be voted on directly; it cannot be postponed or laid on the table.
- (3) The only way to limit or close debate in the Committee of the Whole is for the assembly to specify those conditions before going into the Committee of the Whole. If the Committee of the Whole during its proceedings wishes to limit debate, it can only do so by rising and requesting the assembly to impose the desired limits.
- (4) Neither a roll call vote nor a vote by ballot can be ordered.
- (5) A Committee of the Whole has no power to impose disciplinary measures on its members. If the committee becomes out of control, the presiding officer of the assembly should take the chair and dissolve the assembly.

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- (6) A Committee of the Whole cannot adjourn or recess, but must rise in order that the assembly may do so.

The Committee of the Whole rises and reports when:

- (1) It has completed consideration of the matter referred to it.
- (2) It wishes to bring the meeting to an end.
- (3) It wants the assembly to take any action which requires the adoption of a motion which is not in order in the committee.

On these motions, the chairperson of the Committee of the Whole, or a member through the chairperson, addresses the presiding officer of the assembly who then puts the question to the assembly.

If the Committee of the Whole has come to no conclusion, the written report must show this.

A quorum in the Committee of the Whole is the same as the quorum for the assembly, unless the by-laws of the assembly state that a different quorum will be used.³

The 1950 Convention usually met in Committee of the Whole for about 2 hours in the morning, and oftentimes in the afternoon for another 2 hours, in order to give full consideration to each referred measure. The 1968 Constitutional Convention met in the Committee of the Whole much less frequently, and used more time for standing committee reports.

Chapter 6

THE PROCESS OF DRAFTING A CONSTITUTION: THE ADOPTION OF RESOLUTIONS

The process by which the 1968 Convention drafted changes in the constitution differs significantly from the legislative process which requires that all laws shall be enacted by bills and pass 3 readings in each house. While the bill is the vehicle in the legislative process, the vehicle in the process of drafting a constitution is a proposal, which has to pass 3 readings.

A proposal, after it was drafted, becomes part of the revised constitution to be submitted to the people by completing the process specified in Rule 48 of the Rules for the Constitutional Convention of Hawaii, 1968:

RULE 48. The regular order to be taken by proposals shall be as follows:

(a) Introduction, First Reading, and printing of sufficient copies of each proposal.

(b) Reference to a general standing committee by the President.

(c) Report by committee and printing of sufficient copies thereof.

Four Convention days after the printing of said report it shall be placed on the general orders.

(d) Second Reading: Consideration by the Committee of the Whole and by the Convention and action on amendments offered by delegates.

(e) Reference to the Committee on Style for report within five Convention days.

(f) Report of the Committee on Style and printing of sufficient copies, if necessary.

(g) Action on report of Committee on Style. Consideration and action on amendments as to phraseology only; action on the report as amended and printing of sufficient copies, if necessary.

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(h) Third Reading and agreement.

(i) Reference to the Committee on Style for arrangement of sections and article or articles and for form.

(j) Report of Committee on Style as to arrangement of sections and article or articles and printing of sufficient copies, if necessary.

Drafting of Proposals¹

Proposals for introduction by delegates or by committees were drafted by a variety of agencies, the attorney general, the legislative reference bureau, individual delegates, and general standing committees. In addition, private groups with special interests in particular constitutional provisions also drafted proposals for introduction by a delegate. In all cases, all proposals had to conform to the drafting standards as prescribed by the rules of the Convention and could only be introduced by a delegate or group of delegates or by a committee of the convention. The rules further provided that a proposal which was not properly drafted be considered as a petition and be referred to an appropriate committee as such.

Introduction, First Reading and Printing, and Referral to a General Standing Committee

Copies of the drafted proposal, one original and 7 copies, were delivered and submitted to the secretary of the convention who then numbered the proposal in consecutive numerical order. It was then formally introduced in the convention, automatically passed on First Reading and ordered to printing. Upon introduction, the reading of the title and number of the proposal by the secretary in convention constituted its First Reading. The proposal was then in order for Second Reading which could not occur on the same day and took place after being referred to, considered, and reported out by a general standing committee.² After the First Reading, the secretary retained one original copy and delivered one copy of the proposal to the chairperson of the committee to which the proposal had been referred, and one copy to the Committee on Accounts and Printing.

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During the 1968 Constitutional Convention, all delegate proposals were filed by the standing committees which reported out committee proposals.

Committee proposals or proposals drafted by standing committees were introduced by the chairpersons for their respective committees via the standing committee report. There were 2 types of committee proposals:

- (1) Committee proposals originating in committee and drafted without specific reference, meaning a proposal whose drafting was not the result of a redraft of proposals referred to the committee. The subject matter of this type of committee proposal must properly fall within the consideration of the committee introducing it; and
- (2) Committee proposals which were the result of a redraft of individual proposals referred to the committee.

The convention, by Rule 57, could set a deadline for the introduction of proposals by delegates. There was no deadline for the introduction of proposals from committees.

Referral to a General Standing Committee³

After being printed, the proposal was referred to an appropriate general standing committee by the president. If the proposal embraced subject matter which fell within the proper consideration of several committees, the president divided the proposal into logical parts, each part being referred to the appropriate committee. If the subject matter was indivisible, the president referred the proposal to an appropriate committee with the instructions that such committee consult with other appropriate standing committees.

In actual practice, proposals were often submitted well in advance of the convention session where formal introduction occurred. This method enabled the secretary or chief clerk to perform such administrative tasks as the numbering and recording of proposals and also enabled the president to review each proposal and to decide upon its referral to the proper committee, and announce such decision in convention session. After the first reading by title

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and referral to a general standing committee by the president, the proposal was sent to be printed. After sufficient copies were printed and distributed to the delegates, the Committee on Accounts and Printing submitted a report to the convention stating that the proposal had been printed and distributed.⁴

Report by General Standing Committee and Printing⁵

The committee to which the proposal was referred met when the convention was not in session to consider the proposal:

- (1) If the proposal was found satisfactory and comprehensive, it was reported out of committee without changes by a standing committee report for consideration by the committee of the whole and second reading. This did not occur in 1968.
- (2) If the proposal was found unsatisfactory in any way or limited in scope, it was amended or expanded upon by the committee. The result of the amendment and redraft was a committee proposal which was attached to the standing committee report and presented to the convention for consideration. The standing committee report stated the committee's findings and conclusions and recommended that:
 - (A) The proposal(s) which was (were) found unsatisfactory be filed and the attached committee proposal be considered instead; and/or
 - (B) The attached committee proposal be passed on first reading.
- (3) If the subject matter of the proposal was not appropriate for consideration by the committee, it was reported out, and recommendation for referral to another standing committee was made.

Upon receipt by the convention, the standing committee report was adopted and/or sent to printing, and the committee proposal was numbered in separate series, passed on first reading by title, and ordered to print. After both documents were printed, the president placed them on the general orders of the day for convention consideration which occurred after a minimum of 4 days following.

Second Reading; Consideration by the Convention in Committee of the Whole⁶

After the 4-day minimum after printing, the standing committee report and attached committee proposal were placed on the agenda for consideration and second reading by the convention. The convention considered the standing committee's proposal and report by resolving itself into a Committee of the Whole. In forming the Committee of the Whole, the president appointed a chairperson to preside, and the convention was able to hold full discussion and debate on the measure. After the committee proposal was fully considered and amended to the satisfaction of the delegates, the Committee of the Whole, upon motion, would rise and once more become the plenary convention body with the president in the chair. The chairperson of the Committee of the Whole then gave an oral progress report on the standing committee report and committee proposal and asked leave to sit again. In the meantime, the Committee of the Whole chairperson prepared a written report and an amended draft of the committee proposal which was then printed and distributed to the delegates for study. The delegates again resolved themselves into a Committee of the Whole to consider the Committee of the Whole report and the amended committee proposal. If satisfactory, the Committee of the Whole went back into the plenary session of the convention, and a motion made by the Committee of the Whole chairperson for the adoption of the Committee of the Whole report which recommended:

- (1) The adoption of the standing committee report and passage of committee proposal on second reading, if both were found satisfactory in the committee of the whole; or
- (2) The adoption of the standing committee report with exceptions or in an amended form and amendment of the committee proposal in the manner proposed by the Committee of the Whole and passage on second reading of the committee proposal in an amended form.

The convention, by adopting the Committee of the Whole report, accepted its recommendations and, in effect, took action on the standing committee report and committee proposal.

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If any delegate wished to make further changes to the committee proposal or reports after the submission of a written report by the Committee of the Whole chairperson to the convention in plenary session, the delegate could propose amendments to it from the floor.⁷

All amendments to proposals were required, by rule, to be in writing and delivered to the secretary who in turn delivered a copy of the amendment to the Committee on Accounts and Printing for printing and one copy to the chairperson of the committee to which the proposal concerned was referred. The original was retained by the secretary for the records. All amendments were entered in the journals.

A proposal which was amended or redrafted was identified by the abbreviation R.D. and a number on its first page. "R.D." stood for redraft and the number indicated the number of times it was redrafted or amended.

Referral to the Committee on Style⁸

After passing second reading, the amended committee proposal was referred to the style committee by the president. It was the style committee's particular function to consider and amend the phraseology and arrangement of the proposal referred to it.

Report of the Committee on Style and Printing

The style committee was required to report on all proposals referred to it within 5 days of their referral. Subject to the time limitation, when the style of the proposal was found agreeable, the committee reported on the proposal, indicating all changes in phraseology, and arrangement and the reasons for such changes. The report of the Committee on Style and the amended proposal were submitted to the convention and printed.

Third Reading and Agreement

If the convention concurred with the standing committee report and the committee proposal, as submitted by the style committee, the report was adopted and the proposal passed on third reading.

If any delegate, however, disagreed with the phraseology or arrangement of the proposal as reported out of the style committee, the delegate offered an amendment to change the unacceptable phraseology. If the amendment was adopted, the amended proposal was again referred to the style committee for consideration and report.

The style committee again submitted a standing committee report on the amended proposal, which may have been further amended in committee, to the convention. Both documents were then sent to printing, after which, the amended proposal and the standing committee report were again considered by the convention for passage on third reading and adoption.

Since the procedure described above took much time, the convention sometimes suspended the rules; such action required the affirmative vote of the majority of the membership. Thus after being amended, the proposal was examined on the floor of the convention by a subcommittee of the style committee. If the change was acceptable to this subcommittee, the convention proceeded to consider the amended proposal on third reading.

The secretary was required by rule to prepare the proposal in proper form for third reading and to affix his signature on each page of the copy to be used as the official copy.

At its third reading the proposal was read throughout and its passage required the affirmative vote of the majority of the membership, such vote being taken by roll call.⁹

Referral to the Committee on Style of the Agreed Upon Proposal

After passing third reading, the proposal was referred back to the style committee for proper arrangement in the constitution.

Report on the Form of the Constitution from the Committee on Style

After the style committee received all proposals agreed upon by the convention, it submitted a report on the arrangement of these proposals and the final form of the constitution. When the report of the style committee and the final form or arrangement of the constitution were found satisfactory, the convention adopted the standing committee report and passed the final form of the amendments to the constitution on final reading. Passage on final reading required the affirmative vote of the majority of the membership and such vote was taken by roll call.

Referral to the Committee on Submission and Information and Report

The rules of the 1968 Convention required that the constitution as agreed upon by the delegates be referred to the Committee on Submission and Information for consideration and recommendations as to the manner of submission of the constitution to the people. The committee submitted a report, including a required resolution stating the manner of submission of the proposed amendments to the constitution to the people.¹⁰ The adoption of this resolution required, by convention rule, the affirmative vote of majority of the membership.

Signing of the Document

After the document passed final agreement and the manner of submission was agreed upon, the delegates signed the proposed constitution, the president first, then vice-presidents, followed by the secretary and the remaining

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delegates in alphabetical order. Certified copies of this document were then sent to the governor, the delegates, both houses of the legislature and other government officials.

Disposition in the Archives

The original copy of the signed constitution was then delivered to and kept in the archives for safekeeping and public display.

Submission to the People for Ratification

The proposed constitution as agreed upon by the delegates on September 24, 1968, was submitted to the electorate in the general election held in November 1968.¹¹

The time of submission of the work of the 1978 Convention will be at the general election to be held in November 1978, unless the convention decides otherwise.

The Committee on Submission and Information

The work of the Submission and Information Committee should be mentioned, for it continued to function after the convention had adjourned. During the convention, this committee kept the public informed of the activities of the convention by arranging for radio, newspaper, and television coverage and preparing press releases. The committee gathered information by requesting each committee to fill out a form stating their activities, proposals under consideration and dates for public hearings. The information on the form was edited and released to the communications media.¹²

At the end of the convention, the committee began the work of informing the public on the provisions of the proposed constitution before the plebiscite in

November of 1968. The committee arranged for reports written by delegates and others on the various articles of the constitution, which were printed in the newspapers. Other delegates were given speaking engagements and discussed provisions of the constitution on the radio and before interested groups.

Adoption of Resolutions¹³

The adoption of resolutions was incidental to the process of revising a constitution. Although the rules of the convention did not specify the process for their introduction or adoption, resolutions covering a variety of subjects were introduced and adopted in the 1968 Convention. The resolutions were drafted either by the delegates or agencies, such as the attorney general's office or the legislative reference bureau. The remaining steps in the adoption process were obtained from examination of the Journal of the 1968 Constitutional Convention.

Resolutions were offered for introduction by a delegate or groups of delegates and numbered in consecutive order by the secretary. Resolutions of a noncontroversial nature were usually adopted upon introduction and then printed for distribution. Resolutions with controversial subject matter, on the other hand, were usually referred to an appropriate general standing committee after introduction, and then sent to printing. After committee consideration of the resolution, it was reported out with the recommendation that the resolution:

- (1) Be filed;
- (2) Be adopted;
- (3) Be adopted in amended form; or
- (4) Be filed and the convention requested to draft appropriate resolutions.

The standing committee report was then presented to the convention where the resolution and report may again be subject to amendment. When the convention reached agreement, the committee report was acted upon.

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Although it never occurred in 1968, if a resolution is amended on the floor, the committee report should be separated from the resolution and filed, and the resolution as amended, or as further amended, adopted.

It can probably be assumed that the convention rules relative to the size of paper and the number of copies to be submitted to the secretary or clerk applied to the submission of resolutions.

Chapter 7

PARLIAMENTARY PROCEDURE, MOTIONS AND VOTING

The 1968 Constitutional Convention acted upon business before it according to parliamentary procedure as laid down in its rules of procedure, which were drafted and adopted at the beginning of the convention session. Although these rules covered most procedural situations, Rule 33 of the same provided that parliamentary questions, which are not covered by the existing convention rules, shall be governed by the rules as laid down in Robert's Rules of Order. The 1950 Convention used Cushing's Manual of Parliamentary Procedure. On the other hand, Rule 34 of the Rules for the Constitutional Convention of Hawaii, 1968, provided that any rule of the convention may be suspended by a two-thirds vote of the delegates or amended or repealed by a majority vote of the delegates, but any repeal or amendment shall lie on the table for one day before being voted upon.

A large portion of the rules of parliamentary procedure is devoted to the methods by which the work of the assembled body is acted upon or to the procedure on motions and voting. Such procedure is provided primarily in Rules 14 and 15 and 31-46 of the Rules for the Constitutional Convention of Hawaii, 1968.

Quorum and Majority

Before the convention can conduct or proceed with its business, it must first have a quorum present. According to Rules 14 and 15 of the 1968 Convention, the presence of 42 delegates constituted a quorum of the 1968 Convention. A majority of such a quorum, 22 delegates, is sufficient for adopting motions or resolutions and taking other action except where a greater number of affirmative votes is required by the convention rules.¹

The quorum for the 1978 Convention is 52 delegates, a majority of the membership, and the majority of such quorum is 27 delegates.

Obtaining the Floor

Rule 42 of the 1968 Convention provides that a delegate desiring to present any communication or to move a question to the convention body in session must first obtain the floor by rising from the delegate's seat and addressing the president. This is done by calling out the president's title, "Mr. or Mme. President". Upon recognition by the president, the delegate may proceed to state the communication or to make the motion. When 2 or more delegates rise and address the president at nearly the same time, the one heard first is recognized first. Although the president's decision on this matter may be appealed, it is usually accepted by the delegates.

Once a delegate has obtained the floor, the floor may be held, subject to the rules of debate, as contained in Rule 41:

RULE 41. No delegate shall speak more than twice on one question, or longer than 10 minutes the first, or longer than five minutes the second time, or more than once until other delegates who have not spoken shall speak if they so desire, without first obtaining leave of the Convention; and the mover of the proposition shall have the right to close the debate, provided that the person in charge of a proposal on third reading and final agreement shall have the right, if he desires, to close the debate and he may announce such desire at any time before the taking of the vote on the question.

A delegate yields the floor when the delegate sits down or permits another delegate to speak.

A delegate may not rise to speak for any purpose while the president is stating a question, or a count is being had, or the roll is being called. A delegate may, however, interrupt a speaker, without recognition, on a question of personal privilege, point of order, request for information and a call for the division of the house.

Question of Personal Privilege, Point of Order, Request for Information and Calling a Division of the House²

These questions require immediate consideration and are always in order. Unlike regular motions, they do not require seconds and may occur at any point during the proceedings.

When the rights and privileges or the comfort and convenience of a member of the convention are challenged or questioned, that delegate may rise and say, "I rise to a question of personal privilege." The president then directs the delegate to state the question of personal privilege, after which the president renders a decision on the question. Once the question is settled, the proceeding continues at the point where it was interrupted.

When any irregularity or noncompliance to established parliamentary procedure is occurring, a delegate may rise and say, "I rise to a point of order." The president then interrupts the proceedings; and, if a delegate is speaking, that delegate immediately yields the floor. The president then directs the questioning delegate to state the point of order. Such statement should be brief and concise and cite the parliamentary authority for the point. The president considers the delegate's statement and renders a decision on the question of order and states the reasons for the decision which may be appealed to the convention.

When a delegate desires information relevant to the business at hand but not related to parliamentary procedure, the delegate may rise and say, "I rise for information." The president then asks the speaker if the speaker will yield to a question. If the speaker is willing, then the inquiring delegate may proceed to state or ask the question.

When the outcome of a voice vote is questionable, any delegate may rise and say, "I call for division of the assembly." The president then puts the question once more, and a count of ayes and noes is taken by a rising vote. In a rising or standing vote, those voting in the affirmative rise from their seats, and remain standing until counted. The negative vote is tallied in the same way.

Decisions and Appeals

A decision or ruling of the president is subject to appeal. Opinions of the president are not subject to appeal.³

In an appeal to the convention, a delegate rises and says, "I appeal from the decision of the chair." According to Robert's Rules of Order, a speaker may be interrupted and the appeal must be seconded. Limited debate is allowed; each member speaks only once on such appeal. The question is settled by majority vote of the quorum present.

Motions

After obtaining the floor, any member, except the presiding officer, may make a motion. A motion is a proposal for action or decision by the convention or any deliberative body. Before a motion may be debated, amended, or voted upon, it must be seconded. A motion may be withdrawn before any decision or amendment is made upon it.

The 1968 Convention rules provide that motions may be made orally or in writing. The president shall state the motion made orally, or read aloud the written motion.

Rule 37 of the 1968 Convention provides that in the consideration of any question⁴ before the convention, only the following motions will be received and have precedence in the order stated:

- (1) Adjourn. A motion to adjourn is always in order and is not amendable or debatable. A motion to adjourn with qualifications, such as a motion to adjourn for a period longer than one day, is always in order but is amendable and debatable.
- (2) Recess. A motion to take a recess is always in order and is not amendable or debatable.

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When a motion to adjourn or for recess is carried, delegates or officers shall not leave their places until the president has declared the adjournment or recess.

- (3) Call of the convention. A motion for a call of the convention is a motion to compel the attendance of absent delegates. This motion may not be amended or debated.

If no quorum is present, the motion becomes a demand.

- (4) Lay on the table. A motion to lay on the table is a motion to postpone the consideration of any matter or proposition for a short but indefinite time. This motion is not amendable or debatable.

- (5) Previous question. A motion for a previous question is not amendable or debatable. The president shall put the previous question in this form, "Shall the main question be now put?" The motion is carried by a two-thirds vote of the delegates present and its effect is to end debate and bring the Convention to vote on pending amendments, if any, to the main question, and then on the main question. If decided in the negative, the effect of the previous question is to put off the consideration of the main question for that day. All incidental questions of order arising after the motion for the previous question is made, and pending such motion, are decided, whether on appeal or otherwise, without debate.

- (6) Postpone indefinitely. This motion is not amendable but is debatable.

The indefinite postponement of the consideration of an undesirable matter is, in effect, the final disposition of the subject.

- (7) Postpone to a certain time. This motion is debatable and amendable.
- (8) Go into committee of the whole. The motion is debatable and amendable.
- (9) Commit (or recommit) to committee of the whole. The motion may be debated and amended.
- (10) Commit (or recommit) to a standing committee. This motion is amendable and debatable.
- (11) Commit (or recommit) to a select or special committee. The motion is amendable and debatable.
- (12) Close debate at a specified time. This motion is not debatable but amendable.

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(13) Amend. The motion to amend is debatable and amendable.

Motions (7) through (12), inclusive, preclude debate on the main questions.

The 1968 Convention rules also contain rules for the motions for division of a divisible question, for ayes and noes, and for reconsideration.⁵ These motions are always in order but are not amendable or debatable. A motion for division of a divisible question is a motion to divide a complicated motion or question into 2 or more parts, each part or question being considered and acted upon separately. A motion to divide a question cannot be applied to a motion to strike out and insert which is deemed an indivisible question. The result of a division of a question is the same as when a motion to strike out parts is made and put to a question. The motion to strike out may, itself, be made and if lost, shall not preclude amendment nor a subsequent motion to strike out and insert.

A motion for ayes and noes is a motion for a roll call vote. In 1968, this motion was carried upon the vote of 10 delegates.

According to Rule 39 of the 1968 Convention:

...A motion to reconsider any vote must be made before the end of the second Convention day after the day on which the vote proposed to be reconsidered was taken, and by a delegate who voted in the majority and the same majority shall be required to adopt a motion to reconsider as was required to take the action to be reconsidered. When a motion for reconsideration is decided, that decision shall not be reconsidered, and no question shall be twice reconsidered; nor shall any vote be reconsidered upon either of the following motions:

- To adjourn.
- To lay on the table.
- To take from the table; or
- For the previous question.

The parliamentary purposes which some of the previously discussed motions serve are:

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<u>Purpose</u>	<u>Motions Used</u>
Amendment of a proposal:	Motion to commit or recommit to committee; motion to amend; motion for division of a divisible questions.
Ending debate:	Motion for previous question; motion to close debate at a specified time.
Postponement of action:	Motion to lay on the table; motion to postpone indefinitely; motion to postpone to a certain time; motion to commit or recommit to committee.
Preventing action:	Motion to adjourn; motion to lay on the table; motion to postpone indefinitely; motion to commit or recommit to committee.
Reconsideration of action:	Motion to reconsider; motion to take from the table.
Preventing reconsideration:	Motion to lay reconsideration motion on the table.

Voting

The 1968 Convention used the following methods of voting:

- (1) Voice vote. This is the least formal and most frequently used method of voting. It is an oral and uncounted vote by which the delegates express their collective opinion. After a motion is made and seconded, the president puts the question to which all delegates present and in favor answer in unison by saying "aye". Those opposed answer in the same manner by saying "no". The president then announces the result based on a decision of what seemed to be the majority vote. If the results are doubted, a more formal vote by division of the house, a rising vote, or by ayes and noes, a roll call vote, may be taken.
- (2) Unanimous consent. A vote by unanimous consent achieves the same result as the voice vote. In this case, after a motion is made and seconded, the president asks if there is any objection to the motion. If there are no objections, the president announces that the proposition has been passed or acted upon by unanimous consent.
- (3) Division of the house, a rising or a standing vote. Any delegate may demand a rising or a standing vote on a

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question by calling for a division of the house. The president states the question and then asks those voting in the affirmative to rise from their seats and remain standing until counted. After these delegates are seated, those voting in the negative stand and are counted. The results of the tally are then announced by the president.

- (4) Vote by ayes and noes, a roll call vote. Whenever 10 delegates request a vote by ayes and noes upon any question, the clerk begins a call of the roll of the members of the convention. Upon the call of the delegate's name, a delegate is requested to vote "aye" or "no" on the question and the president announces the result of the vote. Each delegate's vote is recorded and entered in the journal of the convention.

Rule 32 of the 1968 Convention provides that a delegate, who is present and refuses to vote, either in the affirmative or the negative, upon any question on which a roll call vote is required, may pass the first time the delegate's name is called but if the delegate remains silent the next time the delegate's name is called, the delegate shall be recorded as voting in the affirmative.

The delegates of the 1950 Convention also used the term Kanalua in connection with the roll call vote. Kanalua meaning to doubt or hesitate in Hawaiian was called by a delegate in response to the calling of the delegate's name on a roll call vote. The delegate thus postponed the delegate's negative or affirmative vote until the end of roll call, and if the delegate still refused to vote, the delegate was recorded as voting in the affirmative.

Rule 31 of the 1968 Convention provides that a delegate has the right to change the way the delegate voted before the results of the vote are announced.

The number of votes necessary to carry or adopt most motions or resolve most questions is a majority of the quorum present, which is as follows:

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	<u>Quorum</u>	<u>Majority of Quorum</u>
1950 Convention	32 delegates	17 delegates
1968 Convention	42 delegates	22 delegates
1978 Convention	52 delegates	27 delegates

A greater number of votes is required to adopt or carry the following motions:

Amendment of rules:	Majority of membership; 1950--32 delegates; 1968--42 delegates; 1978--52 delegates.
Suspension or repeal of the rules:	Majority of membership; 1950--32 delegates; 1968--2/3 present, a quorum being present, minimum was 28 delegates.
Suspension or removal of members:	Two-thirds of membership; 1950--42 delegates; 1968--55 delegates; 1978--68 delegates.
Passage of proposal on third reading and final reading of constitution:	Majority of membership; 1950--32 delegates; 1968--42 delegates; 1978--52 delegates.
Adoption of resolution providing submission method:	Majority of membership; 1950--32 delegates; 1968--42 delegates; 1978--52 delegates.
Presentation of amendment to proposal on third reading:	Unanimous consent of delegates present; 1950--32 delegates minimum; 1968--42 delegates minimum; 1978--52 delegates minimum.

Chapter 8

CONVENTION DOCUMENTS

The delegates of the 1968 Constitutional Convention prepared, introduced, and received a variety of documents and materials in the course of drafting the state constitution.

These documents are a written record of those subjects, ideas, and thoughts which confronted, were considered, and acted upon by the convention.

Proposals

Any ideas and subjects for incorporation into the constitution were expressed in and introduced to the convention by proposals. A proposal was a formal form for introducing ideas or subjects, which were specifically worded for direct incorporation into the constitution. Proposals were introduced by one or more delegates or by a committee with the intent of a resolution which technically meant that the phrase "Resolved, that the following be agreed upon as (amending Article(s) ____ of) or (adding a new article to) the state constitution, preceded the proposition."¹

Proposals introduced by delegates (see Specimen 1) encompassed any subject matter and were unlimited in breadth. Therefore, a delegate's proposal may be limited to one point or section of an article or, on the other hand, a whole constitution.

A proposal introduced by a committee could embrace only those subject areas which the introducer-committee may properly consider under the rules of the convention (see Specimen 2). Committee proposals were required, by convention rule, to be comprehensive and embrace and assume the form of whole articles or logical subdivisions of them. A committee could report out without specific reference, and introduce a proposal originating in its committee, or it

could report and introduce a proposal drafted pursuant to action taken on proposals referred to it. In both cases, the committee proposal need not be referred back to the committee introducing the same. All proposals referred to committee had to be reported on by such committee.

Each proposal required a title stating concisely the general nature of the contents of the proposal and passage of 3 readings before becoming part of the proposed constitution. By convention rule, each proposal was typed on 8-1/2" x 11" white paper with one original and 7 copies, dated and signed by the introducer-delegate(s) or the chairperson of the introducer-committee. Committee proposals which were amended or redrafted by committees were identified by the abbreviation "R.D. ____" at the upper right hand corner of the title or first page (see Specimen 3). "R.D." meant redraft, or that the original proposal had been revised or redrafted, while the number following indicated the number of times the proposal had been redrafted.

Amendments to Proposals

The amendment form (see Specimen 4) for proposals was concise and brief, stating:

- (1) The word, provision, section, or article to be amended;
- (2) The word or phrase, sentence, paragraph, section, or article, specifically worded, to be directly substituted; and
- (3) The name(s) of the delegate(s) offering the amendment.

All amendments offered were entered in the journal.

Petitions

Those proposals which did not conform to the standards previously discussed were referred to committees as petitions. By Rule 55 of the 1968 Convention, a petition was a proposal which did not conform to the convention rules for proposals. Petitions could be submitted by nondelegates.

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In 1968, 2 petitions were submitted by citizens and groups requesting convention consideration of various ideas or subjects for incorporation into the constitution (see Specimen 5). After submission, these petitions were referred to an appropriate standing committee according to subject matter. The committee then took the petition under consideration and if acceptable, the idea or subject matter which it expounded was specifically worded and incorporated into a committee proposal, and the petition filed.

Petitions appear to be a method by which the public can make their desires and thoughts known to the convention. Although not precluded from introducing petitions, it seems that the delegates did not use this form.

Resolutions

Resolutions were a less formal form of convention expression and did not have the force and effect of proposals (see Specimen 6). Although this form could be used to express ideas on subjects to be incorporated into the constitution, it was used primarily to express the attitude or the sentiments of the convention, such as:

- (1) Appreciation and thanks to the press and radio for accurate news coverage, the various government agencies who rendered research assistance and other services to the convention and other deserving persons and organizations.
- (2) Sympathy and condolence of the convention upon the death of honored citizens.
- (3) Congratulations of the convention to deserving persons or organizations.

Resolutions, unlike proposals, needed only to be adopted once by a majority vote of the quorum present. While resolutions of the type listed above were almost always adopted upon introduction, others of a more controversial nature were referred to an appropriate committee for their consideration and recommendation before final action was taken by the convention.²

Committee Reports³

Standing Committees (see Specimen 7)

Committee of the Whole (see Specimen 8)

Special Committees (see Specimen 9)

Committee reports are written statements by the various committees which set forth the findings, results, and recommendations on all matters which are referred to it or which can properly be considered by the committee.

A committee report usually contains the following sections:

- (1) Introduction--containing reference to the subject matter or the number and full title of each measure, including resolutions, being reported on;
- (2) Purpose, findings, conclusions--stating the purpose of each measure, findings, and reasons for the recommendations of the committee and disposition of the matter under consideration; and
- (3) Recommendations--stating clearly the recommendations as to the action which should be taken by the assembled body.

Under Convention Rule 48 of 1968 each proposal referred to a committee was reported on. The committee report had to indicate whether the proposal had been adopted in whole, or in part, in the accompanying committee proposal, or whether it had been disapproved or disposed of in some other manner. Each standing committee report recommending the incorporation of any matter into the constitution was accompanied by a committee proposal, drafted in accordance with convention rules. Each committee report, usually a committee of the whole report recommending amendment or revision of a committee proposal, was accompanied by the redrafted committee proposal which was identified by a "R.D. ____" notation. Likewise a committee report recommending the amendment of a resolution was accompanied by the redrafted resolution with a "R.D. ____" notation.

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Committee reports were typed on 8-1/2" x 11" paper and signed by the committee chairperson and members. Those committee members who disagreed with the findings of the majority could:

- (1) Signify such disagreement by writing "I do not concur" at their place of signature; or
- (2) Sign the report with reservations; or
- (3) Submit a minority report.

Minority reports were structured in the same way as regular or majority committee reports and stated the reasons for the disagreement by the committee member(s) in the minority.⁴

Proceedings of the Constitutional Convention

- (1) Journals. The journal of the constitutional convention is an official record of the proceedings of the convention. In the 1968 Convention, the secretary prepared a concise statement of all matters brought before the body, and the action taken thereon by the convention for each session day.

The journals are not a verbatim record as are the proceedings of the committee of the whole, but rather, a brief and concise account of all business transacted, such as:

- (a) Proposals introduced by title and name of introducers;
- (b) Proposals acted upon;
- (c) Committee reports submitted and acted upon;
- (d) Roll call votes; and
- (e) Communications received.

Each day's journal was typewritten and presented to the convention on the following session day for approval. The last convention day's journal was approved on the same or last day.⁵

The journal for the entire convention and the convention documents and financial statements were published under the supervision of the administrator of the convention.

- (2) Proceedings of the Committee of the Whole. The proceedings of the Committee of the Whole were taped. They were wholly transcribed by early 1969, but not published until 1972. The proceedings were transcribed and published to insure that the important discussions on the proposed constitution which took place in the Committee of the Whole would be preserved for the purpose of assisting the courts and constitutional lawyers in interpreting the revised constitution.

Rules of the Convention⁶

The Rules for the Constitutional Convention of Hawaii of 1968 were based on the rules of the Constitutional Convention of Hawaii of 1950. These rules were in turn based on the Rules of the Missouri Convention of 1943 and the New Jersey Convention of 1947.⁷ The rules were first formulated by a group of delegates during the pre-convention period. Upon the adoption of the permanent rules by the convention, they were printed and distributed to all of the delegates.

Located in the appendix of the Proceedings, Constitutional Convention of Hawaii 1968, Volume I, pages 464-470, these rules provided for the structure of the convention, defining the types and number of officers and committees and their duties and responsibilities, and established the procedure by which the convention operated. Questions arising out of procedure not covered by the rules of the convention were settled by reference to Robert's Rules of Order which was the adopted parliamentary authority.⁸

Governor's Messages and Departmental and Miscellaneous Communications

In addition to petitions, the convention received letters of opinion or information and other communications of this nature from public officers and agencies, and various individuals and organizations.

The governor informed the convention on matters relative to constitutional revision by means of a governor's message. In the 1968 Convention, the governor's welcoming address was submitted to the convention as a governor's message.

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Letters of information and other such communications submitted by government agencies are known as departmental communications. Such communications to the 1968 Convention consisted of letters transmitting copies of statutes and other documents and letters informing the convention of available government services and data or on research performed by government agencies upon request of the convention.

Letters from the general public and private organizations are known as miscellaneous communications. In 1968, such communications consisted of letters of gratitude or appreciation and statements of opinions on convention activities.

Disposition of Convention Documents

At the end of the 1968 Convention, all documents and other materials, including committee records and files of the convention, and also the original copy of the revised constitution of the State of Hawaii, as agreed upon by the delegates, were deposited in the archives for future use and reference.

Specimen 1. PROPOSAL INTRODUCED BY DELEGATES

CONSTITUTIONAL CONVENTION OF HAWAII

OF [YEAR]

PROPOSAL NO. _____

DELETING THE PROVISIO CONTAINED IN PARAGRAPH 6 OF SECTION
2, ARTICLE XV, IN CONFORMITY WITH THE DECISIONS OF
THE SUPREME COURT OF THE UNITED STATES.

Introduced by _____

RESOLVED, that the following be agreed upon as amending Article XV of
the State Constitution.

Paragraph 6 of Section 2, Article XV, is hereby amended by deleting the
semicolon after the word "voters" and substituting a period therefor and by
deleting the following proviso: "provided, that no constitutional amendment
altering this proviso or the representation from any senatorial district in the
Senate shall become effective unless it shall also be approved by a majority of
the votes tallied upon the question in each of a majority of the counties."

Introduced by [Signature(s) of Delegate(s)]

Specimen 2. PROPOSAL INTRODUCED BY COMMITTEE

CONSTITUTIONAL CONVENTION OF HAWAII
OF [YEAR]

P R O P O S A L

INTRODUCED BY: _____, Chairperson
COMMITTEE ON BILL OF RIGHTS,
SUFFRAGE AND ELECTIONS

A PROPOSAL
RELATING TO SUFFRAGE AND ELECTIONS

RESOLVED, that the following be agreed upon as amending Section
1, Section 2, and Section 5 of Article II of the
State Constitution:

Section 1. Every citizen of the United States, who shall have attained the age of [twenty] eighteen years, have been a resident of this State not less than one year next preceding the election and be a voter registered in accordance with law, shall be qualified to vote in any state or local election. [No person shall be qualified to vote unless he is also able, except for physical disability, to speak, read and write the English or Hawaiian language.]

Section 2. No person who is non compos mentis shall be qualified to vote. [and] No person convicted of felony[, unless pardoned and restored to his civil rights,] shall be qualified to vote[.] if and only so long as he is committed under a sentence of imprisonment.

Section 5. General elections shall be held on the first Tuesday after the first Monday in November in all even-numbered years. Special elections may be held in accordance with law. Contested elections shall be determined by a court of competent jurisdiction in such manner as shall be provided by law. The legislature shall provide for a presidential preference primary each year in which a President of the United States is to be nominated.

Dated: Honolulu, Hawaii, August ____, 19 .

INTRODUCED BY: (s) [Signature of Committee Chairperson]

Specimen 3. PROPOSAL IN AMENDED FORM

COMMITTEE PROPOSAL NO. _____

R.D. 1

CONSTITUTIONAL CONVENTION OF HAWAII
OF [YEAR]

P R O P O S A L

INTRODUCED BY: _____, Chairperson
COMMITTEE ON BILL OF RIGHTS,
SUFFRAGE AND ELECTIONS

A PROPOSAL
RELATING TO SUFFRAGE AND ELECTIONS

RESOLVED, that the following be agreed upon as amending Section 1, Section 2,
and Section 5 of Article II of the State Constitution:

Section 1. Every citizen of the United States, who shall have attained the age of eighteen years, have been a resident of this State not less than one year next preceding the election and be a voter registered in accordance with law, shall be qualified to vote in any state or local election.

Section 2. No person who is non compos mentis shall be qualified to vote. No person convicted of felony shall be qualified to vote except upon his final discharge or earlier as provided by law.

Section 5. General elections shall be held on the first Tuesday after the first Monday in November in all even-numbered years. Special elections may be held in accordance with law. Contested elections shall be determined by a court of competent jurisdiction in such manner as shall be provided by law. The legislature shall provide for a presidential preference primary each year in which a President of the United States is to be nominated.

Specimen 4. FORM OF AMENDMENTS TO PROPOSALS

CONSTITUTIONAL CONVENTION OF HAWAII

OF [YEAR]

AMENDMENT TO COMMITTEE PROPOSAL NO. _____

The first sentence of the third paragraph of Section 6 of Article IV of the State Constitution in Committee Proposal No. ____ is amended to read as follows:

Whenever a board, commission or other body shall be the head of a principal department of the state government, the members thereof shall be appointed by the governor, except as otherwise provided in this Constitution.

Dated: _____

OFFERED BY: Delegate
 [Signature of Delegate]

Carried

Failed to Carry

Clerk

Specimen 5. PETITION FORM

PETITION NO. ____

PETITION OF THE HAWAIIAN TRAIL AND MOUNTAIN CLUB, TO THE MEMBERS OF THE CONSTITUTIONAL CONVENTION OF HAWAII OF 1968, CONCERNING ARTICLE IV.

WHEREAS, the Constitution of the State of Hawaii, in Section 6 of Article IV, presently provides for the allocation of all executive and administrative functions, powers, and duties "among and within not more than twenty principal departments in such manner as to group the same according to major purposes in so far as practicable", and

WHEREAS, the inclusion of two or more major purposes or functions within the same department, when such purposes or functions tend to be in conflict as to intent or result, is generally recognized as being not in the public interest; and

WHEREAS, it is felt that in fact the public interest has tended not always to have been well served by the inclusion within the same department of two conflicting functions; the first having to do with land utilization on a sound and financially gainful basis for the State, the second having to do with land utilization designed to protect and enhance recreational, esthetic, cultural, and similar important qualities for the public; and

WHEREAS, certain states apparently have allocated the aforementioned conflicting functions to separate departments, possible examples of which being New York and Illinois; and

WHEREAS, it is felt that appropriate wording in Section 6 of Article IV, clarifying the intent not to mix within the same department conflicting functions such as, but not necessarily limited to, the two conflicting functions previously cited herein, would be in the public interest; and

WHEREAS, there are at present 19 executive departments;

BE IT RESOLVED, that the Honorable Members of the Constitutional Convention of Hawaii of 1968 are respectfully petitioned to consider the following amendment of Section 6 of Article IV: in the first sentence, after the word "purposes", insert the word "which"; after the word "practicable", continue with the words, "are not in conflict as to intent or result".

BE IT FURTHER RESOLVED, that the Honorable Members are further respectfully petitioned to convey to the legislature their statement of intent that there be established a principal department whose purpose, without conflict among its various aspects, would include the conservation and protection of recreational, esthetic, cultural, and similar qualities in regard to land utilization.

Respectfully submitted,

(s) [Signature(s) of Citizen(s)
submitting the Petition]

Specimen 6. RESOLUTION FORM

RESOLUTION NO. _____

CONSTITUTIONAL CONVENTION OF HAWAII
OF [YEAR]

RESOLUTION

EXPRESSING DEEPEST APPRECIATION TO THE PUBLIC WORKS SECTION OF
THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES.

WHEREAS, the Public Works Section of the Department of Accounting and General Services has unstintingly and graciously performed many services and acts of kindness for the benefit of the Constitutional Convention of Hawaii of 1968; and

WHEREAS, without the cooperation of the staff of the Public Works Section, it would not have been possible for the Convention to convene on time nor to function effectively during the session; and

WHEREAS, this unselfish and wholehearted cooperation shall not go unnoticed by this Body; now, therefore,

BE IT RESOLVED by the Constitutional Convention of Hawaii of 1968, that KeNam Kim, Head of the Department of Accounting and General Services, Richard Nakamura, Lin Sung Loo, Yoshio Yoshimura, Clarence T. K. Chong and other members of the Public Works Section be thanked for giving unselfishly of their time and for contributing to the success of this session; and

BE IT FURTHER RESOLVED that duly authenticated copies of this Resolution be transmitted to Messrs. KeNam Kim, Richard Nakamura, Lin Sung Loo, Yoshio Yoshimura, Clarence T. K. Chong and to members of the Public Works Section of the Department of Accounting and General Services.

OFFERED BY: (s) [Name(s) of Delegate(s)]

Specimen 7. STANDING COMMITTEE REPORT FORM

(Committee proposal in the form as
shown by Specimen 2 was attached
to the standing committee report)

STAND. COM. REP. NO. _____

Honolulu, Hawaii

[Date].

Honorable [Name of President]
President, Constitutional
Convention of Hawaii of [Year]
Honolulu, Hawaii

Sir:

Your Committee on to which was referred
proposal(s) numbered relating to
begs leave to report as follows:

[Purpose, findings, conclusions]
.
.
.
.
.

Your Committee submits the attached committee proposal and
recommends [statement of recommendation]

Respectfully submitted,

(s) _____
[Name of Chairperson]
Chairperson, Committee on
.

(s) _____
[Name of Vice-Chairperson]
Vice-Chairperson

(s) _____
[Committee Members]

Specimen 8. COMMITTEE OF THE WHOLE REPORT FORM

(Committee proposal as amended by the committee
of the whole was attached to the committee of the
whole report which is signed only by the chairperson)

COM. WHOLE REP. NO. _____

Honolulu, Hawaii

[Date]

Honorable [Name of President]
President, Constitutional
Convention of Hawaii of [Year]
Honolulu, Hawaii

Sir:

Your Committee of the Whole to which was referred Standing
Committee Report No. . . . of the Committee on
and Committee Proposal No. accompanying the report and entitled . . .
. having held meetings on, having
fully debated and considered the report and proposal, begs leave to report
thereon as follows:

[Purpose, findings, conclusions]
.
.

Your Committee of the Whole recommends [statement of
recommendation]
.

Respectfully submitted,

(s) _____
[Name of Chairperson]
Chairperson, Committee
of the Whole

(s) _____
[Name of Chairperson]
Chairperson, Committee on
.

[Standing Committee whose
report is being considered]

Specimen 9. SPECIAL COMMITTEE REPORT FORM

SPECIAL COMMITTEE REPORT NO. _____

Honolulu, Hawaii
[Date]

[Name of Committee]

Honorable [Name of President]
President, Constitutional
Convention of Hawaii of [Year]
Honolulu, Hawaii

Sir:

Your Committee on begs leave to
report [findings, conclusions]
.

Your Committee on therefore
recommends [statement of recommendation]
.

Respectfully submitted,

(s) _____
[Name of Chairperson]
Chairperson

(s) _____
[Committee Members]

Chapter 9

CONVENTION SERVICES AND AIDS

During the 1968 Constitutional Convention, a variety of services and materials were made available to the delegates by the convention staff and other government agencies.

Likewise, the following types of materials and services should be made available to the delegates of the 1978 Constitutional Convention.

Reference and General Information Materials

Each delegate should have access to the following publications:

- (1) Constitution of the State of Hawaii.
- (2) National Municipal League, Model State Constitution, 6th edition (1968).
- (3) Proceedings, Constitutional Convention of Hawaii, 1950 and 1968, 2 volumes.
- (4) Rules for the Constitutional Convention of Hawaii, 1968.¹

General informational materials which may be consulted are:

- (1) National Municipal League, The Constitutional Convention, A Manual on its Planning, Organization and Operation, prepared by John P. Wheeler, 1961.
- (2) National Municipal League, How to Study a State Constitution by Charlotte Irvine and Edward M. Kresky, 1962.
- (3) Norman Meller, With an Understanding Heart: Constitution Making in Hawaii, National Municipal League, 1971.
- (4) National Municipal League, Constitutional Convention Rules, New York, 1970.

CONVENTION SERVICES AND AIDS

- (6) _____, A Selective Bibliography on State Constitutional Revision, New York, 1967.
- (7) _____, State Constitutional Convention Studies, New York, various dates, 1969-1973.

Copies of these materials, if not distributed to all delegates, are available at the state archives and the legislative reference bureau.²

Printed Convention Documents

Printed copies of all proposals, resolutions, and committee reports are usually distributed to all delegates. They should be accessible to the delegates while they are in convention session, as well as in their offices or in committee meetings.

In the 1968 Convention, sufficient copies of each proposal and committee report were printed for distribution to, and used by, the delegates.

Drafting and Legal Services

Proposal and other drafting and legal services may be provided, upon the request of a delegate, by the following:

- (1) Attorney general and his staff;
- (2) Legislative reference bureau, if contracted with under the Supplemental Appropriations Act of 1978 (H.B. No. 3039-78, section 4(40)); and
- (3) Convention staff attorneys, if any are appointed.

Research and Reference Services

Research services, such as the compiling of statistical data and digesting of proposals, may be provided by:

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- (1) Line departments of state government, such as the departments of the attorney general, budget and finance, taxation, and land and natural resources.
- (2) Legislative reference bureau, if contracted with under the Supplemental Appropriations Act of 1978 (H.B. No. 3039-78, section 4(40)), which, in addition, maintains a library containing materials pertinent to constitutional revision, government and public administration.

Frequently, information, and data are also provided by the legislative auditor, county governments, and private and quasi-public agencies.

An index and status report on all proposals and resolutions introduced and acted upon will also be provided by the legislative reference bureau, if contracted with under the Supplemental Appropriations Act of 1978 (H.B. No. 3039-78, section 4(40)).

Supplies; Clerical and Mail Services

Supplies, clerical, and mail services were made available to the members of the 1968 Convention. Pages 509-512 of volume I of the 1968 Convention Proceedings give an indication of the types of services available through a listing of expenditures. This list includes postage and stationery, telephone and telegrams, printing, and other supplies purchased for the use of the convention.

Preparation for the 1978 Constitutional Convention by the Governor

In accordance with Act 17, 1977 Hawaii Special Session Laws, the governor has been authorized the sum of \$1,500,000 for defraying the presession, session, and postsession expenses of the constitutional convention, including the payment of compensation to the convention delegates. In addition, the Supplemental Appropriations Act for 1978 (H.B. No. 3039-78) appropriated an additional \$1,000,000 to the office of the governor for such expenses. Finally, \$485,599 has been appropriated to the office of the lieutenant governor for the purpose of conducting the election of delegates.

Chapter 10

CONSTITUTIONAL DRAFTING: SUBSTANTIVE DRAFTING AND LANGUAGE AND STYLE

Constitutional drafting involves substantive drafting and the formal aspect of writing the provisions or the language and style of the constitution. The quality of constitutional drafting determines, in large part, the viability of the constitution.

Substantive Drafting

According to a publication of the National Municipal League, The Drafting of State Constitutions: Working Papers for a Manual, the principal phases in substantive drafting are:

- (1) General background research and study.
- (2) Study of specific problems by investigating existing statutory and constitutional law and the state's experience thereunder.
- (3) Study of the consistency and interrelation of the proposed constitutional provision with the federal constitution and statutes.
- (4) Choice of policies for inclusion or exclusion from the constitution: What policies should be included in the constitution, where there is greater permanence and protection from the transient interests of the legislature? What policies should be excluded from the constitutional law and provided for by the legislature through statutory law?
- (5) Consideration of the proposed constitutional provision as to its flexibility by examining the generality of its substantive expression.

Writing the Provisions, Language, and Style

While much thought and study are given to the ideas embodied in the constitution, very little attention has been given by researchers to the language

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or style in which the constitution is written. Language and style are often given a lesser role in constitutional framing or revision. Poor language and style may, however, mar the utility of the constitutional provision; careless or faulty wording may quickly outdate the constitution.

Constitutional language is not the language of everyday discourse and writing. It is a precise language which uses words in their exact legal context. The formal writing of a constitution involves the proper usage of words and grammar, which must, above all, clearly express the principles and ideas of the state and of the delegates, who represent the people.

Reference Materials

A detailed discussion on constitutional drafting is not within the scope of this report and any attempt to do so would probably necessitate another publication. There are, however, several informative publications which may be consulted on this subject:¹

- (1) Florida State University. Institute of Governmental Research. Comments on the Drafting of a New Constitution for Florida by David F. Dickson. Tallahassee, July 1966. 26pp.
- (2) National Municipal League. How to Study a State Constitution by Charlotte Irvine and Edward M. Kresky. New York, 1962. 26pp.
- (3) _____. The Shape of the Document by Robert B. Dishman. New York, 1960, 48pp.
- (4) _____. The Drafting of State Constitutions: Working Papers for a Manual by Frank P. Grad. New York, 1967. v.p.

The Style Committee of the 1968 Convention

The 1968 Convention, in its rules, provided for a committee on style whose function was to examine each proposal referred to it for incorrect use of grammar, faulty punctuation, repetition, and other inaccuracies. In addition,

CONSTITUTIONAL DRAFTING

the committee was authorized to rephrase proposals without changing their sense or purpose. It was also responsible for notifying the convention of conflicting constitutional proposals, arranging the articles in the constitution, and for reporting on all changes and revisions which were subject to approval by the convention.

The Committee on Style consisted of 17 delegates, many of them attorneys and standing committee chairpersons. To ease the work and speed up the process, the Style Committee was divided into subcommittees by subject matter according to the articles of the constitution, which also corresponded to the types of general standing committees of the convention. A member, often the chairperson, of a standing committee was very often a member of the corresponding subcommittee of the Style Committee. Thus, the delegate who participated in the substantive drafting or redrafting of a proposal as a member of a standing committee very often participated in the style revision of the same proposal, as a member of a subcommittee of the Style Committee.

It might be said that, by this arrangement, the 1968 Convention not only achieved, or sought to achieve, speedy and effective committee consideration, but also constitutional drafting of a high quality.

Good constitutional drafting results in a constitution which will be properly interpreted and applied by the courts, the legislature, and the executive and will be able to meet the future needs of the state.

FOOTNOTES

Chapter 1

1. Senate Bill 1102 passed by the Fourth State Legislature, general session of 1967, proposing a reapportionment plan for the state senate and amendments to Articles III and XV of the Hawaii State Constitution, superseded by 1968 Constitutional Convention proposal. Although there are 4 other amendments to the Hawaii Constitution, these were not initiated by the method just described. They occurred as a result of the adoption of three propositions in accordance with the Act of March 18, 1959, 73 Stat. 4, by the voters of the Territory of Hawaii. See also footnote 15, chapter II.
2. The *Organic Act*, 31 Stat. 141, April 30, 1900.
3. The process of admission to the Union normally begins with a petition to Congress by the territorial legislature requesting authority to hold elections for delegates to a constitutional convention and to submit the work of the convention to the electorate of the territory. If the petition is favorable, Congress passes an enabling act authorizing the calling of a convention and an application for admission. The territory may then proceed to elect delegates to the convention, draft a constitution, and submit it to the electorate for ratification. The ratified constitution is then submitted to Congress with a plea for admission. Congress admits new states by resolution and the constitution goes into effect upon the issuance of a presidential proclamation admitting the state into the Union. This procedure is not strictly or legally enforced.
4. The Eighty-First Congress was, at the same time, considering the enactment of an enabling act, HR 49, which would authorize the calling of a constitutional convention by the Territory of Hawaii. The territorial legislature, in anticipation of its passage, enacted Act 334 during the regular session of 1949. When HR 49 was not enacted by Congress, the Territory of Hawaii, nevertheless, proceeded to carry out the provisions of Act 334, Session Laws of Hawaii 1949, and to hold a constitutional convention. The constitution was drafted and ratified in 1950 but did not go into effect until the achievement of statehood in 1959.
5. *Hawaii Const.* art. XV, sec. 2.
6. The count of votes on the constitutional convention question: ayes 199,831; noes 69,264.
7. *Hawaii Const.* art. XV, sec. 2.
8. Although this section would seem to make it mandatory upon the legislature to appropriate funds for the expenses of the convention, it is questionable whether the legislature would be subject to judicial process of mandamus if it should fail to so provide.

Chapter 2

1. See also the Legislative Reference Bureau's Constitutional Convention Studies, 1978, *Article XV: Revision and Amendment*.
2. 16 C.J.S. *Constitutional Law*, sec. 1.
3. *U.S. Const.* art. I, sec. 10.
4. *U.S. Const.* art. IV, sec. 4.
5. The United States Constitution does not provide a definition of the republican principles which should govern state political institutions. To one scholar, it appears that "in actuality, the constitutional provision may be interpreted as requiring a form somewhere between a monarchy, on the one hand, and a pure democracy, on the other. The constitutional guaranty is aimed as much at the latter as at the former extreme." Bernard Schwartz, *A Commentary on the Constitution of the United States, Part I: The Powers of Government*, Vol. I: *Federal and State Powers* (New York: Macmillan, 1963), p. 71.
6. *U.S. Const.*, amend. 1-10.
7. Schwartz, p. 40.
8. *U.S. Const.* art. IV, sec. 2.
9. *Barron v. Baltimore*, 7 Pet. 243 (1833) and *Corfield v. Coryell*, 6 Fed. Cases 3230 (1823).
10. *U.S. Const.* amend. 14, sec. 1.
11. For information regarding civil liberties and the Hawaii Constitution, see the Legislative Reference Bureau's Constitutional Convention Studies, 1978, *Article I: Bill of Rights*.
12. *Texas v. White*, 7 Wall 725 (1869).
13. 81 C.J.S. *States*, sec. 22.
14. The *Admission Act*, 73 Stat. 4, March 18, 1959.
15. Hawaii's Constitution was drafted and ratified in 1950 without authorization or the guidance of an enabling act. The limitations or conditions for admission were, instead, enumerated in the Act of March 18, 1959, 73 Stat. 4; amended by Act of July 12, 1960, 74 Stat. 422. These limitations, once adopted, became legally binding on the constitution. The accepted limitations or conditions resulted in 4 amendments to the Hawaii Constitution. See also footnote 1, chapter 1.
16. 221 U.S. 559 (1911).
17. *Ibid.*, at 565-566 (1911), states the following:

[Argument Favoring Right of Congress to Impose a Limitation.] The argument is, that while Congress may not deprive a State of any power which it possesses, it may, as a condition to the admission of a new State, constitutionally restrict its authority, to the extent at least, of suspending its powers for a definite time in respect to the location of its seat of government. This

contention is predicated upon the constitutional power of admitting new States to this Union, and the constitutional duty of guaranteeing to "every State in this Union a republican form of government." The position of counsel for the appellants is substantially this: That the power of Congress to admit new States and determine whether or not its fundamental law is republican in form, are political powers, and as such, uncontrollable by the courts. That Congress may in the exercise of such power impose terms and conditions upon the admission of the proposed new State, which, if accepted, will be obligatory, although they operate to deprive the State of powers which it would not otherwise possess, and, therefore, not admitted upon "an equal footing with the original States."

18. See the Legislative Reference Bureau's Constitutional Convention Studies, 1978, *Article XIII, State Boundaries*, and *Article XI, Hawaiian Home Lands*.
19. Thomas Raeburn White, "Amendment and Revision of State Constitutions," 100 *U. of Penn. L. Rev.* 1143 (1952).
20. William J. Pierce and James B. Lowe, *Constitutional Convention Powers*, Michigan Constitutional Convention Studies (Lansing, Mich.: Constitutional Convention Preparatory Commission, 1961), p. 3.
21. Dale E. Kimball, "The Constitutional Convention, Its Nature and Powers--and the Amending Procedure," *Utah L. Rev.* 403 (September 1966).
22. Pierce and Lowe, p. 3.
23. While the legislature may also propose amendments to the constitution, this power is not legislative in character. Unlike acts of legislation, proposed constitutional amendments or revisions are not subject to veto by the governor. See *Hawaii Const.* art. XV, sec. 4 and White, p. 1145.
24. This exclusive legislative power over appropriations could serve as a limitation upon the convention by failure of the legislature to provide for the convention's expenses. See White, pp. 1146-47.
25. Pierce and Lowe, p. 17. The same article further states on p. 18:

While one may concede that a convention may deal by ordinance with necessary incidental legislation without submission to the people, it is still true that the general position is as was said in *Quinlan v. Houston & T.C.R. Co.*, that where it is not provided that the convention shall have the power of independent legislation, the convention "cannot pass ordinances and give them validity without submitting them to the people for ratification as a part of the Constitution."

The case cited above is *Quinlan v. Houston & T.C.R. Co.*, 89 Tex. at 376, 34 S.W. at 744 (1896).

26. The delegates, when referring to powers conferred by HR 49, are assuming that it would be enacted by the Eighty-First Congress.
27. Such as restrictions on the scope of the convention limiting convention consideration to certain specific subjects.
28. White, p. 1142.
29. *Hawaii Const.* art. XV, sec. 2.
30. 16 C.J.S. *Constitutional Law*, sec. 48.
31. *Hawaii Const.* art. XV, sec. 2.
32. 1977 Haw. Sp. Sess. Laws, Act 17.
33. *Hawaii Const.* art. XV, sec. 2.
34. "That the Legislature does not have control of the convention is demonstrated by the fact that there are no cases which sustain any legislative action limiting the convention in any way after it has been called together. The correct principle appears to be that there are no limitations on the power of the convention except those imposed by the people themselves, either by approving an act proposing to call a convention with limited powers or in connection with the election of delegates." White, p. 1142.
35. Pierce and Lowe, p. 3. The cases are: *Miller v. Johnson*, 92 Ky. 589, 18 S.W. 522 (1892); *Taylor v. Commonwealth*, 101 Va. 829, 44 S.E. 754 (1903); *Weaton v. Ryan*, 70 Neb. 211, 97 N.W. 347 (1903).
36. In *Miller v. Johnson*, 92 Ky. at 596, 18 S.W. at 524 (1892), the court said, "as the entire instrument has been recognized as valid..., it would be...an abuse of power by the judiciary and violative of the rights of the people...who can and properly should remedy the matter if not to their liking...if it were to declare the instrument or a portion invalid, and bring confusion and anarchy upon the state."
37. In addition, Act 17, 1977 Haw. Sp. Sess. Laws, provides that staff members may be employed without regard to civil service procedure. By the same Act, the submission to the electorate of the convention's work shall be at the November 1978 elections unless the convention shall determine otherwise.
38. *Hawaii Rev. Stat.*, ch. 21.
39. *Hawaii Const.* art. XV, sec. 2.

Chapter 3

1. No primary election provided for by Act 17, 1977 Haw. Sp. Sess. Laws.
2. During the 1950 Constitutional Convention, 2 vacancies occurred. In one case, the governor appointed, as a replacement, the candidate who ran in the same district and placed second in the number of votes received. In the other instance, a person recommended by the delegation from the representative district in which the vacancy occurred was appointed by the governor.

3. 1977 Haw. Sp. Sess. Laws, Act 17.

4. In the 1950 Constitutional Convention, one delegate was disqualified by two-thirds vote of the convention because of the delegate's "contumacious conduct before and toward the UnAmerican Activities Committee of the U.S. House of Representatives and this Constitutional Convention of 1950...."

Another delegate to the convention resigned from office after giving testimony before a special subcommittee of the House UnAmerican Activities Committee that the delegate had been a member of the Communist Party. The delegate also testified that the oath of loyalty which the delegate had signed was false.

No delegates were disqualified in 1968.

5. *Cushing's Manual of Parliamentary Practice*, p. 57 and *Robert's Rules of Order*, pp. 331-333.

6. Maximum disciplinary action, such as expulsion of a member or suspension of a member, would probably require the consent of two-thirds of the membership. See *Hawaii Const.* art. XV, sec. 2.

7. See *Robert's Rules of Order*, p. 542, "Protection from Annoyance by Non Members in a Meeting; Removal of an Offender from the Hall."

8. It is also doubtful that the convention may imprison or fine nondelegates for contemptuous behavior committed outside the convention halls.

9. New York (State), Temporary State Commission on the Constitutional Convention, *Legislative and Other Recommendations: Toward an Effective Convention*, No. 2 (New York: 1967), p. 16.

10. 1977 Haw. Sp. Sess. Laws, Act 17.

Chapter 4

1. William J. Pierce, *A Prepared Manual of Organization and Procedure for a State Constitutional Convention*, Michigan Constitutional Convention Studies (Lansing, Mich.: Constitutional Convention Preparatory Commission, 1961) is a very good reference manual in this area.

2. The 1978 Constitutional Convention is limited in terms of compensation. Pursuant to Act 17, 1977 Hawaii Sp. Sess. Laws, the delegates will be paid \$500 semi-monthly, with first payment being for the period beginning May 21, 1978. Total compensation for each delegate is not to exceed \$4,000. The 1968 Constitutional Convention delegates received \$2,500, but payment periods were not specified by Act 222, 1967 Haw. Sess. Laws.

3. See Norman Meller, *With an Understanding Heart: Constitution Making in Hawaii* (New York: National Municipal League, 1971), pp. 18-30.

4. In the 1978 Constitutional Convention, a majority of membership is 52 members.

5. See chapter 7, *Parliamentary Procedure, Motions and Voting*, for a more detailed discussion on this subject.

6. It has been argued that, since the duties of the office are so exacting, its holder may not be able to function effectively as a delegate; therefore, the secretary should be a nondelegate. On the other hand, since the office is a position of great prestige, which may influence the outcome of the final document, perhaps, the secretary should be a delegate. Rule 13 of the rules of the 1968 Convention, which allowed the secretary to delegate management responsibilities to the assistant secretary and to retain those functions which might affect policy, may be the solution to this problem. In 1968, the secretary and the assistant secretary were delegates.

7. See Rules 16 through 26 of the Rules of the Convention of 1968.

8. See also chapter 10 of this study on Constitutional Drafting.

9. Submission procedures further discussed in chapter 6 of this study, *The Constitutional Drafting Process; Adoption of Resolutions*.

10. The vouchers, payroll forms, and financial statements are available at the State Archives for those interested in the record forms of the accounts committee.

11. Another point to be considered when determining the number of committees is the greater the number of committees, the greater the tendency for more articles to be included and the greater length of the constitution.

12. See also John P. Wheeler, Jr., *The Constitutional Convention: A Manual on Its Planning, Organization and Operation*, State Constitutional Studies Project, Series I, No. 4 (New York: National Municipal League, 1961).

13. The Rules of the House of Representatives are used because convention rules usually very closely resemble the rules of the lower house of the state legislature.

14. The House of Representatives employee roster is used because it is more nearly equal to the size of a convention than the Senate. It may be a better, but not the sole indicator of the staffing needs of the convention.

15. The hiring and contracting of such employees and services are authorized by Act 17, 1977 Haw. Sp. Sess. Laws. These employees and other staff assistants, especially committee personnel, may wish to read the "Staff Manual, House of Representatives," prepared by the House of Representatives, Regular Session of 1977, for some guidance as to the nature of their work.

Chapter 5

1. See also chapter 7, this study, *Parliamentary Procedure Motions and Voting*.

2. Norman Meller, *With an Understanding Heart: Constitution making in Hawaii* (New York: National Municipal League, 1971), p. 76, states that during the 1968 Convention, many delegates became irritated with the Committee of the Whole, claiming that the convention rules permitting previously

defeated amendments to be reintroduced on Second Reading in plenary session after already having been defeated by the Committee of the Whole made the Committee of the Whole useless. To counter this problem, 63 delegates introduced a resolution to either eliminate the Committee of the Whole or to preclude amendments to proposals on Second Reading. In spite of the strong sponsorship of the resolution, it was not accepted.

3. *Robert's Rules of Order*, pp. 442-450.

Chapter 6

1. Proposal forms and types are further discussed in chapter 8 of this study, Convention Documents.
2. Rule 54, 1968 Rules of the Convention.
3. The duties and functions of a general standing committee are discussed in chapter 4 of this study, Convention Organization.
4. See Rule 48 of the 1968 Rules of the Convention.
5. See discussion on the form of committee reports in chapter 8 of this study, Convention Documents, and committee procedure in chapter 5 of this study, Daily Convention and Committee Procedure.
6. *Ibid.*
7. While amendments may be offered at any appropriate time, they were most frequently offered in the Committee of the Whole and in plenary session prior to passage of the proposal on Second Reading. Amendments as to phraseology were often offered before Third Reading. All types of amendments to a proposal on its Third Reading required the unanimous consent of the delegates present in order to be offered.
8. This committee and its functions are further discussed in chapter 10 of this study, Constitutional Drafting: Substantive Drafting and Language and Style.
9. Norman Meller, *With an Understanding Heart: Constitution Making in Hawaii* (New York: National Municipal League, 1971), p. 69.
10. *Ibid.* There are a number of methods for submitting the work of a convention; for example, the following may be used:

- (1) A substantially revised constitution may be submitted in its entirety and therefore may be adopted or rejected in entirety by the electorate; or
- (2) A substantially revised constitution may be submitted in 2 parts--one part consisting of the constitutional provisions which have not been changed or where the changes are of a noncontroversial nature, and the second part consisting of those amendments embodying controversial changes--thereby reducing the possibility of the rejection of the entire constitution by the electorate; or
- (3) Individual amendments as adopted by the constitutional convention may be submitted to the electorate.

The 1968 Convention submitted the constitution in 23 separate proposals for approval or disapproval by the electorate, and, in addition, provided that a person could vote for or against all proposals at one time.

11. Results of voting on the 1968 Revised Constitution, from Norman Meller, *With an Understanding Heart: Constitution Making in Hawaii* (New York: National Municipal League, 1971), p. 132.

DISTRIBUTION OF CONSTITUTIONAL VOTE 1968

Prop.	"No" Spec. (C)	AP "No" (B)	Total "No"	AP "Yes" (A)	"Yes" by Imps. (D)	Total "Yes"
1	10,162	25,287	35,449	49,546	71,151	120,697
2	7,069	25,287	32,356	49,546	74,244	123,790
3	11,577	25,287	36,864	49,546	89,736	119,282
4	8,432	25,287	33,719	49,546	72,881	122,427
5	8,493	25,287	33,780	49,546	87,320	117,366
6	7,980	25,287	33,267	49,546	73,333	122,879
7	7,405	25,287	32,692	49,546	74,906	123,454
8	56,031	25,287	81,318	49,546	25,282	74,828
9	28,267	25,287	53,554	49,546	53,046	102,592
10	35,531	25,287	60,818	49,546	45,782	95,328
11	12,148	25,287	37,433	49,546	89,167	116,713
12	45,647	25,287	68,934	49,546	37,467	87,013
13	10,810	25,287	36,097	49,546	71,503	120,049
14	42,523	25,287	67,810	49,546	38,790	98,336
15	34,443	25,287	49,730	49,546	56,870	106,416
16	12,775	25,287	38,062	49,546	68,538	118,084
17	17,874	25,287	43,161	49,546	63,439	112,985
18	10,771	25,287	36,058	49,546	70,942	120,488
19	5,730	25,287	31,017	49,546	75,583	125,129
20	24,600	25,287	49,887	49,546	56,713	106,259
21	6,255	25,287	31,542	49,546	75,058	124,604
22	6,639	25,287	31,926	49,546	74,674	124,220
23	6,344	25,287	31,631	49,546	74,969	124,515

12. Samples of these forms are available at the archives.
13. See chapter 8, Convention Documents, for further discussion of a resolution.

Chapter 7

1. Discussed in this chapter under voting.
2. Point of order, request for information and a call for the division of the house are known as incidental questions. Incidental questions are concerned with the conduct of the business of the convention as to what may be considered or to the manner in which such business may be considered as in the case of the point of order or a call for the decision of the house. Incidental questions are also questions of a general procedural nature which arise out of the work of the convention as in the case of a request for information. A question of personal privilege is a question having privileged status in the order of business because it concerns the integrity of the delegate or convention.
3. The president has the right to state the reason for his decision on each appeal.
4. These questions are usually main questions which include the motions to adopt or approve or appoint.
5. See Rules 39 and 40 of the 1968 Constitutional Convention.

Chapter 8

1. State legislative bills have the phrase "Be it enacted by the Legislature of the State of Hawaii." This enacting clause which is required by section 15 of Article III of the Hawaii Constitution is indicative of the power of the legislature to enact laws. The resolution clause of a convention proposal is indicative of the convention's power to *propose* constitutional law which unlike

legislation acquires effectiveness only after ratification by the people.

2. Rules 19 and 20 of the Rules of the Convention of 1968 required that resolutions requesting the printing of extra copies of a document be referred to the Committee on Accounts and Printing, as must resolutions authorizing or contemplating the expenditures of money, for consideration and recommendation by the Committee on Accounts and Printing before final action can be taken by the convention.
3. The form of the standing committee report in Specimen 7 is synthesized from several convention committee reports. These are working models, and not necessarily ideal. For an example of the committee reports as shown in Specimens 8 and 9, see Hawaii, Constitutional Convention, 1968, *Proceedings*, Vol. I, Committee of the Whole reports, pp. 338-370, and Special Committee Reports, pp. 371-374.
4. These minority reports were not numbered separately from the standing committee reports of the majority of the committee members. See also, Minority Reports, pp. 332-337 of the 1968 Convention Proceedings.
5. In actual practice, the delegates dispensed with the reading and approval of the daily journal, excepting the 58th day, and permitted the president and secretary, after examining and finding it in correct order, to approve the same.

The 58th day's journal was approved at the ending of the convention session on the 58th day. This 58th day was unofficially the last day because the convention did not adjourn sine die, but adjourned subject to the call of the chair. The convention did not officially meet again.

6. The rules for the organization and operation of a constitutional convention are usually based on operations and procedure of the lower house of the state legislature which are modified to allow greater opportunity for debate and discussion. See "Organization and Procedure of a Constitutional Convention" (Wisconsin Legislative Reference Bureau, Research Bulletin 65-4, May, 1965), p. 7. (Mimeographed).

The rules of recently held conventions are available at the Legislative Reference Bureau.

7. Both conventions were the most recently held prior to the Hawaii Convention of 1950. The 1950 Convention, pursuant to Act 334, Session Laws of Hawaii 1949, adopted its own rules of procedure. The 1968 Convention possessed the power to do the same, as does the 1978 Convention.
8. Both houses of the legislature use, at present, *Cushing's Manual of Parliamentary Procedure* to settle parliamentary procedure questions.

Chapter 9

1. The Rules for the Constitutional Convention of Hawaii, 1968, are located in the Appendix, Hawaii, Constitutional Convention, 1968, *Proceedings*, Vol. I, pp. 464-470.

2. The Legislative Reference Bureau will also distribute studies on the articles of the constitution which were prepared pursuant to Act 17, 1977 Haw. Sp. Sess. Laws.

Chapter 10

1. Available at the Legislative Reference Bureau.

Appendix A

ACT 17

H.B. NO. 3

A Bill for an Act Relating to a Constitutional Convention.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Election of delegates. The chief election officer shall issue a proclamation ordering an election which shall be held on May 20, 1978, for the special election of delegates to a constitutional convention, provided that the election day shall not be a holiday, notwithstanding the provisions of section 8-1, Hawaii Revised Statutes, as amended.

Except as otherwise provided by this Act, the candidates for delegates shall be nominated and their filing fees paid, the special election conducted, the returns made and results ascertained, and the certificates of election issued in the same manner as prescribed by chapter 11, Hawaii Revised Statutes, as amended, governing general elections except that there shall be no primary election.

Any person who is registered as a duly qualified elector shall be eligible to vote in these elections, and shall on the day of the election be entitled to absent himself from any service or employment in which he is then engaged or employed, pursuant to the provisions of section 11-95, Hawaii Revised Statutes, as amended. The general county register shall be closed before the election in the manner set forth in section 11-24, Hawaii Revised Statutes, as amended, for special elections.

Each candidate shall be a qualified elector of the constitutional convention district in which he is a candidate for delegate. The name of no candidate shall be printed upon any official ballot to be used at the special election unless at least 30 days prior to the special election, a nomination paper shall have been filed in his behalf as provided in part I of chapter 12, Hawaii Revised Statutes, as amended, except as modified below, signed by not less than fifteen qualified electors of the constitutional convention district in which he is a candidate. There shall be deposited with each nomination paper a fee of \$25 which shall be paid into the treasury of the State. The lieutenant governor shall provide appropriate nomination papers.

No such nomination paper shall contain any reference to or designation of any political party, and the ballots used at the special election shall be nonpartisan and shall not contain any reference to or designation of the political party or affiliation of any candidate. The names of the candidates in each constitutional convention district shall be listed in alphabetical order on the ballot.

Each voter at the special election shall be entitled to receive a ballot notwithstanding section 12-31, Hawaii Revised Statutes, as amended.

The ballots submitted to the voters of each constitutional convention district shall instruct the voters that the number of candidates to be voted for by such voter shall not exceed the number of delegates to which the constitutional convention district is entitled. The candidates receiving the highest number of votes in the election, not to exceed the number of delegates to which the respective district is entitled, shall be elected as delegates to the convention.

The governor shall fill any vacancy by appointing a qualified voter from the

constitutional convention district in which the vacancy occurs.

The convention shall consist of 102 delegates apportioned among the existing representative districts of the State as follows:

First representative district. Two delegates at large;

Second representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2, 3, 4, 5, 6 and 12; and two delegates from combined precincts of 7, 8, 9, 10, 11, 13 and 14;

Third representative district. Two delegates at large;

Fourth representative district. Two delegates at large;

Fifth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2, 3, 4, 5, 6, 7 and 8; and two delegates from combined precincts of 9, 10, 11, 12, 13, 14 and 15;

Sixth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2, 3, 4, 5, 6, 10, 11, 12 and 13; two delegates from combined precincts of 7, 8, 9, 14, 15 and 16;

Seventh representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2, 3 and 4; and two delegates from combined precincts of 5, 6, 7 and 8;

Eighth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2 and 3; and two delegates from combined precincts of 4, 5, 6 and 7;

Ninth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 3, 7 and 8; and two delegates from combined precincts of 2, 4, 5 and 6;

Tenth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2 and 3; and two delegates from combined precincts of 4, 5, 6 and 7;

Eleventh representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2 and 4; and two delegates from combined precincts of 3, 5 and 6;

Twelfth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 3 and 5; and two delegates from combined precincts of 2, 4, 6 and 7;

Thirteenth representative district. Six delegates to be elected. Two delegates from combined precincts of 1, 2 and 3; two delegates from combined precincts of 4, 5 and 9; and two delegates from combined precincts of 6, 7 and 8;

Fourteenth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2, 3 and 6; and two delegates from combined precincts of 4, 5 and 7;

Fifteenth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2, 3 and 4; and two delegates from combined precincts of 5, 6, 7 and 8;

Sixteenth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 6, 7 and 8; and two delegates from combined precincts of 2, 3, 4 and 5;

Seventeenth representative district. Four delegates to be elected. Two

delegates from combined precincts of 1, 2 and 3; and two delegates from combined precincts of 4, 5, 6 and 7;

Eighteenth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2, 3 and 5; and two delegates from combined precincts of 4, 6, 7 and 8;

Nineteenth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2 and 3; and two delegates from combined precincts of 4, 5 and 6;

Twentieth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2, 3 and 4; and two delegates from combined precincts of 5, 6, 7 and 8;

Twenty-first representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2 and 3; and two delegates from combined precincts of 4, 5 and 6;

Twenty-second representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2, 3 and 4; and two delegates from combined precincts of 5, 6, 7 and 8;

Twenty-third representative district. Two delegates at large;

Twenty-fourth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2 and 3; and two delegates for combined precincts of 4, 5 and 6;

Twenty-fifth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2 and 3; and two delegates from combined precincts of 4, 5, 6 and 7;

Twenty-sixth representative district. Two delegates at large;

Twenty-seventh representative district. Six delegates to be elected. Two delegates from combined precincts of 1, 10, 11, 12 and 13; two delegates from combined precincts of 8 and 9; two delegates from combined precincts of 2, 3, 4, 5, 6 and 7.

SECTION 2. Convening of convention. The delegates to the convention thus selected shall meet at Honolulu on the 5th day of July 1978, at a suitable place designated by the governor, and the delegates shall proceed with the organization of the convention, provided that the legislative offices in the State Capitol Building shall not be used for the purposes of the convention. The delegate with the highest number of votes from the first representative district shall serve as temporary chairman.

SECTION 3. Powers. In addition to its inherent powers under the Constitution, the Convention may exercise the powers of the legislative committees as provided for by chapter 21, Hawaii Revised Statutes, as amended, and may appoint staff members without regard to chapters 76 and 77, Hawaii Revised Statutes, as amended, and contract for the legal and consultative services of qualified persons as it may require.

Officers and employees of the State shall have the same duty to the convention as prescribed by section 21-16, Hawaii Revised Statutes, with respect to legislative committees.

SECTION 4. Immunity. Delegates to the convention shall in all cases,

except felony or breach of the peace, be privileged from arrest during attendance at the convention and in going to and returning from the same.

SECTION 5. Salaries and allowances for delegates. Delegates to the convention shall be entitled to a salary of \$1,000 a month, but not more than \$4,000 for the convention, plus allowance of \$10 per diem for Oahu delegates and \$30 per diem for neighbor island delegates.

The salary payments to delegates shall be \$500 semi-monthly, the first payment for the period beginning May 21, 1978. State and county employees who are elected and serve as delegates shall have leave, without pay, from their employment from the day after the election until the convention adjourns, and they shall be entitled to the salaries and allowances for delegates hereunder.

SECTION 6. Ratification election. Unless the convention determines otherwise, any constitutional revision or amendment proposed by the convention shall be submitted to the electorate at the general election of November, 1978.

SECTION 7. Appropriations. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,500,000, or so much thereof as may be necessary, to the office of the governor, or to the officers elected by the delegates if so designated by the governor, for defraying the presession, session, and postsession expenses of the constitutional convention, including the payment of compensation to the delegates to the convention, and for such other expenses or purposes pursuant to this Act as may be necessary.

There is appropriated out of the general revenues of the State the sum of \$485,599, or so much thereof as may be necessary, to the office of the lieutenant governor for the purpose of conducting the election of delegates to the constitutional convention.

There is appropriated out of the general revenues of the State the sum of \$8,500, or so much thereof as may be necessary, to the campaign spending commission for the purpose of supervising campaign contributions and expenditures.

There is appropriated out of the general revenues of the State the sum of \$72,000, or so much thereof as may be necessary, to the office of the legislative reference bureau for the expenses of providing the necessary services and assistance for the convention, including the updating of the Hawaii Constitutional Convention Studies.

SECTION 8. If any provisions of this Act, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 9. This Act shall take effect on July 1, 1977.

(Approved June 27, 1977.)

Source: 1977 Hawaii Special Session Laws.

Appendix B*

(To be made one and twelve copies)

THE SENATE

...NINTH..... LEGISLATURE, 1978...

STATE OF HAWAII

S.B. NO. 2559-78
H.D. 1

A BILL FOR AN ACT

RELATING TO THE CONSTITUTIONAL CONVENTION.

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

1 SECTION 1. Act 17, Session Laws of Hawaii First
2 Special Session of 1977, is amended by amending Section 5
3 to read as follows:

4 "SECTION 5. Salaries and allowances for delegates.
5 Delegates to the convention shall be entitled to a salary
6 of \$1,000 a month, but not more than \$4,000 for the
7 convention, plus allowance of \$10 per diem for Oahu dele-
8 gates and \$30 per diem for neighbor island delegates. The
9 salary payments to delegates shall be \$500 semi-monthly,
10 the first payment for the period beginning May 21, 1978.

11 [The salary payments to delegates shall be \$500 semi-
12 monthly, the first payment for the period beginning May 21,
13 1978. State and county employees who are elected and serve
14 as delegates shall have leave, without pay, from their
15 employment from the day after the election until the conven-
16 tion adjourns, and they shall be entitled to the salaries
17 and allowances for delegates hereunder.]

18 *Amends Act 17, 1977 Hawaii Special Session Laws. Not signed
at the time of this publication.

1 A State, county or Judiciary employee who is elected
2 and who serves as a delegate, shall be granted a leave of
3 absence without pay, or shall be entitled to take accumula-
4 ted vacation leave as provided under chapter 79, Hawaii
5 Revised Statutes, in lieu of the delegate's salary, from
6 the day after the election until the convention adjourns.
7 Any State, county or Judiciary employee who elects to take
8 a leave of absence without pay shall be entitled to the
9 delegate's salary provided hereunder, and shall not suffer
10 any loss of seniority."

11 SECTION 2. Statutory material to be repealed is
12 bracketed. New material is underscored. In printing this
13 Act, the revisor of statutes need not include the brackets,
14 the bracketed material, or the underscoring.

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