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**THE  
CONSTITUTIONAL  
CONVENTION**

**YES**

or

**NO**

**A QUESTION  
ON THE GENERAL ELECTION BALLOT**

**NOVEMBER 2, 1976**

A brochure prepared by the  
**OFFICE OF THE LEGISLATIVE REFERENCE BUREAU**  
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On November 2, the general election day, you and the rest of Hawaii's registered voters will be asked, "Shall there be a convention to propose a revision of or amendments to the Constitution?" This pamphlet is meant to assist you in reaching your decision by reviewing a few of the possible constitutional issues discussed and resolved in a convention. For your further information, brief general background information about constitutions and constitutional conventions is included.

#### What is a constitution?

A constitution is a statement outlining the basic principles of a formal organization. It allocates the powers and functions of government among its permanent institutions, such as the executive, legislative, and judicial branches. It also sets out the structures and purposes of the organization and defines the method of selection, the terms, and powers of public officers. In modern democracies, a constitution establishes the basic legal foundation for government and the limitations of its powers.

#### Why is a constitution necessary?

Every group of people—from a family to a nation—has rules of conduct to govern the lives of its members. The rules encourage, require, or forbid certain kinds of behavior. The institution by which a group establishes and enforces such rules is called government.

All countries have governments to make and enforce rules to govern citizen behavior. These rules usually correspond to the values, beliefs, customs, and traditions of that society in some degree. The method and limits of power which are made are contained in the fundamental law of government—the constitution.

#### What does Hawaii's Constitution cover?

Hawaii's Constitution covers general subjects in sixteen Articles. Three of the longest Articles discuss the legislative procedure, the monetary process, and the legislative districts. The Bill of Rights, the state flag, and other subjects are also covered.

#### What is a constitutional convention?

Nearly every state constitution provides for the calling and holding of constitutional conventions.

A constitutional convention is one way of amending or proposing a new constitution. Voters elect delegates to represent them especially for the purpose. Most delegates are elected from state legislative or congressional districts, some are chosen on an at-large basis. The delegates elected to the constitutional convention meet as one body and elect their own officers and make their own rules. A constitutional convention usually forms and uses committees so that detailed consideration can be given to particular subject areas.

#### What is the purpose of a constitutional convention?

Most states have some method to change their constitutions without having a convention such as asking the people to vote on proposed constitutional amendments. Sometimes, however, it is felt that the changes that are possible through amendments presented one or a few at a time are too limited in scope. Major revisions of a constitution, if necessary, are difficult, costly, and time-consuming when done in a piecemeal fashion. A constitutional convention (con-con), on the other hand, allows a general review and major revision of the constitution. Although proposed changes generally result from a constitutional convention, a convention could recommend that no change be made. Consideration of various provisions could result in choosing to retain existing provisions.

#### How did Hawaii get its Constitution?

In 1949, the people of the Territory of Hawaii called for a constitutional convention to demonstrate their strong desire for statehood. Sixty-three con-con delegates met in 1950 to draft a constitution which was subsequently adopted by the people that year. That constitution became official and operational when Hawaii became a state in 1959.

#### When was the latest Hawaii constitutional convention held?

In 1968. The legislature in 1966 asked the voters whether or not to have a constitutional convention. The voters approved the calling of a con-con, and in 1967, the legislature authorized the June, 1968 election of eighty-two convention delegates. Sixty-three delegates represented Oahu and nineteen represented the neighbor islands.

The convention began on July 15, 1968 and lasted fifty-eight days. The 1968 convention cost a total of \$1,205,000, which, adjusted to present day costs, would equal \$1,875,400\* for an identical convention. Nearly all constitutional amendments proposed by that convention were adopted by the voters at the general election in November of 1968.

#### Why is a question about a constitutional convention going to be on the ballot in November?

Our present Constitution says that the question, "Shall there be a convention to propose a revision of or amendments to the constitution?", must be presented to the voters every ten years. Although the ten-year period, since the question last appeared on the ballot, has not quite passed, the legislature enacted a law requiring the question to be placed on the 1976 general election ballot. The Constitution allows the question to be presented to the voters more frequently.

#### What will happen if the voters reject the calling of a constitutional convention?

There will be no convention but changes to the Constitution may still be proposed by the legislature and presented to the voters. The legislature can also present the constitutional convention question to the voters again in the future; or, if ten years pass without such action, the question will automatically be placed before the voters.

#### What will happen if the voters approve the calling of a constitutional convention?

The legislature will pass a law providing for the election of delegates at a special election, the date the convention will start, the powers of the convention, the salaries of delegates, and other necessary matters.

#### When will the constitutional convention, if approved by the voters, be held?

Since the election of delegates and the date of the convention are set by law, the law setting up the convention must be passed by the legislature and approved by the governor. The required law could be passed in 1977. The election of delegates and the constitutional convention would be held after the law is passed and approved.

#### What kinds of subjects can the constitutional convention consider?

The 1968 Constitutional Convention was not limited in what it could consider. That convention proposed changes that covered many areas, including the county debt limit and the eighteen-year old vote. Some possible subjects which could be considered by a constitutional convention are discussed below. Discussion is presented generally in the order that the subject matter falls within the Article groupings of the Hawaii Constitution.

## THE ELECTORAL PROCESS

### 1. Whether there should be initiative.

Initiative is a method by which voters, by petition, are able to propose amendments to statutes (statutory initiative) or to the Constitution (constitutional initiative). An initiative is proposed by a petition with signatures of a required number of voters. If the petition meets all requirements, it can be handled by either direct or indirect initiative. Direct initiative does not involve the legislature and the people vote on the measure themselves.

\*Calculated by using data from the Survey of Current Business, a U.S. Department of Commerce publication. The cost is adjusted using data from the 1st quarter of 1976. The buying power of \$1 in 1968 was roughly equal to \$1.556 by that quarter in 1976.

Indirect initiative requires the measure be sent to the legislature, which either approves or amends it.

It is argued that if there is initiative, there will be fewer voter fears of a legislature becoming too strong or unresponsive. Fewer constitutional restrictions on the legislature may result, which would enable the legislature to be more progressive while the people would also have the right to legislate directly. The initiative process when used by the people may serve to inform their representatives of voter wishes and concerns. The initiative can also be a device of the people to counteract special interest group legislation.

States not having the initiative process feel it is neither necessary nor responsible for substantial reform. In some states the initiative has been used more frequently for constitutional amendments than statutory amendments to prevent possible legislative changes later, allowing the people to have the overriding position. This practice reduced flexibility since the constitution is harder to amend than a statute. The initiative process may not be suited for a particular state, because of the time and money which are necessary to pass an initiative. Some claim, also, that the initiative is not necessary as a tool to discover wishes and concerns of the people, saying that survey polls and talking to the people would be equally or more appropriate.

### 2. Whether there should be referendum.

Referendum is a process by which the people can approve or disapprove a statutory or constitutional amendment proposed by the legislature. For a referendum, petitions are signed by a certain number of voters who wish to have the measure subjected to a vote of the people, and the measure is placed on the ballot for vote in the next election.

States allowing referendum feel that when properly used, referendum leads to progressive government, serves as a control on government, and acts as a protection for the people. Legislatures may tend to avoid passing a bill which many, though perhaps not a majority of the people oppose. Party politics are not necessarily involved since the people vote on the measure itself, without connection with any particular legislator or political party. Supporters of referendum also feel that it educates the public because the measures voted on are widely publicized and discussed. Thus, voters are more knowledgeable when voting on any issue before them.

States without referendum believe that too much may be expected from the voter as legislative measures are often numerous and difficult to understand and can be better handled by representatives chosen by the voters. Elections are held often enough to ensure voter control of the legislature by enabling the people to choose legislators who are more responsive. The use of the referendum, some claim, may slow down and disrupt state progress and quick handling of problems.

### 3. Whether there should be recall of elected officials by voters.

Recall of an elected official is a method for voters to determine whether the official should be removed from office. A recall election is held on a petition signed by a required number of voters, stating the reasons for recalling the official.

There are three basic methods for recall: indirect recall, recall with a successor chosen, and simple recall.

Indirect recall is an election to fill the office of the person removed. The official being removed is made a candidate and runs against others for the office. The winner holds office for the rest of the term.

Recall with a successor chosen requires that a voter first decide whether the person should be removed from office, and if so, who the successor should be.

In simple recall, voters only decide whether a person should be removed from office. If the vote is to remove the person, a successor is chosen according to law, either by appointment or by another election.

People favoring recall state that recall makes public officials act with greater responsibility. Because recall can be a check on how long someone stays in office, the voters need not wait until a person's term expires before removing him from office. A recall provision may also

able to vote them out of office as well. People against recall say that removal of elected officials can always be done through the courts, the legislature, or sometimes, gubernatorial action. Officials are also removed from office when voters do not reelect them. In addition, the expense of a special election may be too high to justify recall. Opponents of recall point out that it may be abused by well-organized groups for political purposes, for it can provide a constant and legal means for special interest groups to threaten elected officials.

## PUBLIC OFFICIALS

### 4. Whether there should be a limit on the number of terms elected officials may serve.

Twenty-three states, including Hawaii, do not limit the numbers of terms any of its elected officials may serve; twenty-seven states limit in some way the number of terms their governor may serve.

States of limiting the terms of public officials feel that the voters have the right to retain an official they believe the most qualified and able to do the best job. Limiting terms of office, it is claimed, may deny the people the service and experience of an able public servant and limit the right to elect their first choice. It is pointed out that a limitation on the number of terms results in heavy turnover in office and the loss of knowledgeable elected officials.

States limiting the terms of elected officials believe that unlimited terms provide elected officials with an opportunity to build political machines, which are used to continue their reelection even though there are others better qualified. Providing limitation on the number of terms of an elected official also makes possible the election of new people with new ideas.

### 5. Whether elected officials should resign before seeking another elective office.

Currently, elected officials are not required to resign before seeking another elective office.

Some people say that elected officials should be required to resign if they want to run for another office. They believe a person should devote his entire energy and time doing the job he was elected to do, and that a person who takes time to seek another office is unfair to the voters who elected him for another purpose. Proponents also believe that political strength would be equalized among the candidates running for an office.

Others feel that to require resignation would discourage public officials from seeking offices with greater responsibilities. An experienced elected official is often qualified to serve in other offices, and to force officials to resign from office would as a practical matter discourage many qualified persons willing to undertake the other office. Opponents also point to federal offices, in which U.S. Senators, for instance, can run for President without resigning from the Senate.

### 6. Whether elected officials should be prohibited from serving as delegates to the constitutional convention.

Presently elected officials are allowed to serve as delegates to a constitutional convention (con-con).

Some people believe that elected officials who serve as delegates may prevent some of the changes which may be considered because they are comfortable and familiar with the way things are. They also point out that the voter's intent in electing an individual to office is that the individual devote his term of office to perform his duties, which he may not be able to do while serving as a con-con delegate.

Other persons argue that prohibiting an elected official from running for con-con would exclude many knowledgeable persons from the convention. Elective officials contribute much to a con-con since they are knowledgeable concerning, and experienced in, government. Further, if a broad cross-section of the citizenry is to be represented in the con-con, then elective officials are representative of that part of the citizenry.

Increasing overlapping of public and private lives of elected officials has led to great concerns over conflicts of interest in government. Hawaii in 1967 enacted a code of ethics, establishing an ethics commission and setting standards of conduct for legislators and all other officers and employees of the state, except for judges.

Hawaii's present Constitution instructs the legislature to adopt a code of ethics; a constitutional convention, however, may consider including a code of ethics in the Constitution.

Since most legislators are part-time officials who earn a major portion of their incomes from other occupations, they may be placed in situations where voters expect legislators to help when the voter has dealings with the state. Thus, those persons in favor of a code of ethics in the Constitution believe that some protection for legislators and other elected officials against conflict of interest situations will result if a code of ethics were put in the Constitution.

Other persons argue that the Constitution is not the proper place for a code of ethics, as a constitutional provision that can be handled by statute might be too rigid to meet the changing problems of the state. The code, opponents say, may have to be amended constantly to take care of new situations and values, and generally the Constitution is not easily or swiftly amended.

### 8. Whether there should be an express provision on salaries, compensation, and benefits of elected and appointed officials.

Hawaii's Constitution provides legislators with a \$12,000 a year salary and by law they also receive an additional \$1,500 for expenses connected with legislative duties. The legislature is given the power to increase its own salaries and to set salaries for all other appointed public and elected state officials.

Some persons argue that limits on pay and benefits should be spelled out in the State Constitution. They question the wisdom of allowing the legislators to set their own salaries or that of other public officials, because of the possibility of abuse. A constitutional restriction would protect against this possibility.

Other people believe that because the cost of living and value of the dollar fluctuates, the legislature should have the responsibility of setting appropriate pay and benefits. In addition, the responsibilities of elected and appointed officials may change as the functions and scope of government change so that pay and benefit adjustments may be needed to attract the most qualified people to these elective and appointive offices.

## LEGISLATURE

### 9. Whether the legislature should be other than bicameral.

Hawaii's Constitution requires a bicameral legislature composed of a fifty-one member House of Representatives and a twenty-five member Senate.

A central issue concerning legislative structure is whether the legislature should remain bicameral, that is, have two chambers—a Senate and a House. A unicameral legislature, on the other hand, has only one house. Unicameralism and bicameralism are both means to the same end—to conduct the legislative business of the state in an orderly manner.

Persons favoring unicameralism believe a one-house structure demands greater accountability of legislators to the people of the state, since there is no "other house" to blame for poor legislation or lack of action. Legislators would be required to pay more attention to their legislation, promoting decision-making likely to result in quality legislation. Duplication of work may be minimized by introducing bills in a single house only, as well as reducing the repetitive aspect of considering bills in two houses.

These persons feel unicameralism is simpler, and that the public will be better able to monitor the legislative process. In turn, the legislature can better monitor the execution of legislative policy. The one-house structure avoids the necessity of conference committees to resolve

sure a close, unswerving watching function when the legislature. They feel it is necessary for each house to monitor the work, processes, and products of the other house, eliminating the possibility of one house being able to do mischief with the laws, since each house subjects the legislation of the other to critical examination and review.

Duplication in both the voting and committee procedure is a positive feature of the legislative process. This positive duplication affords the public a greater opportunity to be heard, requires that legislative action be informed rather than hasty, and insures that support is substantial and long-lasting rather than temporary.

Finally, they feel a two-house legislature is less vulnerable to domination by any interest group faction.

A form of government which has not received as much attention as the bicameral or unicameral legislature is the parliamentary form.

Parliamentary government, or cabinet government, consolidates both the executive and legislative functions into one governing body which selects an executive head (governor) from its own ranks to serve at its pleasure.

The executive head governs only so long as he has the support of the parliament (legislature). The executive chooses the heads of government departments, from the majority political party of the parliament. They hold ministerial (departmental) office only as long as they have majority support in an elected house. A defeat for the executive through an adverse legislative vote, on an important issue, indicates a lack of confidence requiring the executive either to resign or to attempt, by means of a general election, to secure a new majority in the parliament.

Persons in favor of the parliamentary form of government believe that stalemates between an executive of one party and a legislature of another, as occurs with the American system of separated powers, is impossible in the parliamentary system. Further, this form of government prevents "passing the buck" between branches of government.

Those against the parliamentary form of government point out that instability of executive authority results in numerous expensive elections. They also feel that it is foreign to the traditional form of government in the United States and the familiar separation of powers structure. Further, it increases the possibility of a dominating political machine.

### 10. Whether there should be single-member or multi-member legislative districts.

The Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution requires that each member of an elected body represent, as far as practicable, voters equal in number to the number of voters represented by every other member. Thus, each citizen's vote is equal in weight to the vote of any other citizen.

A "single-member district" is one in which the voters elect one legislator to represent a district. A "multi-member district" is one in which the voters elect more than one legislator to represent their district. Presently, Hawaii has single and multi-member districts in both the Senate and the House. The Senate has twenty-five senators divided among eight senatorial districts, while the House has fifty-one representatives divided among twenty-seven representative districts.

Persons believing in single-member districts point out that such districts are relatively small in area and population, and allow greater personal identification between the voter and the legislator. Smaller districts, some claim, reduce campaign expenses, encouraging individuals who otherwise may not run because of the costs and hardships of a campaign in a large district.

On the other hand, persons believing in multi-member districts argue that single-member districts represent only a very small portion of the state, and may lead legislators from the small districts to be primarily concerned with highly localized issues and to ignore the broader issues facing the state. Further, group representation from a larger geographic area leads in many cases to team representation of the district and increases the large district's strength and cohesive-

Before the 1988 Constitutional Convention, the terms of senators were staggered and in each election year, approximately one-half of the Senate seats were up for election. Under the present Constitution, members of the House of Representatives are elected for a two-year term while those of the Senate are all elected for a four-year term without being staggered.

Persons against staggered terms believe that if all members serve for the same period it will allow committee chairmen to become more knowledgeable about their subject matter and, without the election pressures every two years like their House counterparts, senators can provide a more deliberate approach to examining legislation. Furthermore, the voters of the state are able to assess the work of the entire legislature every four years and have an opportunity to elect an entirely new legislature or to reelect some members while electing a large number of new members both in the House and the Senate simultaneously.

Those persons in favor of the staggered term concept argue that staggered terms allow the voter to assess the performance of the Senate every two years, although not all of the Senate is up for election every two years. They also point out that without staggered terms the House is forced to be the only legislative chamber accountable for legislation enacted by Senate in off-election years. Further, staggering Senate terms will mean that it would be impossible to have a completely inexperienced legislature.

### 12. Whether there should be a change in legislative sessions, e.g. split sessions or longer sessions.

Hawaii's Constitution provides that the legislature shall be a continuous body for two-year periods beginning when newly elected House members take office. The legislature meets once a year in regular session for not more than sixty legislative days. The legislature may also be convened in special session by the governor or at the request of a majority of the legislators. The governor may also convene both houses or the Senate alone in special session.

There are two related constitutional issues in the discussion of legislative sessions, these go to frequency and duration. The issue of frequency concerns annual or biennial sessions, and the issue of duration concerns the length of each legislative session.

## FREQUENCY

**Biennial Sessions.** Biennial sessions require the legislature to meet once in a two-year period. Persons in favor of biennial sessions feel the quality of legislators may be better because some of the state's best citizens, who may be too busy to meet the time demands of legislative service each year, might be willing to give time every two years. The biennial system, it is said, allows legislators time to meet with the voting public. In addition, the time between biennial sessions allows better performance of between-session studies and other interim work.

**Annual Sessions.** Persons in favor of annual sessions believe the balance of power of the governor and the legislature may be threatened, because the legislature would not be a continuous body and it would be more dependent on the executive branch of government. Annual sessions tend to overcome this imbalance. Annual sessions allow the budgeting and legislative process to more responsibly react to changes because of inflation, population shifts, the expansion of government functions, and unforeseen emergencies, which can occur every year.

## DURATION

**Split Session During Annual Sessions.** A split session divides a session, for example, into three parts, using a recess between a short preliminary session in which bills are introduced and a long session in which the bills are debated, passed, or rejected.

Those in favor of a split session argue that it provides legislators and the people with an opportunity to study pending legislation. Split

**Unlimited Sessions.** Those in favor of limited sessions, such as the 60-day session Hawaii uses, argue that unlimited sessions may make it impossible for many people to serve as legislators. They point out that unlimited sessions may end Hawaii's tradition of a citizen or part-time legislator and may create a professional or full-time legislator. It is also felt that unlimited sessions are expensive and may lead to unnecessary legislation. During a short legislative session or a less frequent session, it is easier for the public and the press to keep track of legislative activity.

**Unlimited Legislative Sessions.** Persons in favor of unlimited sessions believe that just because the length of a session is unlimited does not mean it will continue indefinitely. Unlimited sessions allow the legislature to be the judge of how much time it needs to give adequate consideration to proposed laws. Although some feel that legislators may not work as hard if there are no limits on sessions, persons in favor of unlimited sessions point out that fixed annual salaries encourage legislators to finish their work as soon as possible, since they have no reason to work indefinitely. Short and compact sessions tend to make it easier for bills to be overlooked according to unlimited session proponents.

## EXECUTIVE

### 13. Whether any executive (department) officer should be elected.

The governor is the head of the executive branch of Hawaii's government and appoints all department heads, except the Department of Education which is headed by an elective board.

In some other states, however, one or more department heads are elected, as well as the governor and the lieutenant governor. These elected department heads often are the attorney general and the comptroller.

The attorney general is the legal adviser of the state and also appears in court to represent the state, its officers, and agencies. The comptroller (head of the department of accounting and general services in Hawaii) determines and carries out the state's accounting system, controls various fiscal operations, and gives voucher approval.

Where these officers are elected, it is felt that voter control of government is best achieved through election. Supporters of elected officials believe that public interest and participation in government increases, and responsibility is more clearly fixed. Further, the elected officials have more independence than appointed officials.

States favoring appointed officials believe that a department must carry out state policy, so the departmental heads must be directly responsible to the governor. Appointed department heads mean, also, that responsibility and accountability are clearly placed in the governor. This, proponents of appointed officials believe, allows the voters to decide more clearly whether or not to keep the governor at the next election.

## JUDICIARY

### 14. Whether there should be a change in the manner of selecting judges.

It is generally felt that the Constitution should provide for a strong and independent judiciary, because the courts are so important in keeping order and resolving disputes. The independence of the courts allows fair decisions to be made by judges without fear or favor. There is also general agreement that judges must somehow be accountable to the people.

Hawaii's judges are appointed. The governor appoints the judges to the supreme court and the circuit courts, and the chief justice of the supreme court appoints district court judges.

Judges are appointed in thirteen states by either their governors or

judges to nominate candidates, from which the governor appoints the judges. After a judge serves a short term, for example, one year, the voters are asked if the judge should be kept in office a longer term based upon his performance.

Opponents to appointment of judges say it increases the political considerations in selecting a judge, whereas the election method insures direct responsibility of judges to the people.

People favoring appointed judges say the election method forces judges to be politicians, making their judgments based on politics or public opinion, and not on fairness and law. Further, although politics may enter into the appointment, the judge is independent once in office.

## TAXATION AND FINANCE

### 15. Whether counties should have the authority for taxation.

In Hawaii the authority to tax is in the state, except where delegated to the counties. To date, however, no major delegation of taxing authority has been made to the counties.

Those in favor of allowing the counties to tax contend that taxes could be made in relation to specific local conditions and requirements, with each county bearing the full responsibility for the taxes it levies. Responsibility of the individual counties for fiscal planning and administration are to be promoted in this way. Pressure on the state and federal governments to solve local problems and to provide increased services is reduced, according to proponents of county taxing power.

People against giving taxing powers to the counties say that the state has the ultimate responsibility for the financial solvency of the counties, which requires the full authority to determine which taxes are to be levied by which level of government. It is claimed that general state interests would not progress if the state government's authority to make taxation policy is left to the counties. Furthermore, the imbalance of resources among the counties presents a danger of inconsistent and inequitable use of local taxing powers among the counties of the state.

### 16. Whether the debt limit should be abolished or changed (e.g., some bonds, such as revenue bonds, do not count in the debt limit).

The Hawaii Constitution allows the state to borrow money, but balances this power with certain restrictions, including a "debt limit", which limits the amount of state debts. This of course means that the legislature cannot authorize borrowing money beyond that limit. Any change in the debt limit, therefore, involves two basic alternatives, either no debt limit with unrestricted legislative power, or a more restrictive debt limit.

Those who argue for fewer restrictions believe the state is still growing, and that construction of facilities, financed by borrowing, must continue. Since land and construction costs may rise in the future, delays forced by a restrictive debt limit could be costly. Borrowing, now, could save money in the long run.

It is also argued that any debt limit is ineffective, and makes borrowing more difficult and expensive. Other states have evaded rigid debt provisions through the use of revenue bonds and other forms of more expensive, non-guaranteed borrowing methods.

Those people favoring restricting the state's power to incur debt say that as the state's total debt increases, repayment becomes less certain, and higher interest rates must be paid to attract lenders. Restricting the total debt, therefore, holds down state interest costs on new debt.

Further, an accurate debt limit shows lenders that their money is secure, and the state's credit is good. Future taxpayers, it is argued, are, therefore, not heavily overburdened with debts incurred today.

## EDUCATION

**17. Whether there should be a change in the manner of selecting the Board of Education.**

In 1964, the Hawaii voters approved a constitutional amendment changing the method of selecting the Board of Education from one appointed by the governor to one elected by the voters. Proposals to change back to an appointed board keep surfacing.

Those who favor an appointed board feel it may attract more qualified individuals who would serve if they did not have to run for office. It is also felt that under the appointive system, there are clearer lines of responsibility; for example, if the school board does a poor job of administering the Department of Education, the governor is responsible. An appointive board also avoids the problems of the one man, one vote rule which applies to elected bodies.

People wanting an elected board believe elected members will be directly accountable and responsive to the voters. An elected board may also create greater citizen interest, support, and participation in school affairs since voters have a direct line to the elected board to express their views on school policies. Proponents of an elected board also point out that Hawaii's citizens have shown that they want a more direct voice in school decision-making by voting for the elected school board against later amendments to change back to an appointive board.

**18. Whether the powers, functions, or duties of the Board of Education should be changed.**

The responsibilities for education in Hawaii are shared by the legislature, the governor, and the Board of Education. The Department of Education provides the staff to carry out the day-to-day operations of public education. The legislature appropriates money and makes laws for education. The governor sees that all laws are carried out, and may also reduce the amount of money available to the Department of Education. The Board of Education makes policy for and controls the public school system through the superintendent of education, whom the board appoints.

Some persons suggest that the present system is in need of clarification. For example, the governor and the board both supervise the Department of Education; however, the governor can disapprove a rule adopted by the board. Also, both the legislature and the governor may delete, reduce, add, or expand educational programs.

Some suggesting clarification of the responsibility for making policy for education feel that the Board of Education is the expert in the area and should have full control. They point out that the board was elected by the people specifically for this purpose, while the legislature and the governor were not.

However, even under the present system, not all state educational policy is decided by the legislature or the governor. Supporters of the present system point to the broad discretionary power the board is given over public education.

They further feel the existing three-way input by the board, the governor, and the legislature is a proper balance of power. The governor, it is claimed, should control board rules and budget because the governor represents all the people and must balance the total needs of the state. The legislature should also retain its present role. Some claim, as legislators are closer to the voters (i.e., each legislator represents fewer people than a board member), are better known than the board members, and have the power to appropriate money and pass laws. Like the governor, the legislature also sees the total needs of the state and must provide for all of those needs.

## CONSERVATION

**19. Whether the responsibilities of the state in land use matters should be specified, e.g., preservation of lands specifically identified and the manner in which land, public and private, in the state should be used.**

Natural resources are generally thought to consist of usable mate-

rial resources, running water, and other sources of energy. Hawaii has few of these resources, but does have resources such as land, climate, and the natural beauty of the islands. Thus, when speaking of conserving Hawaii's natural resources, people usually focus on the land and how it is used.

Presently, the Constitution generally requires the legislature to promote the conservation, development, and utilization of natural resources, and places the power in the state.

Some people believe that broad statements about conservation do not protect natural resources well. They feel that the Constitution should specifically identify conservation areas to be protected, such as in the "forever wild" forest reserve section in one state's constitution, requiring the forest lands of that state to be kept forever, not to be sold or destroyed.

Some state constitutions have brief statements about conservation similar to Hawaii's which state conservation policy and allow the legislature to decide the use of the resources. These states feel that it is better to allow the legislature to develop a comprehensive program that can easily take into account the changing values and needs of the people as well as scientific developments in resource management.

## ORGANIZATION AND COLLECTIVE BARGAINING

**20. Whether the right to strike of public employees should be limited.**

Hawaii's Constitution permits state and county public employees the right to organize for the purposes of collective bargaining, and statutes give details of public employee rights, including provisions for bargaining procedures, settlement of disputes, and rights and prohibitions of going on strike.

Hawaii has no restrictions and permits all public employees to strike, but that right is not unlimited. Certain steps, such as mediation, fact-finding and arbitration, must be taken before employees can strike.

Some persons argue that public employees should not have the right to strike since there are differences between private industry where strikes should be allowed and in government where strikes should not be allowed. For example, the profit motive which influences the private employer's willingness to grant wage increases or fringe benefits and the threat of a firm going out of business or going bankrupt are factors to be taken into account by unions. These factors do not apply to a government. Private employee demands cannot be too excessive or the private employer seeks alternatives not open to a government. For example, if labor costs are too high, the private employer can relocate or close down, but government cannot do this. Private industry has direct control over expenses as some money may be saved by reducing, stopping, or selling some part of the business. Most services provided by the government, however, cannot be reduced or stopped.

Other people say there is no difference between private industry and government for purposes of the right to strike. They point out that all employees have the same problems at work, such as rising prices, job security, promotions, and lay-offs, whether in government or private industry. The right to strike is a bargaining tool for better wages, conditions, and benefits and is necessary to balance the power of the employer no matter who the employer is. Since government may be able to contract for services when employees are on strike, some claim it can keep on providing essential public services.

A third view is represented by those states prohibiting only certain employees, such as policemen and firemen, from striking. These states feel that while public employees have a right to strike, certain services requiring special training must be provided because there is no way to contract for such services. These states believe that these services are crucial for the health and safety of the people, and so must be treated as a separate category.

# CONSTITUTIONAL



# CONVENTION

CON-CON - SATURDAY,  
ELECTION      MAY 20, 1978

Prepared by:  
Office of the Lieutenant Governor  
and  
Association of Clerks and Election  
Officers of Hawaii  
(ACEOH)

## HAWAII'S CONSTITUTIONAL CONVENTION

### WHAT IS A CONSTITUTION?

IT IS A DOCUMENT THAT:

- Outlines the basic principles of a formal government.
- Guarantees certain rights of the people against infringement.
- Assigns the powers and functions of government.
- Defines the method of selection of our leaders.
- Establishes the basic legal foundation for government and the limitation of its powers.

\* \* \*

### WHAT IS A CONSTITUTIONAL CONVENTION?

- A way of reviewing and changing a constitution.
- Composed of delegates usually elected from representative districts or a combination of election precincts, or on an at-large basis.
- Changes proposed by the delegates are voted upon by the people before becoming official.

\* \* \*

### HAWAII'S PAST CONSTITUTIONAL CONVENTIONS

#### CON-CON 1950

- Called for through Act 334, 1949, by Territory Legislature to demonstrate Hawaii's desire for statehood
- Sixty-three delegates met in 1950 to draft a State Constitution.
- Voted For adoption by the people in 1950.
- Became operational in 1959 when Hawaii became a State

#### CON-CON 1968

- In 1966, the Legislature asked voters whether or not to have a Con-Con.
- Voted for by the people in 1966.
- In 1967, the Legislature authorized a convention to be held in 1968
- Eighty-two delegates were elected in June, 1968
- Convention began July 15, 1968 and lasted 58 days.
- Convention cost a total of \$1,205,000.
- All changes proposed by the convention, except one, were adopted by the people in the General Election of 1968.

\* \* \*

### 1978 CONSTITUTIONAL CONVENTION

- Voted for by the people in the 1976 General Election.
- Convention convenes July 5, 1978 in Honolulu with no time limit
- Election to be held May 20, 1978.
- Election will be nonpartisan with candidates names listed alphabetically on ballot.
- Proposals to be submitted to the voters at the General Election of November 1978, unless the convention determines otherwise.

\* \* \*

## VOTER REGISTRATION FOR CON-CON

IF YOU ARE NOT ALREADY A VOTER OF HAWAII, YOU MAY REGISTER FOR THE CON-CON AND ALL OTHER ELECTIONS IF:

- you are a citizen of the United States.
- you will be 18 years old on the day of the election.
- you are a legal resident of the State of Hawaii.

\* \* \*

### IT'S EASY TO REGISTER

Just appear in person to register at any County Clerk's Office or other designated locations throughout the State. Refer to back page for registration locations.

\* \* \*

### RE-REGISTER

Sometimes you have to register again, even though you have done so before. Re-registration is required if:

- you did not vote in both the 1976 primary and general elections, or
- you have changed your name or address since the 1976 elections.

\* \* \*

### REGISTRATION DEADLINE

Registration for the Constitutional Convention will be closed at 4:30 p.m. on April 20, 1978.

\* \* \*

### ABSENTEE VOTING

You may request an absentee ballot from the Clerk's Office if:

- you are registered to vote in the 1978 Con-Con
- you will be out of the state, county or district on election day.
- you are confined at a hospital or institution on election day.
- you are ill or disabled at home on election day
- you are prevented from voting at your polling place by religious beliefs.
- you live ten miles or more from your polling place.

\* \* \*

### CON-CON ABSENTEE

Absentee requests will be accepted during the following dates:

- Out of State - March 21, 1978 to May 13, 1978
- Confinees - up to 6:00 p.m. on May 20, 1978

Absentee voting in person at the Clerk's Office will begin ten days before election day from:

- May 10, 1978 to May 19, 1978

For hours of operation, please contact your County Clerk.

\* \* \*

## CANDIDATES FOR CON-CON

### QUALIFICATIONS

- U.S. Citizen.
- Legal Resident of the State of Hawaii.
- Qualified Elector of the District seeking election.

\* \* \*

### NOMINATION PAPERS

Nomination papers for a candidate for a Con-Con seat may be picked up and filed at the Lt. Governor's Office. Neighbor Island candidates may pick up nomination papers at their respective county clerk's office.

Nomination papers must be signed by not less than 15 qualified electors of the Con-Con district.

Deadline for filing - 4:30 p.m. on April 20, 1978.

\* \* \*

### FILING FEES

\$25.00 at the time of filing.

\* \* \*

### DELEGATE'S SALARY

Delegates to the convention will receive a salary of \$1,000 a month, but not more than \$4,000 for the convention, plus an allowance of \$10 per diem for Oahu delegates and \$30 per diem for neighbor island delegates.

\* \* \*

### CAMPAIGN EXPENSES

All candidates for Con-Con must file reports with the Campaign Spending Commission. For more information call or contact:

Campaign Spending Commission  
State Capitol, Room 436  
Phone: 548-5411

Neighbor Islands:  
For information only  
Call Operator, ask for  
Enterprise 5406

\* \* \*

CONSTITUTIONAL CONVENTION DISTRICTS

REGISTRATION LOCATIONS STATEWIDE\*

CON-CON DISTRICT	COMBINED ELECTION PRECINCTS	AT-LARGE DELEGATES	DISTRICT DELEGATES
<b>HAWAII COUNTY</b>			
1st	All	2	-
2nd	1-6 & 12 7-11, 13 & 14	-	2
3rd	All	2	-
4th	All	2	-
<b>MAUI COUNTY</b>			
5th	1-8 9-15	-	2
6th	1-6, 10-13 7-9, 14-16	-	2
<b>CITY AND COUNTY OF HONOLULU</b>			
7th	1-4 5-8	-	2
8th	1-3 4-7	-	2
9th	1, 3, 7 & 8 2, 4 & 6	-	2
10th	1-3 4-7	-	2
11th	1, 2 & 4 3, 5 & 6	-	2
12th	1, 3 & 5 2, 4, 6 & 7	-	2
13th	1-3 4, 5 & 9 6, 8	-	2
14th	1, 3 & 6 4, 5 & 7	-	2
15th	1-4 5-8	-	2
16th	1, 6, 8 2, 5	-	2
17th	1-3 4-8	-	2
18th	1, 3 & 5 4, 6, 8	-	2
19th	1-3 4, 6	-	2
20th	1-4 5-8	-	2
21st	1-3 4, 6	-	2
22nd	1-4 5-8	-	2
23rd	All	2	2
24th	1-3 4, 6	-	2
25th	1-3 4, 7	-	2
26th	All	2	2
<b>KAUAI COUNTY</b>			
27th	1, 10, 13 8 & 9 2, 7	-	2
27 Districts	234 Precincts	10	92
<b>TOTAL</b>		<b>102 DELEGATES</b>	

CITY AND COUNTY OF HONOLULU

Office of the City Clerk  
Honolulu Hale  
530 South King Street  
Honolulu, Hawaii 96813  
Phone: 523-4293

Beretania Neighborhood  
Community Center  
Phone: 521-6664

Ewa Beach Satellite City Hall  
Phone: 689-7914

Hauula Satellite City Hall  
Phone: 293-8551

Hawaii Kai Satellite City Hall  
Phone: 395-4418

Kailua Satellite City Hall  
Phone: 261-8575

Kalihi Satellite City Hall  
Phone: 847-4688

Kaneohe Satellite City Hall  
Phone: 235-4571

Wahawa Satellite City Hall  
Phone: 621-0791

Waianae Satellite City Hall  
Phone: 696-6371

Waipahu Satellite City Hall  
Phone: 671-5638

COUNTY OF HAWAII

Office of the County Clerk  
County of Hawaii  
25 Aupuni Street  
Hilo, Hawaii 96720  
Phone: 961-8277

Kailua Fire Station  
Phone: 329-1590

Captain Cook Fire Station  
Phone: 723-3636

Finance Factors Building  
Kealahou, Kona  
Phone: 322-2747

Bell Book and Candle  
Kona Coast Shopping Center  
Phone: 329-1441

Sandal Basket  
Kailua, Kona  
Phone: 329-1969

Honokaa Police Station  
Phone: 775-7228

Kohala Police Station  
Phone: 889-6225

Naalehu Police Station  
Phone: 929-7331

Waimea Police Station  
Phone: 885-7334

Waimea Fire Station  
Phone: 885-4282

Laupahoehoe Police Station  
Phone: 962-6211

Keaau Fire Station  
Phone: 966-9395

COUNTY OF KAUAI

Office of the County Clerk  
County of Kauai  
4396 Rice Street  
Lihue, Hawaii 96766  
Phone: 245-4785

COUNTY OF MAUI

Office of the County Clerk  
County of Maui  
200 South High Street  
Wailuku, Hawaii 96793  
Phone: 244-7825

Molokai District Court  
Phone: 553-5451

Lanai District Court  
Phone: 565-5285

STATE OF HAWAII

Office of the Lt. Governor  
State Capitol, 5th Floor  
Honolulu, Hawaii 96813  
Phone: 548-2517

\*Permanent Locations only. Call your County Clerk or the Lt. Governor's Office for temporary registration locations.



**THE PEOPLE ARE THE SOURCE OF THE LAW**  
A project of the League of Women Voters of Hawaii Education Fund, Inc.

## ERRATA

THE LEAGUE OF WOMEN VOTERS EDUCATION FUND KA PO'E PROJECT REGRETS THAT IT IS NECESSARY TO CORRECT TWO SERIOUS ERRORS WHICH OCCURRED IN THE PRINTING OF THESE BROCHURES.

ON PAGE FIVE, THE SECOND AND THIRD SENTENCES SHOULD READ: THE LEGISLATURE PROVIDED FOR A CONSTITUTIONAL CONVENTION OF 102 DELEGATES FROM 27 DISTRICTS. THEY WILL BE ELECTED ON MAY 20, 1978, AND START MEETING ON JULY 5, 1978.

WE ASK THAT PEOPLE MAKE THESE CORRECTIONS IN THEIR COPIES TO AVOID THE SPREADING OF MISINFORMATION.

IT IS OUR HOPE THAT YOU FIND THE BROCHURE USEFUL AND ENJOYABLE.



# CONstitutional CONvention '78

Facts for you prepared by the League of Women Voters of Hawaii Education Fund, Inc., and illustrated by Corky Trinidad.



*The People are the Source of the Law*



# YOU, the People, are the WHAT is a CONSTITUTION?

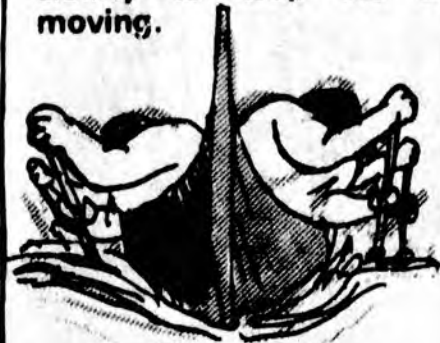
A constitution is the basic legal document of a state. It proclaims the powers and responsibilities given to a state government by its people.



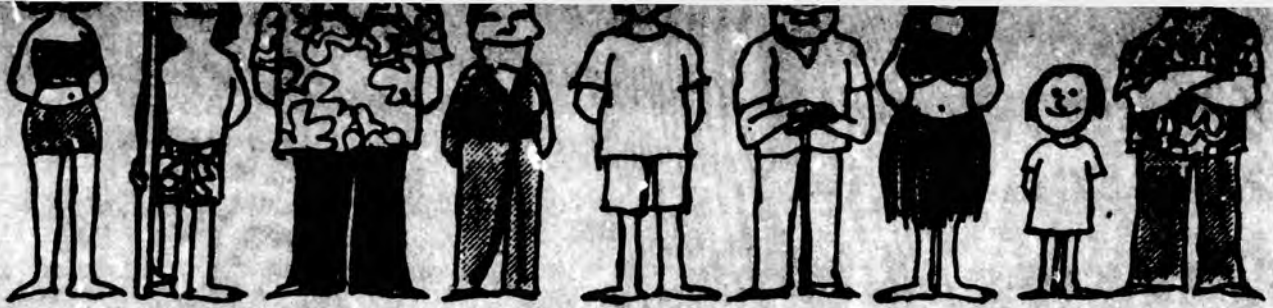
Constitution making is like a hukilau, where everybody shares the work of bringing in the catch, and has equal rights to the catch.



Constitution making is like paddling a canoe, where everyone has equal responsibility to keep the boat moving.



Just as the framework outlines the basic construction of a house and determines what it will look like, so does the Constitution state the basic powers and responsibilities of government, guarantee our rights and set the course for our future.



# Source of the Law

## A CONSTITUTION CAN BE REMODELED

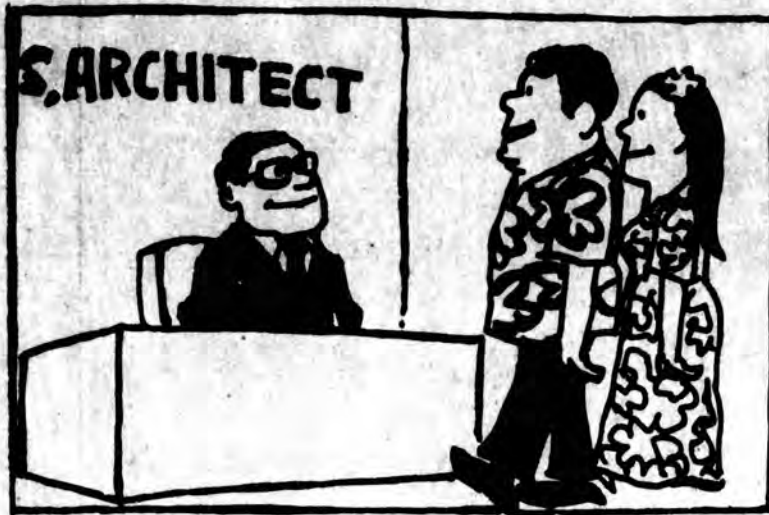
We live in a house for a while and our needs change as our family grows.

We want to remodel our house to suit our new outlook on life. The Constitution can also be altered to reflect our changing ideas on how we want to govern ourselves.



# A CONSTITUTIONAL CONVENTION IS..

We can elect representatives to meet, discuss ideas, and change the Constitution, a meeting called a *Constitutional Convention*.



A representative can be anyone who is at least 18 years old, a U.S. citizen, and a legal resident of Hawaii.



The suggestions for change that the representatives decide upon are then presented to the people, who vote on whether or not to accept the changes.

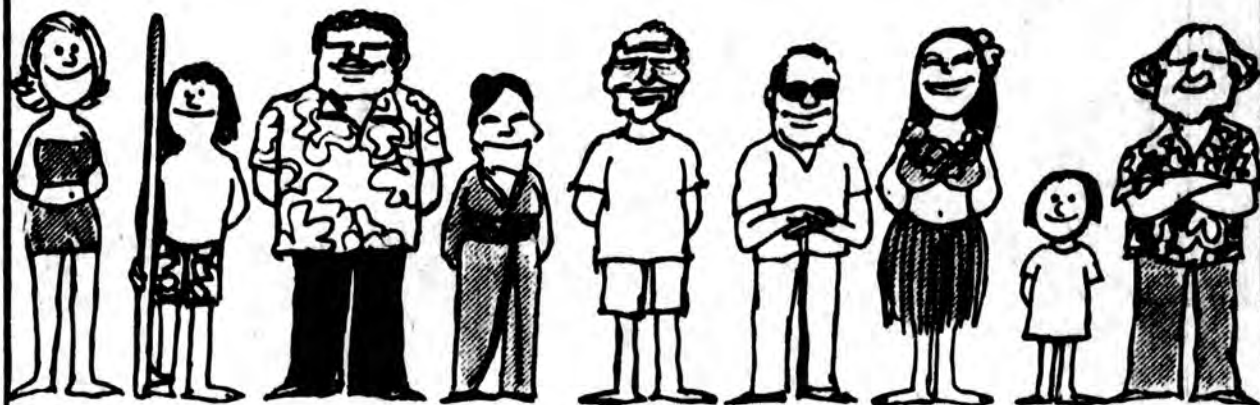


# THE 1978 CONSTITUTIONAL CONVENTION

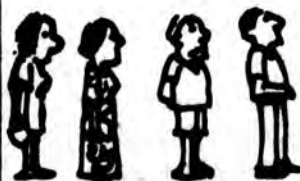


In 1976 the people of Hawaii voted three to one to have another look at their Constitution. The statute provided for a Constitutional Convention of 103

delegates from 27 districts. They will be elected on May 20, 1978 and start meeting June 5, 1978. Each delegate will be paid \$4,000 for serving in the Convention.



The revised Constitution will be presented to voters at a time selected by the Convention. (It is possible that the Convention will present the proposed changes to the voters in time for the 1978 election.)



# OUR BILL OF RIGHTS

Article One of the Hawaii State Constitution, called the *Bill of Rights*, lists 20 rights of the people.



These include the freedom of religion, speech, press, and the right of people peaceably to assemble and to petition the government to correct what they think is wrong.



Legal rights, such as the right to a trial by jury, to a speedy and public trial, and to habeas corpus (a safeguard against illegal detention or imprisonment) are listed in the Bill of Rights.



The Constitutional Convention might consider adding to or changing some of those rights, such as changing the grand jury's role, strengthening the right to privacy, adding the right to a healthful environment.



GRAND JUR



# THE HAWAII STATE GOVERNMENT



The Hawaii State Government is divided into three parts, or branches. The *legislative branch*, consisting of the *Senate* and the *House of Representatives*, meets every year for 60 working days and makes the laws. For example, the legislature recently passed a law stating the meetings of government agencies must be open to the public.

The *executive branch*, headed by the *Governor* and his *departments*, is responsible for carrying out the laws. In the example, it is the responsibility of all state and county agencies to assure that their business meetings are open public meetings, with advance public notice.

The *judicial branch*, consisting of one *state supreme court*, *circuit courts* and *district courts*, rules in disputes involving the law. Therefore, in the example, any citizen who feels he or she has been denied admittance to a meeting of a government agency can take his case to court.

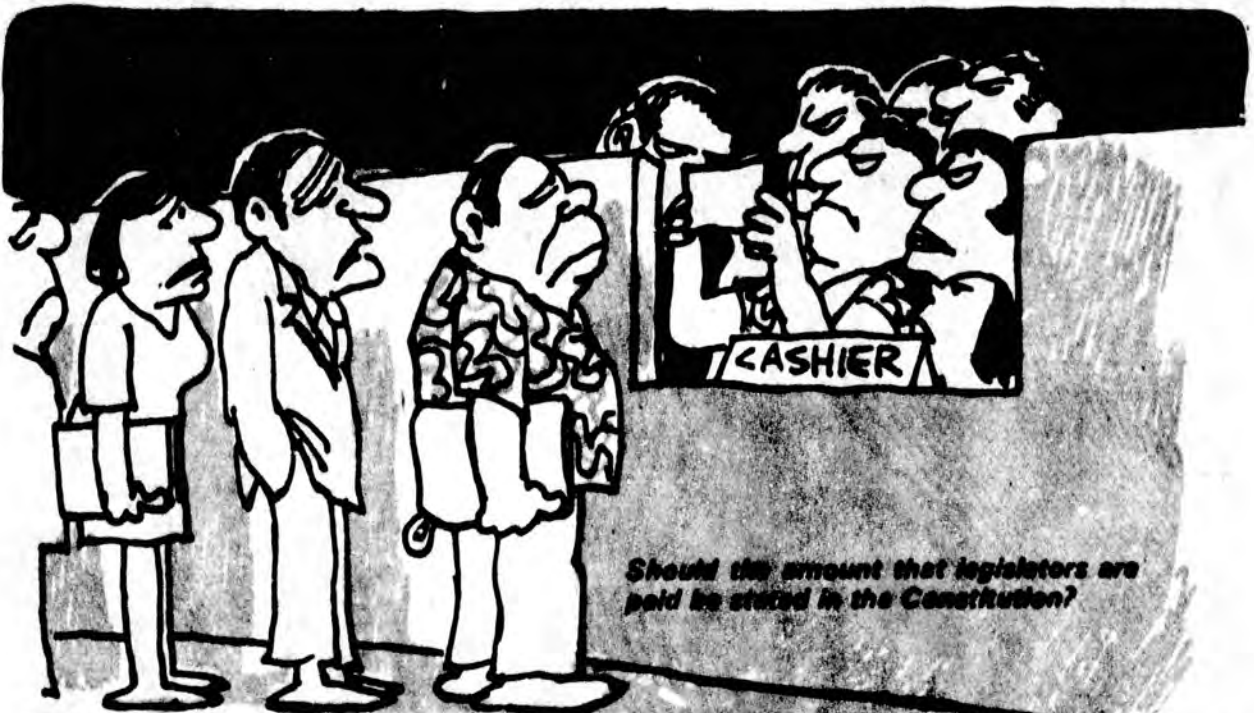


# THE GOVERNMENT WE WANT

The kind of legislature we want depends upon the powers and responsibilities we spell out in the Constitution. Our ideas are reflected in such issues as *nonpartisan elections, regulation of legislative salaries, etc.*, which may be considered at the Constitutional Convention.



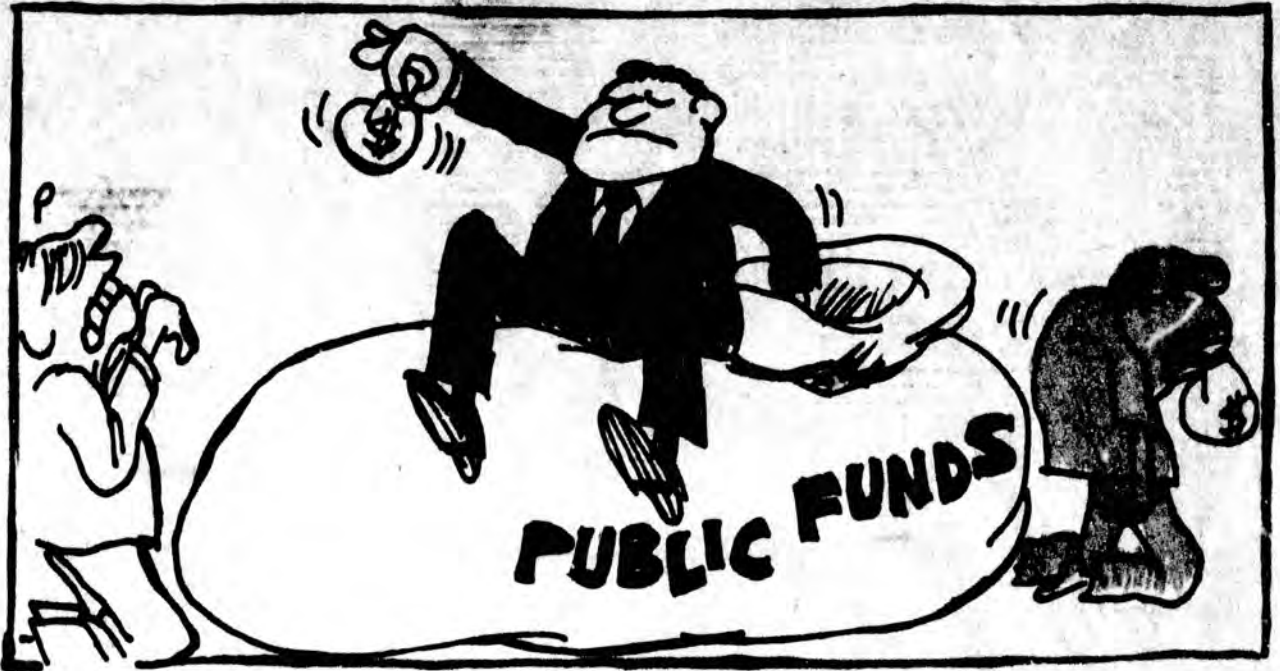
*Should legislators be required to run for office without any party labels?*



*Should the amount that legislators are paid be stated in the Constitution?*

# DEPENDS UPON US

Our present Constitution gives broad powers to the Governor and his departments. Possible changes include *limiting the Governor's right to withhold appropriated funds, electing the Attorney General, requiring the Governor to submit a balanced budget to the legislature, and others which may be considered at the Constitutional Convention.*



Many possibilities for change have been raised concerning the judicial branch of the government. These include *merit selection and election of judges, creation of an appeals court, changing the present 10 year appointment for judges.*

*Should judges be selected by a citizen panel and elected by the voters, or should they continue to be appointed by the Governor, subject to confirmation by the Senate?*





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## STATE-COUNTY RELATIONS

The counties are created by the state. In order to provide for state-county cooperation, the Constitutional Convention may consider such issues as



merging overlapping state-county responsibilities,

giving the counties more taxing power, or even abolishing the counties!





## HOW WE USE OUR LAND

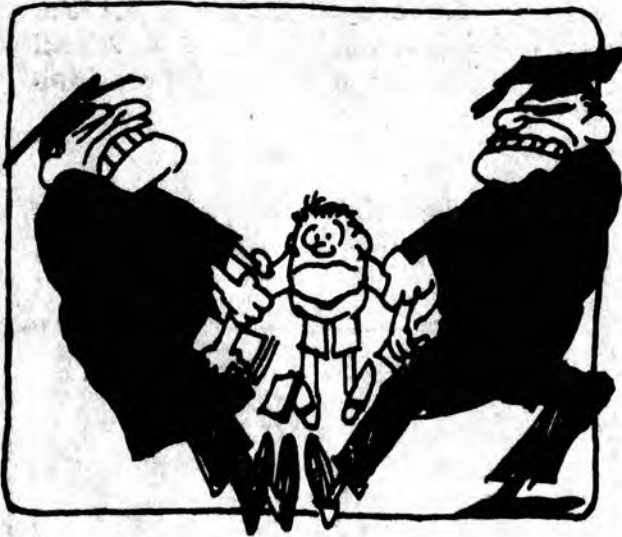
The delicate balance between land use and population growth is a very real problem in our state of Hawaii. Should we try to limit population growth? Should certain land use changes be made only by popular vote? Should the Constitution include our ideas on energy conservation? These and other issues may be discussed at the Constitutional Convention.



# EDUCATION



How can we best prepare our children for adulthood and social responsibility?



Is our present statewide educational system the best way, or should the counties have more power over schools? Do we still want to elect our Board of Education? What powers should the Board of Education and the University Board of Regents have? Should the Governor appoint the entire Board of Regents? These Constitutional issues may be discussed at the Convention.



## CONTRACTS FOR GOVERNMENT WORKERS

The present Constitution permits public employees to organize for the purpose of collective bargaining. This bargaining is usually done in closed sessions, between administration and employee representatives. Questions the Constitutional Convention may consider include:

Should certain types of public employee bargaining sessions be required to be open?

Should the right of government workers to strike be limited?





considered at the Constitutional Convention.

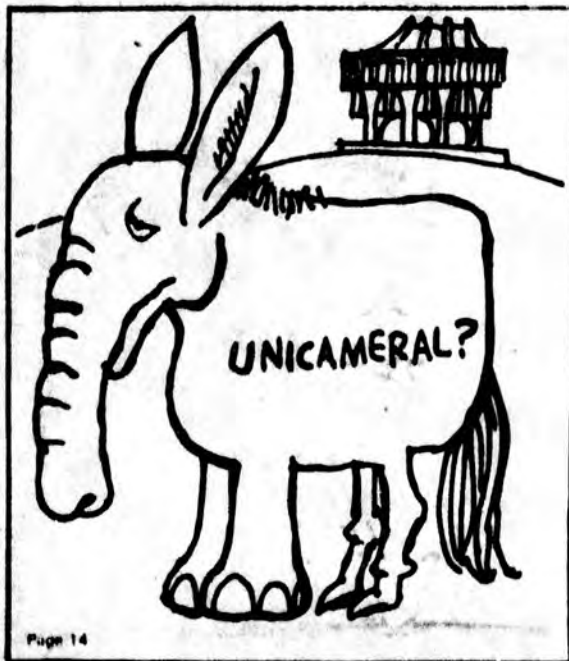
*Should there be more control of government spending?*

*Should the government be subjected to stricter debt limits?*



*Should the public be given the right to initiate and vote on legislation?*

*Should the public be given the right to vote on certain laws passed by the legislature?*



*Should there be a one-house legislature, or should we continue to have two houses?*

# HOW TO GET INVOLVED IN CONCON



**LEARN** about issues now being discussed.  
**SUGGEST** new topics of concern for CONCON.



**TALK** to your neighbors and friends about CONCON issues.  
**BECOME** a candidate for delegate to CONCON.  
**KNOW** how the candidates for delegates to CONCON stand on issues.





## For Further Information:

**CITIZENS FOR CONCON**  
2172 Kaneohe Ave.  
Honolulu Hawaii 96813  
538-1306

Holds informational meetings on  
CONCON issues.

**CONSTITUTIONAL NETWORK**  
1458 Halekoa Drive  
Honolulu, Hawaii 96821  
737-9585

Conducts and publishes results  
of surveys on important CONCON  
issues

### COUNTY CLERKS

*Honolulu: Eileen Lota*  
Honolulu Hale  
530 So. King St.  
Honolulu, HI. 96813  
523-4291

For information on registering and  
voting.

*Hawaii: Rudy Legasti*  
25 Apuni Street  
Hilo, HI. 96720  
961-8271

*Maui: James S. Ushijima*  
200 So. High St.  
Wailuku, Maui, 96793  
244-7825

*Kauai: Tad Miura*  
4396 Rice Street  
Lihue, Hawaii, 96766  
245-4785

**'O KA PO'E KE KUMO O KE KANAWAI**  
(The People are the Source of the Law)  
1441 Kapiolani Blvd., Suite 1310  
Honolulu, Hawaii 96813  
947-3741

Sponsors meetings throughout the state  
to gather your ideas on what should  
be CONCON issues.

**OFFICE OF  
THE LIEUTENANT GOVERNOR**  
State Capitol  
Honolulu, Hawaii 96813  
548-2517

For information on how to register and  
run for delegate to CONCON, what is  
your district, who are the candidates.  
Maintains a calendar of ConCon related  
activities.

*The League of Women Voters of Hawaii Education Fund is a nonprofit organization that sponsors educational projects. Contributions are tax deductible.*

*'O Ka Po'e Ke Kumu O Ke Kanawai (The People are the Source of the Law) is the CONCON project of the League of Women Voters of Hawaii Education Fund.*

**Draft of address by: William N. Cassella, Jr.**  
**Executive Director**  
**National Municipal League**

**KA PO'E PROJECT-CONSTITUTIONAL CONVENTION DELEGATES WORKSHOP**

**Honolulu, Hawaii**  
**June 13, 1978**

During 1976 in the course of my travels around the United States, I tried to visit as many of the bicentennial year exhibits as I possibly could. Of all the displays of memorabilia, artifacts, maps, publications, prints and documents, the one that made the most lasting impression on me was appropriately enough in Philadelphia, but it wasn't directly associated with the Continental Congress or the Declaration of Independence. A part of a vastly larger exhibit entitled, "A Rising People," it displayed printed copies of the first constitutions of the original thirteen states as they were distributed to the public in the years of the American Revolution. These written constitutions establishing governmental structure and powers superior to statutory law embraced a new concept. The word constitution had assumed a new meaning very different and far more specific than the vague accumulation of basic rights, operating practices and legislative enactments known as the English Constitution and with a philosophical basis very different from Cromwell's short-lived Instrument of Government, which was England's only written constitution. For the new states their constitutions were seen as their protections against future tyranny, by governors, legislatures or courts. John Jay said that citizens of American states were the "first people heaven has favored with an

opportunity of deliberation on and choosing the forms of government under which they should live."

Part of the display I saw in Philadelphia was evidence of the immediate impact of the written American state constitutions on European intellectuals. From Benjamin Franklin's personal library were copies of two of the first published compilations of state constitutions both in the French language. One published in 1778 was dedicated to Franklin, printed in Philadelphia for distribution by a Paris book dealer. Five years later Franklin sponsored another French translation published in Paris with an edition including copies printed in quarto and handsomely bound in morocco for distribution as presentation pieces to the monarchs and statesmen of Europe.

It is important to remember that development of the "free and independent" governments of the original states as Jefferson pointed out was the whole object of the Revolution and was well underway when he wrote the Declaration and included in it the following: "That to secure these rights (life, liberty and the pursuit of happiness) Governments are instituted among Men, deriving their just powers from the consent of the governed That whenever any Form of Government becomes destructive of these ends, it is the right of the people to alter and abolish it, and to institute new Government, laying foundations on such principles and organizing its powers in such form as to them shall seem most likely to affect their Safety and Happiness."

The dual philosophical base of these new governments--the doctrines of popular sovereignty and the supremacy of law over men--had enormous

importance as to both the substance of state constitutions and the process by which they were adopted. Within some of the states pressures came from groups whose discontent was almost as strong against the new governments as it had been against royal authority. Extra legal revolutionary organizations--conventions and committees were regulating almost all aspects of life. These organized citizens felt that new constitutions drawn up by legislative assemblies lacked the legitimacy required for basic law superior to ordinary statutes. It wasn't enough to solicit from the voters authority for the assembly to draft a constitution. How were the people to exercise their superior constituent power? The answer came in adapting the device of the extra-legal, irregular convention to a regularized institution for the expression of popular sovereignty. Out of the acrimonious politics of Pennsylvania came the first constitutional convention in 1776. Chosen by irregular local committees it drafted a constitution which became a symbol of democracy, but the method had been one of political expediency somewhat arbitrary to say the least.

By contrast in Massachusetts an orderly process was set in motion-- a special constitutional convention was elected by the adult freemen of the state. Influenced greatly by John Adams it drafted a constitution which was adopted by a two-thirds majority in a popular referendum in 1780. Thus a method was developed whereby the people could exercise their constituent power--i.e., "a convention of delegates chosen by the people for that express purpose and no other could establish or alter a constitution" which in turn would be submitted to the electorate for

approval. Distinguished legal historians have said, "It was an extraordinary invention, the most distinctive institutional contribution...the American Revolution made to Western politics."

(Wood, p. 342. Also Palmer, V.I p. 214)

Thus the 1978 Hawaii Constitutional Convention will be operating as part of a continuing process which began two centuries ago and by which citizens perform in a very special role as the architects and builders of the structure of the government which serves them. It is necessary constantly to remind ourselves that the reason American state constitutions are particularly important parts of the corpus of the law is that they are different from regular statutory law and the extent to which this difference is blurred the special importance of the constitution is diminished.

Fortunately, constitution making in Hawaii has operated much as it did when the earliest state constitutions were drafted late in the 18th century. It has been spared the verbal excesses of the late 19th century when constitutional conventions in the South were reacting to the trauma of the civil war and its aftermath and in many other states to scandals which undermined confidence in government, particularly the legislature. It is to be hoped that a trend evident in virtually all constitutions drafted since World War II will continue. So far the constitutional conventions meeting in mid-20th century and later have recognized that the brevity of the U. S. Constitution sets a standard for a basic law with the flexibility to meet the governmental needs of

changing times and circumstances. They agree with Gladstone's famous tribute that the U. S. Constitution is "the most wonderful work ever struck off at a given time by the brain and purpose of man." It is often asserted that constitutions should be limited to fundamentals, but what is meant by "fundamentals?" The eminent political scientist, William Bennett Munro, said:

A state constitution should confine itself to fundamentals. This of course begs the question as to what one means by "fundamentals." True enough, it is hard to define, but everybody knows what it means. Or, if any one does not, he need only read the Constitution of the United States to acquaint himself with an organic document which comes measurably near fulfilling the requirement. (Munro, An Ideal State Constitution, 181 Annals 1 (1935).

In using the U. S. Constitution as a model it must be remembered that our national government is one of delegated powers and under American federalism, as the 10th amendment says, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people." Thus ultimate sovereignty is with the people who impose limits upon government exercise of power. Therefore, a constitution is a strategic instrument through which the people exercise their sovereign will.

Upon state government certain limitations have been imposed by the adoption of the U. S. Constitution and the amendments to it. There are the specific prohibitions--"no state shall enter into any treaty or alliance...coin money...pass any bill of attainder, ex post facto law or law impairing obligation of contracts or grant any title of nobility...lay an impost or duties...engage in war..." etc. (Art. I, Sec. 10).

George Washington as president of the Constitutional Convention of 1787 in the letter transmitting the Constitution to Congress said: "Individuals entering into society must give up a share of liberty to preserve the rest.... The magnitude of the sacrifice must depend as well on situation and circumstance, as on the object to be obtained. It is at all times difficult to draw with precision the line between those rights which must be surrendered and those which may be reserved...." Later some of the protected rights were stated in the Bill of Rights but this was not the complete enumeration as is so stated in the 9th Amendment--"The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people." Indeed a similar enumeration and a statement of rights retained by the people is part of most state constitutions including that of Hawaii. All levels of government are thus intended to be limited. We continue to hold certain rights, enumerated or not, as "self-evident."

In our state constitutions as in our national constitution we as the sovereign people not only place limitations on government but also specify the institutions which are to govern us. In his monograph, Shape of the Document, Robert Dishman says, "State constitutions...serve the same basic function as their national counterpart, that of organizing and delineating the powers of government whether by limitation, delegation or command."

In one of the best exhortations on what a constitution should contain, Brook Graves told the preparatory committee for the 1947 New Jersey Constitutional Convention:

A constitution is a body of fundamental law. It is established for the purpose of providing a set of governmental machinery, on the one hand, and of protecting the citizen from an unfair or improper use of governmental authority, on the other. When we say that the provisions of a constitution are fundamental, we imply that they are relatively more permanent, more stable, and less subject to the need for frequent change, than are the provisions of statutory law. Statutory law, on the other hand, is regarded as being more or less transitory in character, as being more concerned with current policies and practices, and less with those "eternal verities" of government which have been handed down generation after generation, from the past. A constitution is supposed to represent an attempt at stating the accumulated wisdom of the ages, on the subject of government, while statutes are a contemporary effort to deal with problems of a current nature.

As Frank Grad says in The State Constitution: Its Function and Form for Our Times, "the significance of treating a subject in the state constitution rather than leaving it to be dealt with as ordinary law... is simply this: (1) it places the matter included in the constitution beyond change by normal law-making processes, and (2) it places it at the highest level of legal authority in the state."

Clearly in every constitution there is core material. We have already mentioned a Bill of Rights. Add to it provisions on the qualifications for the right of suffrage. A well established principle of American government is the separation of powers among three separate and distinct branches--legislative, executive and judicial. Thus in the constitution it is necessary to establish the framework of government and to state in general terms the powers of each branch. For the legislative branch it must be specified whether there is one house or two--the number, election, term and qualifications of members. Also there must be a provision for the executive, again with qualifications, manner of election, and term

of office. And there is provision for a system of courts. As Graves says: "If the constitution is to endure, and remain satisfactory over a long period of time, these provisions should be brief. If they are brief, they will be flexible and elastic, susceptible of adaptation to the changing needs of the people in a rapidly changing society; if they are too long, and cluttered up with a great mass of detail, they will be inflexible and unelastic, and will cause it to be difficult, if not impossible, to make desired changes."

Finally there must be provision for amendment and revision of the constitution. The members of no constitutional convention, not even "The Great Convention of 1787" can foresee the problems which future conditions will bring about. Again from Graves' exhortations to members of a constitutional convention:

...They should not seek to impose their will and their judgment, based upon existing conditions, upon generations yet to come--generations which may find themselves living under conditions that are wholly different. These generations will of right demand the same privilege of changing their fundamental law that their forefathers exercised, and in all probability, they will be quite competent to handle the problems confronting them.

The Hawaii constitution is one of the few state constitutions which is confined in the main to fundamentals. Indeed it has been hailed by legal scholars as one of the best in the nation. Well over half of it is clearly what can be called core provisions and relatively few sections are strictly statutory. There is no question that the constitution as amended continues to pass the test of brevity. Unlike the constitutions of most of the older states it is not overstuffed with disabling "thou

shall nots" or detailed prescriptions. Why then is this third Hawaiian Constitutional Convention being held? In comparison to most older states the need for revision is certainly not great. Indeed it may be that the Third Hawaii Con Con will be like the Second and make relatively few changes. While making some modifications it may once again confirm the basic soundness of the Hawaiian constitution. Of course, ten years ago it was necessary to write a new legislative apportionment provision to bring the legislative article into conformity with the U. S. Constitution. No such problem exists this time.

There is always value for the citizens of a state to appraise how well present institutions are performing, how well they are meeting changing needs and circumstances. If needs are not being met it is important to determine why that is so. The convention will certainly ask why there have been failures and if they can be traced to the constitution. It will also point to some failures of the institutions to perform as they could have under the present constitution. We know that there has been a pervasive public disillusionment with governmental and other established institutions, but we may well find that the cause of this disillusionment has little to do with the fundamental law. In many cases it may be a failure of people not institutions. Also it must be asked when dissatisfaction is felt, how general is the dissatisfaction or is it the expression of a narrow special interest? Again is the dissatisfaction a concern of the moment or a matter with long-range implications? First and foremost -- is the problem one which can and should be addressed by the

legislature? If that is the case is there anything in the constitution which impedes legislative consideration? Should anything be added to the constitution to facilitate action by the legislature?

It must be remembered that the convention is not the legislature. A Constitutional Convention cannot enact laws designed to solve the problems of crime, poverty, the environment, etc. It can simply propose mechanisms for dealing with problems and protections against infringements upon the rights of citizens. When it considers a proposal to add something to the constitution or to make a change in a fundamental provision, it has a responsibility very different from that of a legislature enacting a statute. Remember anything the convention does must be ratified by the electorate before it becomes law. Assuming the people will approve the recommended change, by adding something to the constitution it is being placed "beyond change by normal law-making processes." Thus each new constitutional provision must be considered in both short and long-run terms. Many provisions have found their way into constitutions which have been beneficial in the short run but harmful in the long run. Grad points out, "The enduring quality of a provision of the state constitution may protect a desirable policy from frivolous changes by the legislature, or it may delay or prevent the change to a new and better policy from one embedded in the constitution which is no longer responsive to current needs.... Inflexibility in the face of changed circumstances results in constitutional obsolescence and diminished power to act responsibly on the part of government organs. These factors in turn breed constitutional instability as a consequence of the need

for frequent amendment. In the light of these various possible consequences, the decision as to inclusion or exclusion of particular subjects in the constitution becomes a matter of weighing the advantages against the potential costs of inclusion."

There will always be pressure to include matters in the constitution but constitution makers must look behind the pressures to ascertain whether or not the proposal is sufficiently enduring and important in character. All too often the pressures of determined reformers on behalf of good causes have led to the inclusion of provisions which soon are shown to be totally inappropriate. A good example occurred in a midwestern state when the "good roads" movement was at its height. The 'good roads' proponents were able to get a constitutional amendment passed which wrote into the constitution a detailed description of the routes of the state's highway system. It made it impossible to change any route no matter how great the need without going to the people for another amendment to the constitution. This illustrates one of the traps into which some of our state constitutions have fallen. A mistrust of the legislature leads to rigid constitutional provisions and the more rigid the constitution the greater the need to amend it further, and amendments breed further amendment resulting in a vicious cycle. The classic case was the Louisiana constitution which in the course of 50 years was amended almost 500 times bringing it to a length of more than a quarter million words. Finally, the voters had had enough with as many as 50 amendments on the ballot in a single election. Simplification was demanded and as a result of a convention

a new constitution only a little more than one-tenth the length of the old one was adopted in 1975. The bulk of the detailed material was converted into statutes where it should have been all along.

A pet device which has limited the power of the legislature is the earmarking of certain revenues for a particular purpose. Then there is the negative implication of a positive provision, often the result of putting too much detail in the constitution, e.g., the Oklahoma provision conferring upon the State Corporation Commission the power to regulate "transportation and transmission" companies, but the draftsmen not satisfied with general language listed railroads, steam boat lines, express companies and all means of transport known at the time. Subsequently, it was ruled that since air transportation was not included in the list the commission had no power to regulate airlines even though there had been no airlines at the time the provision was adopted.

I have read with great interest the results of the Con Con poll. They certainly highlight problems which are of deep concern to the citizens of Hawaii and indicate areas in which state government should take action. Likewise they focus on some institutional changes which may be proposed for consideration by the convention. It is hoped that the citizens of the state will not be misled to thinking that the 1978 convention will be able to provide the ultimate solutions to any of the problems or to bring perfection to its government.

It is not my role to evaluate the policy proposals on the various

modifications in the basic governmental institutions which are being advocated--e.g., change to a unicameral legislature, limitation on the terms public officers may serve, the method of selecting the attorney general and the judges, home rule for local government, and the initiative and referendum. On all these matters the National Municipal League, which I serve as executive director, has specific recommendations in its Model State Constitution. (I will be pleased to discuss any of them with delegates while I am here.) It is most appropriate that proposals for basic changes be debated by the convention. Some may be included in the convention's recommendations to the people, but the central issue in the debate should be whether each proposed change will increase the responsiveness and effectiveness of your state government.

There will be much discussion of how issues are met in other states and how they are organized and function. Be sure to seek both the positive and the negative appraisals of experience elsewhere. In many areas we on the mainland have much more to learn from you than you from us. I remember my first contact some 22 years ago with Hawaiian citizens dealing with governmental structure. The chairman of the Honolulu City-County Charter Commission asked for comments on the question of "whether it is better to preserve only one unit of local government for this island, or to permit the creation of a number of municipalities." It was noted that some citizens pointed to the mainland experience of large cities bordered by incorporated suburbs as "sound and desirable." In our reply, after pointing to the complexities and problems of the central city-suburban pattern in most mainland metropolitan areas, we

urged that Honolulu not take on "the multiple vexations which inevitably flow from a complicated system of local jurisdictions."

May I commend the League of Woman Voters of Hawaii Education Fund and the other organizations which are making the holding of the 1978 Constitutional Convention a profound educational experience for the people of the state--private citizens and public officials alike. We have all too few opportunities to focus systematically on the institutions of state government and how they operate. The debates of the Convention and all of the forums, workshops and other discussions which are taking place will be a great plus for your state.

It is my belief that this total effort in civic education will be as important as what the convention includes in its formal recommendations. In the first place citizen understanding of the recommendations is necessary if the recommendations are to be approved. In so many referenda we have seen confirmed the adage, "If you don't know, vote No." Beyond that, the energy generated by these debates and discussions can have a most salutary effect on the legislature. It will certainly better understand its responsibilities. Perhaps the convention in the report to the people accompanying its recommendations should also report on matters which the convention did not consider appropriate for inclusion in the constitution but upon which there was a clear consensus that action should be taken by the legislature and that under the present constitution the legislature has ample authority to act.

As the convention proceeds, as the media report on its work, and as individual citizens and organized groups make their wishes and

expectations known, all must constantly be reminded that the convention has a distinctive long-range mission--that as a vehicle for constitution-making it must heed the words of the late Justice Benjamin Cardozo: "A constitution states, or ought to state, not rules for the passing hour, but principles for an expanding future."

IN THE SUPREME COURT OF THE STATE OF HAWAII

OCTOBER TERM 1978

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MIRIAM KAHALEKAI, ET AL., PLAINTIFFS, V.  
NELSON DOI, LIEUTENANT GOVERNOR, STATE OF HAWAII,  
ET AL., DEFENDANTS.

NO. 7216

and

THIRTY-FOUR VOTERS OF THE COUNTY OF MAUI,  
PLAINTIFFS, V. NELSON DOI, LIEUTENANT GOVERNOR,  
STATE OF HAWAII, ET AL., DEFENDANTS.

NO. 7218

ORIGINAL PROCEEDING

FEBRUARY 1, 1979

RICHARDSON, C.J., OGATA, MENOR AND  
KIDWELL, JJ., AND RETIRED JUSTICE  
KOBAYASHI FOR THE VACANCY.

FILED  
FEB - 1 1979  
CLARENCE S. HANAUER, CLERK

Constitutional Law - judicial powers and functions -  
adoption of constitution and amendments.

The supreme court is vested with jurisdiction to  
ascertain and to determine the validity of the manner  
of submission and the ratification of changes in the  
state constitution.

Same - same - same - presumption of validity - standard  
of review.

Constitutional amendments ratified by the electorate  
are presumed to be valid and the amendments as adopted  
will be upheld unless they can be shown to be invalid  
beyond a reasonable doubt.

Same - same - same - challenges to validity - burden of proof.

The party challenging the results of the election bears the burden of showing, beyond a reasonable doubt, the invalidity of a constitutional amendment which the people have adopted at a general election.

Same - adoption of constitution and amendments - elections - official ballots - form and contents.

Where the ballot used in a constitutional ratification election is in a form which produces a knowing and deliberate expression of voter choice, the vote satisfies the requirement of electoral approval.

Same - same - same - same - same - particular defects or irregularities.

A ballot is not defective merely because it is mechanically easier for the voter to vote for rather than against any given proposition, so long as the ballot language is not misleading or deceptive.

Same - same - same - same - same - scope of judicial review.

A determination of what inducements motivated voters in the adoption of a proposed amendment is outside the scope of any judicial examination where the language and meaning of a constitutional amendment are clear and the ballot is neither misleading nor deceptive.

Same - same - same - same - same - duplicity.

An amendment proposed by a constitutional convention may embrace more than one subject or purpose where the constitution authorizes the convention, in its discretion, to provide for the manner of its submission.

Same - same - same - same - same - limitation on discretion of constitutional convention.

The authority of a constitutional convention to determine the manner in which proposed amendments are to be submitted to the vote of the electorate is subject only to the limitation that the ballot must enable the voters to express their choice on the amendments presented and be in a form and language which will not mislead or deceive the voter.

Same - same - submission to popular vote - nature of convention's duty to inform.

Where there is no express publication requirement in the constitution, a constitutional convention is nevertheless under a duty to adequately inform the electorate of the contents and effect of the proposed amendments.

Same - same - same - duty of electorate to be informed.

The electorate bears a corresponding burden of educating and familiarizing themselves with the contents and effect of the amendments prior to going to the polls to cast their ballots.

Same - same - same - presumption of informed electorate.

Where the information disseminated to the public is neither deceptive nor misleading, and the public is given sufficient time within which to familiarize themselves with the contents and effect of the proposed amendments, they will be presumed to have cast informed ballots.

Same - same - same - duty of convention to inform.

Where the electorate is not sufficiently informed of the substantive nature and effect of a proposed amendment, such amendment will be deemed to have failed of ratification.

Same - same - same - same - stylistic changes.

Failure by the convention to inform the public specifically and in detail of the stylistic and purely technical changes, embodied in a proposed amendment, will not prevent ratification of the proposal, so long as these changes do not alter the sense, meaning or effect of constitutional provisions.

Same - same - reserved powers.

The power to determine whether and to what extent the organic law is to be amended or revised is reserved to the people by the constitution.

OPINION OF THE COURT BY MENOR, J.

This is an original action seeking to invalidate the results of the November 7, 1978 general election dealing with amendments to the State Constitution presented to the electorate for its approval by the 1978 Constitutional Convention.<sup>1/</sup> The lieutenant governor's Computer-Final Report on the results of the election shows that all of the proposed amendments passed by the necessary constitutional margin.<sup>2/</sup> At issue, however, is whether the proposed amendments were submitted to the voters in the form and manner required by law.

Following its deliberations, the Convention adopted as the definitive expression of its conclusions a document entitled, "The Constitution of the State of Hawaii With the Amendments Proposed by the Constitutional Convention of 1978." This document was referred to the Convention Committee on Submission and Information. That committee proposed a form of resolution, which was adopted by the Convention (Resolution No. 30), in which it was provided

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<sup>1/</sup> The 1978 Constitutional Convention was mandated by the voters in 1976, when the question, "Shall there be a convention to propose a revision of or amendments to the Constitution?" was placed on the general election ballot. Hawaii's first constitutional convention was held in 1950 when 63 delegates met to draft a document, which became official and operational when Hawaii became a state in 1959. Another convention was held in 1968 when 82 delegates met and proposed 23 amendments to the voters. The 1978 convention was attended by 102 delegates and the number of amendments offered to the electorate totalled 34.

<sup>2/</sup> Article XV, §2, in pertinent part, provides that "[t]he 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." Most were approved by the electorate by substantial popular vote margins.

that the proposed amendments be submitted for ratification at the November 7, 1978 general election, in the form of the ballot attached to the resolution. The attachments to the resolution consisted of the texts of the punch-card ballot and the informational booklet which were subsequently used in the general election.

The punch-card ballot listed 34 proposed amendments by short title. The ballot was divided into Parts A and B. Part A provided for a blanket "yes" or "no" vote on all proposed amendments. Part B provided for a "no" vote on each of the 34 proposed amendments, the listing of which was preceded by a caption: "I VOTE YES ON EACH OF THE PROPOSED AMENDMENTS AS LISTED BELOW EXCEPT THAT I VOTE NO ON THE FOLLOWING:." Neither the effect of the proposed amendments nor the numbers of the amended articles and sections were set forth in the punch-card ballot. However, the ballot contained, preceding Parts A & B, the following:

"Please read instructions and information in the booklet which is part of this ballot. The full text of the proposed amendments on the ballot numbered 1-34, inclusive, is available for inspection in your voting unit." (Emphasis added)

The informational booklet attached to the resolution set forth, under the same numbers and short titles used in the punch-card ballot, brief descriptive material under the words "If adopted, this amendment provides:." With the exception of proposed amendments 24, 25 and 34, article and section numbers were set forth in parenthesis after each short title. For example, the descriptive material with respect to the first proposed amendment was headed:

1. 12 MEMBER JURY: CIVIL; CASE AMOUNT (Article I, Section 13 and 14)

The forms of the ballot and informational booklet, as printed and used in the election,<sup>3/</sup> conformed to those attached to the resolution, except that article and section numbers were added, in the informational booklet, after the short titles of proposed amendments 24 and 25. No article or section numbers appeared beside the short title of proposed amendment 34, in either instance.

Copies of the full text of the revised Constitution were distributed to state and municipal officers, including all county clerks, on September 21, 1978. They were also distributed to the main and branch libraries of the state library system at least two weeks before the election. The availability of the library copies for examination could have been ascertained by a phone call to the Convention office at a phone number made generally known by newspaper advertisements. No information was distributed to the general public with respect to the availability of the text of the revised Constitution at public libraries; however, a "Con-Con Summary" mailed by the Convention to the household of every registered voter in the State did advise voters that they could obtain exact wording of the amendments from the voter information center located at Convention headquarters in Honolulu.

Having completed its work on the proposed amendments, the Convention recessed on September 21, 1978. Between that date and the November 7, 1978 general election, the Convention, through its Committee on Submission and Information, implemented its plan for the education of the electorate concerning the proposed amendments.

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<sup>3/</sup> See Appendices "A" and "B" attached to this opinion. They follow essentially the same format as those used in the 1968 election.

It mailed to the household of every registered voter in the State a "Con-Con Summary" containing a digest of the proposed amendments. On October 29, 1978, it caused to be published an advertising supplement to the Sunday Star-Bulletin and Advertiser, as well as to the Hawaii Tribune Herald, The Maui News, and the Garden Island. Each of the sections of the revised Constitution which was identified by article and section number in the informational booklet used in the election was printed in full text in this supplement. Other amendments adopted by the Convention and reflected in the revised Constitution which was referred to the Committee on Submission and Information were not printed in the newspaper supplement. This supplement was followed by the publication of the summaries of proposed amendments 1-10 on October 30, 1978, summaries of proposed amendments 11-21 on November 1, 1978, and summaries of proposed amendments 22-34 on November 2, 1978. These summaries were published in the Honolulu Advertiser and the Honolulu Star-Bulletin, both of which are newspapers of general circulation within the State. These summaries were combined and republished in these newspapers on November 5, 1978, as a two-page advertisement. This combined summary was also distributed to the Sun Press on Oahu, the Maui News, the Hawaii Tribune Herald, and the Garden Island for dissemination to their readers. These summaries contained relevant information on some of the amendments which were not reflected in the informational booklet or in the supplement.

Additionally, the Convention during this period provided for the publication of newspaper advertisements and of radio and television announcements referring interested persons to the Convention information center and its telephone

number for answers to questions; for the establishment of a speakers bureau to make convention delegates available to interested organizations for talks explaining convention amendments; and for radio and television programs in which convention delegates discussed the proposed amendments. The office of the lieutenant governor also conducted a statewide voter education program designed to familiarize the electorate with the ballot and voting procedures. The Convention's final report on advertising expenditures shows that it expended a total of \$140,627.43 to educate the public on the amendments prior to the general election.

I

The initial issue raised by the pleadings is whether this court has jurisdiction to entertain the proceedings. We hold that we do. HRS Chapter 11, Part XI, vests in this court jurisdiction over the subject matter of this action. Moreover, this court is empowered "to make and award such judgments, decrees, orders and mandates, issue such executions and other processes, and do such other acts and take such other steps as may be necessary to carry into full effect the powers which are or shall be given to it by law or for the promotion of justice in matters pending before it." HRS § 602-5(7).

"The power to ascertain the validity of changes in the constitution resides in the courts, and they have, with practical uniformity, exercised the authority to determine the validity of proposal, submission, or ratification of change in the organic law. The question of the validity of the adoption of an amendment to the constitution is a judicial and not a political question." 16 Am.Jur.2d, Constitutional Law, §43.

## II.

In considering the merits of the issues raised by the plaintiffs, we are to be guided by the cardinal principle of judicial review that constitutional amendments ratified by the electorate will be upheld unless they can be shown to be invalid beyond a reasonable doubt. Keenan v. Price, 68 Idaho 423, 195 P.2d 662 (1948); City of Raton v. Sproule, 78 N.M. 138, 429 P.2d 336 (1967). The burden of showing this invalidity is upon the party challenging the results of the election. And "[e]very reasonable presumption is to be indulged in favor of a constitutional amendment which the people have adopted at a general election." City of Glendale v. Buchanan, 578 P.2d 221, 224 (Colo. 1978). In Keenan the court, quoting from State v. Cooney, 70 Mont. 355, 225 P. 1007, 1009 (1924), said:

"[H]ere as always we enter upon a consideration of the validity of a constitutional amendment after its adoption by the people with every presumption in its favor: The question is not whether it is possible to condemn the amendment, but whether it is possible to uphold it, and we shall not condemn it unless in our judgment its nullity is manifest beyond a reasonable doubt." 195 P.2d at 667.

A corollary to the foregoing principle is the oft-stated proposition that "[t]he people are presumed to know what they want, to have understood the proposition submitted to them in all of its implications, and by their approval vote to have determined that [the] amendment is for the public good and expresses the free opinion of a sovereign people." Larkin v. Gronna, 69 N.D. 234, 285 N.W. 59, 63 (1939).

### III

The basic thrust of the plaintiffs' arguments in this case is that the constitutional amendments in question were not submitted to the electorate in the form and manner provided by law. More specifically, the plaintiffs contend in their initial argument that the form of the ballot was so irregular as to require the invalidation of the election. We disagree.

The Convention was authorized by the Constitution to determine the form of the ballot. Article XV, §2. In its Standing Committee Report No. 99, it explained its reasons for adopting the ballot used in the election:

"Your Committee considered submitting each of the proposed amendments as separate questions with a YES or NO vote. This would result in submitting to the people for ratification not less than 34 questions. Since a major problem to overcome is voter apathy, your Committee was concerned that many voters will not take the time to mark their YES votes but will mark only the question or questions that they are opposed to. For this reason your Committee has agreed that a way should be provided to the voter, if he or she wishes, to approve or reject each of the questions by one vote [Part A] or, if he or she wishes, to vote against one or more of the questions and to approve the balance [Part B]."

The irregularity charged by the plaintiffs is that the ballot contained an inherent bias towards a "yes" vote by making it more difficult to vote "no" than "yes," which in effect diluted the vote and denied the electorate their constitutional rights. They suggest that with this ballot, voter inertia would cause voters who were only slightly opposed to an amendment to permit their vote to be recorded in favor rather than to take the trouble to record a negative vote; and this, they argue, introduced into the election a

subtle form of bias which was impermissible.<sup>4/</sup>

Where the ballot is in a form which produces a knowing and deliberate expression of voter choice, the vote satisfies the requirement of electoral approval. Kohler v. Tugwell, 292 F.Supp. 978 (D.La. 1968), affirmed, 393 U.S. 531. The voter here was given the choice of voting "yes" or "no" on any or all of the proposed amendments. He was clearly informed that he could vote for or against all amendments under Part A of the ballot, or he could divide his vote under Part B. If he chose to vote "no" on a question under Part B, he did so intending that his vote be divided and knowing how it would be counted. The significance of a negative vote on any proposition upon the remaining unanswered questions was obvious on the face of the ballot. At the beginning of Part B of the ballot, the following clearly appeared: "I VOTE YES ON EACH OF THE PROPOSED AMENDMENTS AS LISTED BELOW EXCEPT THAT I VOTE NO ON THE FOLLOWING:..."

In no sense can it reasonably be said that the voter was likely to be misled by the ballot language. Cf. Wright v. Board of Trustees of Tatum Ind. Sch. Dist., 520 S.W.2d 787 (Texas 1975). The essential requirement is that the ballot not be misleading. Young v. Byrne, 144 N.J.Super. 10, 364 A.2d 47 (1976). The fact that mechanically, as to

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<sup>4/</sup> Almost any ballot can be said to have some bias. But this fact alone will not suffice to invalidate an election. The arrangement of names in alphabetical order on an election ballot, for example, must somewhat favor some candidates over others. Such a listing is not impermissible. See HRS § 11-115. The order in which amendments were listed on the ballot in this case could arguably have had a bias effect. But to require that a ballot must be wholly unbiased would result in the imposition of an impractical standard of perfection.

Part B, it was easier for him to ratify rather than to reject any given proposition did not have the effect of rendering the ballot defective.

The contention that a ballot is defective because the form makes it easier for a voter to cast his vote for, rather than against, a particular proposition or candidate has been rejected by many courts. It is apparent from the cases that the historical progression in the development of election procedures by the various states has been from the voice vote to the secret casting of votes by the use only of official ballots, with the secret casting of unofficial ballots as an intermediate step. The term "party ticket" appears to have referred originally to a privately printed ballot containing only the names of the candidates put forward by a particular political party, which the voter dropped into the ballot box to record his vote. Cases arising around the end of the last century reveal a disposition on the part of state legislatures, in providing for the use only of official ballots, to continue to facilitate the voting of straight party tickets by enabling the voter to do so by a single mark beside the name of the party. On the other hand, in order for him to divide his vote, he was required to mark the ballot in other ways which involved more time and trouble to the voter. Challenges to such ballots as treating candidates or voters unequally were rejected in Todd v. Board of Election Commissioners, 64 N.W. 496 (Mich. 1895); Ritchie v. Richards, 47 P. 670 (Utah 1896); State ex rel. Runge v. Anderson, 76 N.W. 482 (Wisc. 1898); Morris v. Board of Canvassers, 38 S.E. 500 (W. Va. 1901); Oughton v. Black, 61 A. 346 (Pa. 1905). More

recently, a challenge to the use of a "master lever" on a voting machine to enable a voter to vote a party ticket by a single operation was rejected in Morrison v. La Marre, 65 A.2d 217 (R.I. 1949).

Parallel with these cases are those which deal with ballots which, similarly to that now before us, enabled the voter to vote his party's ticket on proposed constitutional amendments, as well as on candidates, by a single mark beside the name of the party while requiring him otherwise to vote separately on the amendments. Such ballots were upheld in State v. Winnett, 110 N.E. 1113 (Neb. 1910) and State ex rel. Sheets v. Laylin, 68 N.E. 574 (Ohio 1903).

A form of "scratch ballot" was in early use for obtaining electorate approval of proposed constitutional amendments. Such ballots presented the proposed amendment affirmatively. To cast a vote in favor of the amendment, the voter deposited the ballot unmarked. To vote against the amendment, the voter was required to erase or strike out the words proposing the amendment before depositing the ballot. It was argued that the deposit of an unmarked ballot did not affirmatively express approval of the amendment under state constitutions which required the expression of voter approval. Such challenges were rejected in May & Thomas Hardware Co. v. Mayor, etc. of Birmingham, 26 So. 537 (Ala. 1899), and Atwater v. Hassett, 111 P. 802 (Okla. 1910).

This body of authority rests, we believe, upon the principle that the motives of voters may not be inquired into where their will has been expressed. If avoidance of the effort of casting a negative vote was sufficient reason for any number of voters to cast an affirmative vote, we

cannot deny effect to their vote simply because we regard that reason as inadequate, misguided, or otherwise defective.<sup>5/</sup> "Where the language and meaning of a constitutional amendment are clear, a determination of what inducements motivated voters in the adoption of the amendment [is] outside the scope of any judicial examination." Carpenter v. State, 179 Neb. 628, 139 N.W.2d 541, 545 (1966). See also Detroit United Railway v. Detroit, 255 U.S. 171, 178 (1921). We are not here concerned with a ballot which presented the proposition in such a manner as to mislead or improperly influence the decision of the voter on its merits, as in the cases cited by the plaintiffs. See, e.g., Boucher v. Bornhoff, 495 P.2d 77 (Alaska 1972); Conley v. Hardwick, 141 Ky. 136, 132 S.W. 140 (1910); City of Newport v. Gugel, 342 S.W.2d 517 (Ky. 1961).

In Boucher the state constitution provided for the submission to the people, at certain stated intervals, the question, "Shall there be a Constitutional Convention?" Pursuant to this mandate, the lieutenant governor of the state prepared a ballot which posed the question as follows:

"As required by the Constitution of the State of Alaska... Shall there be a constitutional convention?"  
(Emphasis added)

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<sup>5/</sup> The amicus brief of the Hawaii State Bar Association contends that the ballot failed to comply with Rule 2.3 E5 of the Rules and Regulations Governing Elections adopted by the Lieutenant Governor pursuant to HRS § 11-4. Authority to determine the form of the ballot by which the proposed amendments were submitted to the electorate for approval was conferred on the Convention by Article XV, Section 2, of the Hawaii Constitution and is not subject to the control of the legislature. Since we hold that the form of the ballot was not defective, we are not faced with the question of the effect to be given to a vote recorded by a defective ballot. Evidence offered by the plaintiffs with respect to the effect on voter motivation of the form of the ballot is accordingly irrelevant.

The court found the prefatory language inherently misleading, in that it implied that a constitutional convention was required to be held by the Alaska Constitution.

In Conley the Kentucky court invalidated a referendum election in which the issue was to permit or not permit the sale of intoxicants. The "Dry" column on the ballot was headed by a representation of the Bible and the "Wet" column by a drawing of a whiskey bottle with a snake protruding from its mouth. The court said:

"The ballot is a means devised by law to secure a fair expression of the will of the people, and it should never contain devices that give to one side an undue advantage over the other. It was highly improper to use any devices at all, and absolutely inexcusable to use the devices referred to, or either of them." 132 S.W. at 141.

In City of Newport the election challenge concerned a ballot wherein the proposition to be voted was titled "Fair Pay Petition." The court found this to be in violation of the statutory mode for submitting such proposals and further said:

"While the words 'fair pay petition' are mild and not calculated to arouse violent prejudices, nevertheless it is plain that they were put on the ballots and voting machine labels for propaganda purposes and with the thought that they would in fact influence the voters...

\* \* \* \*

"...It is our opinion that the use of the words 'fair pay petition' on the ballots and voting machine labels was such an impropriety as to invalidate the election." 342 S.W.2d at 519.

In each of these cases, the proposition was placed on the ballot in a form which implied a recommendation as to the vote. This was held to be an improper attempt to influence the election result and to invalidate the election. We do not find this to be the situation here.

IV

Intimately related to the ballot bias issue is the question of duplicity. The plaintiffs argue, for example, that Question No. 1 on the ballot (12 Member Jury; Civil Case Amount) ought to have been presented as two separate propositions instead of one, inasmuch as the question as presented contained two different subject matters: (1) a proposal to raise the minimum amount for jury trials in civil cases, and (2) a proposal to guarantee an accused, charged with a serious criminal offense, a jury of twelve persons. They contend that in this and in other similar respects, the ballot violated the prohibition against the incorporation of different subjects into a single ballot proposition. We disagree.

Unless otherwise provided in the Constitution,<sup>6/</sup>

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<sup>6/</sup> The cases cited by the plaintiffs on the issue of duplicity were decided on the basis of express constitutional provisions proscribing the inclusion of multiple subjects in a single ballot proposition. In *Kerby v. Luhrs*, 44 Ariz. 208, 36 P.2d 549 (1934), for example, the Arizona constitution expressly provided that "[i]f more than one proposed amendment shall be submitted at any election, such proposed amendments shall be submitted in such manner that the electors may vote for or against such proposed amendments separately." The modern test for duplicity is whether or not the propositions contained in the amendment are all germane to a common object and purpose. *Idaho Water Resource Board v. Kramer*, 97 Idaho 535, 548 P.2d 35, 52 (1976); *Keenan v. Price*, supra. An example of the application of this rule is to be found in *Barnhart v. Herseth*, 88 S D. 503, 222 N.W.2d 131 (1974). There it was held that a constitutional amendment which made several changes in the executive branch of state government including, inter alia, extending the term of the governor, reducing the number of governmental departments, authorizing the governor to reorganize departments of government, and deleting the office of state superintendent of public instruction, contained matters all rationally related to the overall plan of making the executive branch of state government more efficient and responsible, and thus was properly submitted to the voters as one amendment.

there is no limitation on the number of subjects that may be included in a proposed constitutional amendment. State v. Brown, 10 Ohio St.2d 139, 226 N.E.2d 116 (1967); Opinion of the Justices, 335 So.2d 373 (Ala. 1976); People v. Sours, 31 Colo. 369, 74 P. 167 (1903). See also City and County of Denver v. Mewborn, 143 Colo. 407, 354 P.2d 155 (1960).

There is nothing in the Hawaii Constitution that will support a reasonable conclusion that a single amendment to the constitution proposed by a constitutional convention can contain no more than one subject, purpose or object. And while Article III, §15, of the Hawaii Constitution, expressly prohibits the enactment of legislation embracing more than one subject, such a proscription is not applicable to constitutional amendments. State v. Brown, *supra*; State v. Lyons, 40 Del. 77, 5 A.2d 495 (1939); Cooney v. Foote, 142 Ga. 647, 83 S.E. 537 (1914); Bonds v. State Department of Revenue, 254 Ala. 553, 49 So.2d 280 (1950). Article XV, §2, expressly authorizes the Convention to determine, in its discretion, the manner in which proposed amendments shall be submitted to a vote of the electorate. This particular provision has been in effect, unamended, since the adoption by the people of the original Constitution.

This broad authority vested in the Convention, however, is subject to the limitation that the ballot must enable the voters to express their choice on the amendments presented and be in such form and language as not to deceive or mislead the public.<sup>7/</sup> State v. Brown, *supra*; Kohler v.

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<sup>7/</sup> The ballot need not contain the full text of a proposed amendment. Tipton v. Smith, 229 S.C. 471, 93 S.E.2d 640 (1956). But in such case the ballot should contain "a description of the proposition submitted in such language as to constitute a fair portrayal of the chief features of the proposition, in words of plain meaning, so that it can be understood by persons entitled to vote.... [I]t is sufficient if enough is printed on the ballot to identify the matter and show its character and purpose." Wright v. Board of Trustees of Tatum Ind. Sch. Dist., *supra*, at 792.

Tugwell, supra; Wright v. Board of Trustees of Tatum Ind. Sch. Dist., supra; Boucher v. Bornhoff, supra; Conley v. Hardwick, supra; City of Newport v. Gugel, supra. By this standard, we are satisfied that with respect to the amendments which were properly submitted for voter approval, as determined in Part V of this opinion, the form and language of the ballot, which included the informational booklet, was in compliance with existing law. The form of the ballot in this case lay within the range of the possible choices which the Convention might have made in the exercise of authority granted to it by Article XV, §2, of the Constitution. The fact that the electorate was presented with an array of complex amendments, to which they were asked to address themselves, does not create a presumption that the form of the ballot was misleading or defective and does not open the door to judicial inquiry into the state of mind of the voters. See Kohler v. Tugwell, supra; Carpenter v. State, supra.

V

The plaintiffs further assert, however, that the electorate was deprived of necessary information concerning the proposed amendments. This, as it now appears, is the determinative issue in this case. Stated more broadly, the question is whether the results of the election can be said to have been the mandate of an informed electorate.

Article XV, §3, of the present Constitution, requires that legislatively initiated proposals be published "once in each of four successive weeks in at least one newspaper of general circulation in each senatorial district wherein such newspaper is published, within the two months'

period immediately preceding the next general election.<sup>8/</sup>

There is no such requirement imposed for convention initiated amendments. The Convention, however, was required to inform the public of the contents and effect of the proposed amendments. Cf. Kohler v. Tugwell, supra; City of Glendale v. Buchanan, supra.

The burden upon the Convention of informing the electorate was especially heavy, but required, by reason of the number and complexity of the amendments proposed by it. Correlatively, however, it was incumbent upon members of the public to educate and familiarize themselves with the contents and effect of the proposed amendments before expressing themselves at the polls. Kohler v. Tugwell, supra; Young v. Byrne, 144 N.J. Super. 10, 364 A.2d 47 (1976). This was a non-delegable responsibility which was magnified, rather than diminished, by the number of complex amendments presented to them for their consideration. Thus, where information placed before the electorate is neither deceptive nor misleading, and they are given sufficient time within which to familiarize themselves with the contents and effect of the proposed amendments, they will be deemed to have cast informed ballots. See Kohler v. Tugwell, supra; McLennan v. Aldredge, 223 Ga. 879, 159 S.E.2d 682 (1968); City of Glendale v. Buchanan, supra; Barnhart v. Herstein, supra.

The amendments in this case were given extensive coverage before the election. They were the subject of widespread publicity in the newspapers, and on radio and

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<sup>8/</sup> It has been held that in such circumstances, a conclusive presumption that the electorate was aware of the terms of the amendment was thereby created. Opinion of the Justices, *supra*.

television. Summaries of the amendments were published in the newspapers, as well as in a "Con-Con Summary" which was mailed by the Convention to the residence of every registered voter in the State.<sup>9/</sup> An advertising supplement which purported to contain the full text of the amendments was distributed through the newspapers in every county. The daily proceedings of the Convention were covered and regularly reported upon by the news media. Informational sessions regarding the ballot and voting procedures were conducted by the office of lieutenant governor for the benefit of the public. By these means and sources, the voter could have reasonably educated and familiarized himself with the significance and substance of the bulk of the proposed amendments before going to the polls. Further, the newspaper supplement was available at the polls for the voter's examination. The informational booklet which was made a part of the ballot also contained a digest of the amendments.

There were flaws in this procedure, however, which we have found fatal to certain of these amendments. We refer specifically to amendatory deletions and additions of a substantive nature which were not mentioned in both the informational booklet and the newspaper supplement. The vital significance of these omissions stems from the express representation of the Convention in its advertisements that the full text of the amendments would be made available to the public for its examination. To accomplish this objective,

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<sup>9/</sup> We think the "Con-Con Summary" was an excellent method of informing the voter of the proposed amendments. The Convention, however, could have devoted more space than it did to a comparative analysis of the substantive effect of the proposed amendments.

it caused to be published the newspaper supplement which, in bold type, informed the reader: "THE COMPLETE TEXT OF THE CONSTITUTIONAL AMENDMENTS IS CONTAINED IN THIS SUPPLEMENT." It did not in fact contain the full text of all of the proposed amendments. The public, however, was entitled to rely upon these Convention-inspired representations. It had the right to expect that the supplement which received statewide dissemination would contain, at the very least, the material substances of all of the proposed amendments. Thus, to the extent that the ballot (which included the informational booklet) and the supplement failed to reveal the substantive nature and effect of a proposed amendment, the voter will be deemed to have been uninformed with respect to that particular amendment. Cf. Kohler v. Tugwell, supra.

The omissions to which we address ourselves are those which have been called to our attention by the agreed statement of facts of the parties. In reviewing these omissions, we are confined to a consideration of whether the election resulted in a valid expression of the will of the electorate. The meaning and effect to be given to that expression are not among the issues presented to us. This limitation excludes from our consideration any interpretation of the constitutional amendments which we find to have been submitted to and approved by the electorate. We have determined that some of these omissions are fatal to certain of the proposed amendments. What significance such omissions may have in determining the meaning and effect of the amendments which were submitted and approved is outside the

issues in this case, and upon such questions we express no opinion.<sup>10/</sup>

A major omission of a substantive nature concerns the deletion, from the present Constitution, of Article X, §5, which provides:

"FARM AND HOME OWNERSHIP

"Section 5. The public lands shall be used for the development of farm and home ownership on as widespread a basis as possible, in accordance with procedures and limitations prescribed by law."  
(Emphasis added)

This deletion, particularly with respect to the phrase "and home ownership," represents a fundamental change in constitutional philosophy regarding the use of public lands. To a home-starved populace which may fairly characterize the people of Hawaii, this change in emphasis is a substantive matter to which they were entitled to address themselves at the polls. They were not given the opportunity to do so. Accordingly, we hold that the amendment adopted by the Convention deleting present Article X, §5, in its entirety was not validly ratified.

Another major omission of a substantive nature concerns New Article XII, §7, which provides:

"The term 'Hawaiian' means any descendant of the races inhabiting the Hawaiian Islands, previous to 1778.

The term 'native Hawaiian' means any descendant of not less than one-half part of the blood of races inhabiting the Hawaiian Islands previous to 1778 as defined by the Hawaiian Homes Commission Act, 1920, as amended or may be amended."

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<sup>10/</sup> We do not, for example, inquire into whether as a result of their adoption, other substantive changes in the Constitution have been effected by necessary implication. See *People v. Sours*, supra; *McLennan v. Aldredge*, supra; *Keenan v. Price*, supra. Neither are we here concerned with the effects of partial invalidation. See *Carpenter v. State*, supra.

This proposed amendment to present Article XI (New Article XII) was not properly presented to the public for its consideration under Question No. 28 (Office of Hawaiian Affairs) and was, therefore, not validly ratified.

Several other relatively minor amendments of a substantive nature have also failed of ratification for the same reason. These concern the proposed amendments to Article III, §2 and §3;<sup>11/</sup> the addition to New Article IV, §5, of a new paragraph numbered 9;<sup>12/</sup> the proposed amendment to Article XVI, §1 (New Article XVIII, §1);<sup>13/</sup> and the deletion of that portion of Article III, §4, entitled "Minimum

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<sup>11/</sup> The proposed amendments to Article III, §2 and §3 are as follows [new material underlined and deleted material in brackets]:

"Section 2. The senate shall be composed of twenty-five members, who shall be elected by the qualified voters of the respective senatorial districts. [Until the next reapportionment the] The senatorial districts and the number of senators to be elected from each shall be as set forth in the [Schedule.] reapportionment plan as established by the reapportionment commission."

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

<sup>12/</sup> Proposed New Article IV, §5, par. 9, provides:

"No consideration shall be given to holdover senators in effecting redistricting."

<sup>13/</sup> Proposed New Article XVIII, §1, provides:

"Until the next reapportionment the senatorial districts and the number of senators to be elected from each shall be as set forth in the 1973 reapportionment plan. Until the next reapportionment the representative districts and the number of representatives to be elected from each shall be as set forth in the 1973 reapportionment plan."

Representation for Basic Island Units."<sup>14/</sup>

On the other hand, we find the proposed amendment to Article III, §10 (presently Article III, §11), which was presented to the public under Question No. 7 (Legislative Terms, Functions and Procedures; etc.), to have been validly ratified. While the full text of the amendment was not contained in the supplement, the summaries of the proposal in both the informational booklet and the supplement fairly and sufficiently advised the voter of the substance and effect of the proposed amendment. See Kohler v. Tugwell, supra. New Article III, § 10, as thus amended, reads as follows:

"Each regular session shall be recessed for not less than five days at some period between the twentieth and fortieth days of the regular session. The legislature shall determine the dates of the mandatory recess by concurrent resolution. Any session may be recessed by concurrent resolution adopted by a majority of the members to which each house is entitled. Saturdays, Sundays, holidays, the days in mandatory recess and any days in recess pursuant to a concurrent resolution shall be excluded in computing the number of days of any session."

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<sup>14/</sup> The following is the proposed deletion from Article III, §4:

"MINIMUM REPRESENTATION FOR BASIC ISLAND UNITS

The representation of any basic island unit initially allocated less than a minimum of two senators and three representatives shall be augmented by allocating thereto the number of senators or representatives necessary to attain such minimums which number, notwithstanding the provisions of Sections 2 and 3 of this article shall be added to the membership of the appropriate body until the next reapportionment. The senators or representatives of any basic island unit so augmented shall exercise a fractional vote wherein the numerator is the number initially allocated and the denominator is the minimum above specified."

We also find the purely stylistic and technical changes embodied in Question No. 34 (Technical & Style Changes), to have been validly ratified.<sup>15/</sup> These changes consist of the substitution of words of similar meaning for those appearing in the existing Constitution. For example, "as provided by law" appears instead of "in accordance with law," "prescribed" instead of "provided," "shall serve as chairperson" instead of "shall chair," "provided for" instead of "made," and the like. In addition, words such as "the person's" are substituted for "his," "oneself" for "himself," "the accused" for "him," and the like. Numerous changes are made in punctuation and grammar. To require the publication of these non-substantive amendments in full would have been superfluous and would have required the publication of the entire Constitution. It would appear from a reading of the Convention's standing committee report that only the "PREAMBLE" and "FEDERAL CONSTITUTION ADOPTED" portions of the present Constitution were left untouched by the committee's stylistic surgery.<sup>16/</sup>

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<sup>15/</sup> The obvious purpose of the amendment is comparable, on a constitutional level, to the duty of the state's revisor of statutes under HRS §§ 2-6 and 2-10 to ensure, where possible, consistency throughout the statutory scheme in manner and style. However, the revisor may not, in making such revisions, alter the sense, meaning or effect of any act. Id.

<sup>16/</sup> In moving for the adoption of Standing Committee Report No. 104, Delegate Hamilton informed the Convention:

"...Finally, we really were engaged--the Committee on Style--with two functions. The first was the fairly traditional one which had been true in previous conventions, and this involved style, phraseology, consistency, capitalization, punctuation and so on. We also, of course, were responsible for and had arranged the various articles in what seemed proper and logical order. The Committee on Style this time had two new functions given to it by the Convention. One was to rid the Constitution of discriminatory pronouns, adjectives and any other terms, and that has been done.

"The second thing was to restyle the entire Constitution, which had not been done since 1950. That, too, has been done. Thus the entire document is consistent in terms of punctuation, capitalization and so forth. Mr. President, I would recommend its adoption."

There appears to be, however, other amendments of a substantive nature which are not readily apparent from the committee report. In Question No. 34, the electorate was asked to approve certain unspecified "changes [in] the Constitution where the subject may now be unconstitutional or unnecessary under the Constitution of the United States." This was too broad and vague a request, especially since it involved changes in the fundamental law. However valid the Convention's reasons might have been, it was for the people, based upon adequate information, to determine whether and to what extent the organic law of the State ought to undergo revision.

The question of whether any amendment submitted for approval by Question No. 34 was in fact approved thus depends on its effect upon substantive law. If the amendment is purely stylistic and technical in nature, and does not alter the sense, meaning or effect of any provision of the Constitution, it was approved by the electorate and has become a part of the revised Constitution. On the other hand, if the amendment alters the sense, meaning or effect of any provision of the Constitution, it was not ratified and is not effective to change the language of the Constitution. Obviously, we are not now in a position to make these line by line determinations. Neither are we presently concerned with the meaning and effect of any of the amendments proposed by the Convention.

Finally, as to all of the other amendments presented to the people by the 1978 Constitutional Convention for

their approval, we find that constitutional publication and balloting requirements have been satisfied. Accordingly, we hold that these proposed amendments have been ratified.

Steven B. Songstad  
for plaintiffs

*William A. Richardson*

James Funaki  
for defendants  
William Paty and  
Karen Iwamoto

*Thomas S. Ogata*

Maria Sousa,  
Deputy Attorney General  
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*Benjamin Menor*

Daral G. Conklin and  
Melvin M. M. Masuda  
for Hawaii State Bar  
Association, amicus curiae

*Burt T. Kobayashi*

CONCURRING AND DISSENTING OPINION OF KIDWELL, J.

I join without reservation in most of what is said in the court's opinion, but am unable to agree that either the amendatory language appearing in Article III, Section 10 of the constitution as revised by the Convention, or the amendments purportedly presented under Question No. 34, were approved at the general election as required by Article XV, Section 2 of the constitution.

The procedure for amending the constitution provided by Article XV, Section 2 gives no effect to the proposal of amendments by a convention unless they are submitted to the electorate for approval. I do not dispute the proposition that submission of proposed amendments may be accomplished without placing the text of the amended constitution physically before each voter in the polling place. The opinion analyzes the steps taken to inform the voters prior to the election with respect to the effect of the proposed amendments, on the premise that those steps constituted a part of the process of submission of the amendments, rather than only a process designed to acquaint the voters with what was submitted. This is, in my opinion, an incorrect view of what was taking place.

The definitive action of the Convention, by which it settled upon the proposed amendments and determined the manner of their submission, was the adoption of Resolution No. 30. By this resolution the Convention resolved:

That the proposed amendments to the Constitution be submitted to the people of the State of Hawaii in the form of the ballot attached hereto for ratification or rejection at the general election to be held on the 7th day of November, 1978. . . . Such submission shall be by ballot and shall be conducted and the results thereof determined in conformity with Section 2, Article XV of the Constitution. The ballot for such submission . . . shall be substantially in the form hereto attached . . . (Emphasis added)

The form of ballot attached to Resolution No. 30 contains this significant communication to each voter:

Please read instructions and information in the booklet which is part of this ballot. The full text of the proposed amendments on the ballot numbered 1-34, inclusive, is available for inspection in your voting unit.

Resolution No. 30 was presented to the Convention by a report of its Committee on Submission and Information, which report was adopted by the Convention. The report recited that the amendments were too complex and lengthy to be listed on the ballot, and stated:

The numbers and the proposed amendments will be keyed to an explanatory booklet which will accompany the ballot card and also to a complete text of Constitutional changes displayed in each voting unit.

The report also stated that "full texts of the Constitution will be placed at the voter unit, thereby enabling voters who are not completely prepared an adequate opportunity to examine and review the proposed amendments and the revised Constitution as a whole."

The committee report proposed a public information program of the nature of that which was in fact conducted and which is described in the court's opinion. Authorization to conduct this informational program was given to the committee by adoption of the committee report. However, nothing in the committee report suggests authorization to change the manner of submission of the amendments to the voters which is provided in Resolution No. 30.

For reasons which are not significant to our present inquiry, the procedure prescribed in Resolution No. 30 for submission of the proposed amendments to the electorate was not followed precisely. The full text of all of the proposed amendments was not made available in the polling places. Instead, copies of the newspaper supplement which

had been published on October 29, 1978 were distributed to and were available for examination in each of the polling places. Notwithstanding the representation made in the supplement that it contained the full text of the proposed amendments, the text of the amendments which are now in question was omitted and was not available for voter inspection. I am unable to dismiss this as an immaterial departure from the manner of submission which was determined upon by the Convention. Had the text of none of the amendments been made available to the voters at the polling places, the departure from the prescribed manner of submission would have been striking and difficult to disregard. Yet as to each of the amendments the text of which was omitted from the material delivered to the polling places the departure is equally striking. I am forced to the conclusion that, as to those amendments, a submission to the voters in a manner determined by the Convention did not take place and those amendments did not receive voter approval.

The mechanical test which I would apply to determine which amendments became a part of the constitution may appear to elevate form over substance. The effort of the majority to find a different solution, however, places us in an uneasy position of uncertainty as to the precise wording of our fundamental law. The court's opinion makes the effect of the affirmative vote on Question No. 34 a question for inquiry whenever the meaning of the constitution is sought. I would avoid that result, and place our determination on what I consider to be a sounder rationale, by holding that voter approval extended only to the amendments contained in full text in the newspaper supplement.

*H. B. Kilwell*

APPENDIX "A"

STATE OF HAWAII



B

OFFICIAL BALLOT  
**GENERAL ELECTION**  
 TUESDAY, NOVEMBER 7, 1978

AMENDMENTS TO THE STATE  
 CONSTITUTION PROPOSED BY THE  
 1978 CONSTITUTIONAL CONVENTION

146881

(OVER)

This stub shall be removed by the Election Official only.

Please read instructions and information in the booklet which is part of this ballot. The full text of the proposed amendments on the ballot, numbered 1-34, inclusive, is available for inspection in your voting unit.

<b>VOTE ONLY IN PART A OR PART B DO NOT VOTE IN MORE THAN ONE PART</b>	
<b>PART A</b>	YES +
ON ALL PROPOSED AMENDMENTS AS LISTED UNDER PART A, I VOTE:	
	NO +
OR	
<b>PART B</b>	
I VOTE YES ON EACH OF THE PROPOSED AMENDMENTS AS LISTED BELOW EXCEPT THAT I VOTE NO ON THE FOLLOWING:	
1. 12 MEMBER JURY; CIVIL CASE AMOUNT	NO +
2. INDEPENDENT GRAND JURY COUNSEL	NO +
3. RIGHT TO PRIVACY	NO +
4. OPEN PRIMARY ELECTION	NO +
5. RESIGNATION OF CANDIDATES FOR PUBLIC OFFICE	NO +
6. ELECTIONS; PARTIAL PUBLIC FINANCING; SPENDING & CONTRIBUTION LIMITS	NO +
7. LEGISLATIVE TERMS; FUNCTIONS & PROCEDURES; SALARY COMMISSION	NO +
8. REAPPORTIONMENT PROCEDURES	NO +
9. EXECUTIVE DEPARTMENTS; TERM LIMITS	NO +
10. COURTS; JUDICIAL SELECTION; DISCIPLINE	NO +
11. STATE SPENDING LIMIT; TAX REFORM	NO +
12. DEBT LIMITATION; EXCLUSIONS	NO +
13. SPECIAL PURPOSE REVENUE BONDS	NO +

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CONTINUED ON OTHER SIDE  
 (OVER)

STATE OF HAWAII



OFFICIAL BALLOT  
**GENERAL ELECTION**  
 TUESDAY, NOVEMBER 7, 1978

AMENDMENTS TO THE STATE  
 CONSTITUTION PROPOSED BY THE  
 1978 CONSTITUTIONAL CONVENTION

CONTINUED FROM OTHER SIDE

This stub shall be removed by the Election Official only.

Please read instructions and information in the booklet which is part of this ballot. The full text of the proposed amendments on the ballot, numbered 1-34, inclusive, is available for inspection in your voting unit.

14. REVENUES; BUDGET; POST-AUDIT	NO +
15. TAX REVIEW & TAX CONFORMANCE	NO +
16. COUNTY POWER TO TAX REAL PROPERTY	NO +
17. PUBLIC HEALTH & WELFARE	NO +
18. POPULATION GROWTH MANAGEMENT	NO +
19. BOARD OF EDUCATION	NO +
20. EDUCATION; HAWAIIAN STUDIES	NO +
21. UNIVERSITY BOARD OF REGENTS	NO +
22. WATER RESOURCES; PROTECTION & CONTROL	NO +
23. ENVIRONMENT & RESOURCE PROTECTION	NO +
24. LAND MANAGEMENT; AGRICULTURAL LAND	NO +
25. CONTROL OF MARINE RESOURCES	NO +
26. RESTRICTIONS ON NUCLEAR ENERGY	NO +
27. DEPARTMENT OF HAWAIIAN HOME LANDS	NO +
28. OFFICE OF HAWAIIAN AFFAIRS	NO +
29. TRADITIONAL & CUSTOMARY RIGHTS	NO +
30. CODE OF ETHICS	NO +
31. PREAMBLE; STATE BOUNDARIES & MOTTO	NO +
32. LIMITS ON ADVERSE POSSESSION	NO +
33. MISCELLANEOUS REVISIONS	NO +
34. TECHNICAL & STYLE CHANGES	NO +

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(OVER)

APPENDIX "B"

**AMENDMENTS TO THE STATE CONSTITUTION  
PROPOSED BY THE 1978 CONSTITUTIONAL CONVENTION**

November 7, 1978—State of Hawaii



**PLEASE READ THIS INFORMATIONAL BOOKLET  
IT IS PART OF YOUR OFFICIAL BALLOT**

All amendments proposed by the 1978 Constitutional Convention have been incorporated into proposals 1-34 in Part B of the ballot. A brief description of each of the proposed amendments is contained in this booklet. The Constitutional amendments are available for your inspection in your voting unit.

## VOTING INSTRUCTIONS

Vote only in Part A or Part B of your Constitutional Convention Ballot.  
DO NOT VOTE IN BOTH PARTS OF THE BALLOT.

**PART A:** Vote YES in Part A if you approve of ALL the amendments proposed by the Constitutional Convention.

OR

Vote NO in Part A if you disapprove of ALL the amendments proposed by the Constitutional Convention.

**PART B:** Vote in Part B if you approve of some amendments but disapprove of other amendments proposed by the Constitutional Convention. Select those amendments that you disapprove of and vote NO on those selections. Your vote on all other questions will be counted as YES.

## AMENDMENTS 1-34 PROPOSED BY CONSTITUTIONAL CONVENTION

### 1. 12 MEMBER JURY; CIVIL CASE AMOUNT (Article II, Section 13 and 14)

If adopted, this amendment provides that:

- a person can have a jury trial in a civil case where the amount in question is \$1,000 or more rather than \$100 or more as it now reads.
- a person shall have a 12 member jury in a criminal jury trial.

### 2. INDEPENDENT GRAND JURY COUNSEL (Article I, Section II)

If adopted, this amendment provides:

- an independent lawyer to advise the grand jury.
- a way to choose those lawyers, and requires that the legislature set their pay and how long they shall work.

### 3. RIGHT TO PRIVACY (Article I, Section 6)

If adopted, this amendment:

- adds a new section on the right to privacy for people to do certain personal things, and controls the use of some personal information about themselves.
- directs the legislature to carry out this section.

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If adopted, this amendment:

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- keeps each person's party preference a secret.

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If adopted, this amendment:

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If adopted, this amendment provides that the legislature shall:

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- set a spending limit for all candidates.
- limit the amount a person may give to any candidate or legal campaign group.
- require primary election to precede general election by 45 or more days.

### 7. LEGISLATIVE TERMS, FUNCTIONS AND PROCEDURES; SALARY COMMISSION (Article III, Sections 9, 12 and 15; Article XVIII, Section 2; Article IV, Sections 6 and 7)

If adopted, this amendment:

- requires the appointment of a legislative salary commission on November 30, 1978 and every 8 years from then on to set legislative salaries which will go into effect for the following legislature unless the governor or the legislature disapproves.
- makes the legislature set a deadline for all bills to be introduced and also requires a recess after the deadline of not less than 5 days between the 20th and 40th session day.

- opens to the public all decision making meetings of legislative committees.

- increases the waiting period required between the time when the printed bill is distributed and its third or final reading from 24 hours to 48 hours.

- staggers the terms of office for senators starting from the 1978 general election so that about half of the senators will be elected at each general election.

- provides for placement of holdover senators and method of keeping the staggered terms for the senate upon reapportionment.

### 8. REAPPORTIONMENT PROCEDURES (Article IV, Sections 1, 2 and 8)

If adopted, this amendment:

- increases the time between the changing of boundaries for voting area from 8 to 10 years beginning in 1981.
- allows the commission 30 more days (from 120 to 150 days) in which to file its reapportionment plan.
- requires the reapportionment commission to also reapportion the United States Congressional districts.

### 9. EXECUTIVE DEPARTMENTAL TERM LIMITS (Article V, Sections 1, 2 and 6; Article XVIII, Section 4)

If adopted, this amendment:

- limits the governor and lieutenant governor to two terms in a row beginning this year.
- puts units with similar purposes and functions in the same executive department.

**10. COURTS; JUDICIAL SELECTION; DISCIPLINE.** (Article VI, Sections 1, 2, 3, 4 and 5, Article XVIII, Section 5)

If adopted, this amendment:

- creates an intermediate court of appeals, and makes district courts a constitutional rather than legislative creation.
- makes courts limit the time they have to finish their cases.
- removes minimum salaries for judges from the constitution and creates a salary commission.
- requires judges to be State of Hawaii residents and citizens of the State and the United States who are licensed attorneys.
- adds a judicial selection commission to recommend judges for the supreme court, court of appeals or circuit court who are then picked by the governor and approved by the senate, or judges for district courts who are picked by the chief justice of the supreme court.
- gives the supreme court more power to discipline judges and starts a judicial discipline commission.

**11. STATE SPENDING LIMIT; TAX REFUND.** (Article VII, Sections 4, 5, 6, 8 and 9; Article VIII, Section 5)

If adopted, this amendment:

- limits State general fund spending to the estimated rate of growth of the State's economy and applies the limit to the governor's budget and legislative appropriations.
- gives taxpayers a refund or credit whenever the general fund balance is more than five percent of general fund revenues for two years in a row.
- prohibits deficit spending unless the governor says that the public health, safety or welfare is threatened.
- requires the State to share in the cost of any new programs or increased services which the legislature requires that counties provide.

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If adopted, this amendment:

- allows the legislature, by a two-thirds vote of each house, to pass enabling legislation to authorize issuance of special purpose revenue bonds if the issuance of such bonds is found to be in the public interest by the legislature.
- allows the issuance of special purpose revenue bonds for manufacturing, processing or industrial enterprises, utilities serving the general public, health care facilities provided to the public by non-profit corporations, and low and moderate income government housing programs.
- requires a second two-thirds vote of each house of the legislature before bonds can be issued for any project or program.
- requires that State credit cannot be used directly or indirectly and State shall not be liable for repayment of bonds.
- allows the legislature to authorize the counties to issue such bonds but requires a two-thirds vote of the county council before such bonds may be issued.
- excludes such bonds from the State or county debt limits.

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If adopted, this amendment:

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- includes a transitional section which provides (1) for effective date on July 1, 1981, (2) for uniform policies and methods of assessing real property by agreement of a majority of the counties or, in the absence of such agreement, by general law, and (3) for dedications of kind for specific use, for assessment at its value in such use, and for real property tax exemptions, both of which shall not be altered for a period of eleven years, except that increases for either may be granted by agreement of a majority of the counties.

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If adopted, this amendment:

- allows flexibility in programs for care of handicapped.
- gives the legislature power to establish eligibility standards for public assistance.
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If adopted, this amendment:

- requires the State and its counties to plan and manage the growth of the population except that each county may plan and manage their growth in a more restrictive manner than the State.

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If adopted, this amendment:

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If adopted, this amendment:

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(Article X, Section 6)

If adopted, this amendment:

- clarifies the board of regents' exclusive jurisdiction, subject to statewide laws, over the internal organization and management of the University of Hawaii.

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If adopted, this amendment:

- obligates the State to protect, control, and regulate the uses of Hawaii's water resources for the benefit of the people of Hawaii.
- requires the legislature to insure that there is a water resources agency to help protect, control, and regulate the water.

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(Article XI, Sections 1 and 9)

If adopted, this amendment:

- requires the State and counties to conserve and protect the natural beauty and natural resources of Hawaii.
- requires the State to promote the development and use of these resources in a manner consistent with conserving those resources and promoting the self-sufficiency of the State.
- requires the State to hold all public natural resources in trust for the benefit of the people of Hawaii.
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- gives each person the right to sue to enforce this right but the legislature may limit and regulate this right in a reasonable manner.

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(Article XI, Sections 3 and 4)

If adopted, this amendment:

- requires the State to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and assure that agriculturally suitable lands will be available.
- requires the State to identify which agricultural lands are needed to promote the future of agriculture.
- requires that lands identified as important for agriculture shall not be used for any other purpose unless certain standards and criteria set by the legislature are met and approved by a two-thirds vote of the governmental body which is to approve changes in the use of the land.

- permits the State to acquire interests in real property in order to control development and land use; deems exercise of such power to be for a public use and purpose.

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If adopted, this amendment:

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- reserves to the State the right to manage and control ocean waters and lands which are located outside the boundaries of the State as long as federal or international law does not prevent the State from doing so.
- adds to the list of areas not open to the public, those areas where a state-licensed mariculture operation is operating but requires the legislature to establish guidelines for mariculture operations to protect the public's use and enjoyment of the reefs.

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- allows Department more flexibility.

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- makes small changes which are related to the main purposes of the other amendments.

# **AMENDMENTS TO THE STATE CONSTITUTION PROPOSED BY THE 1978 CONSTITUTIONAL CONVENTION**

**November 7, 1978—State of Hawaii**



**PLEASE READ THIS INFORMATIONAL BOOKLET  
IT IS PART OF YOUR OFFICIAL BALLOT**

All amendments proposed by the 1978 Constitutional Convention have been incorporated into proposals 1-34 in Part B of the ballot. A brief description of each of the proposed amendments is contained in this booklet. The Constitutional amendments are available for your inspection in your voting unit.

# VOTING INSTRUCTIONS

Vote only in Part A or Part B of your Constitutional Convention Ballot.  
DO NOT VOTE IN BOTH PARTS OF THE BALLOT.

**PART A:** Vote YES in Part A if you approve of ALL the amendments proposed by the Constitutional Convention.

OR

Vote NO in Part A if you disapprove of ALL the amendments proposed by the Constitutional Convention.

**PART B:** Vote in Part B if you approve of some amendments but disapprove of other amendments proposed by the Constitutional Convention. Select those amendments that you disapprove of and vote NO on those selections. Your vote on all other questions will be counted as YES.

## AMENDMENTS 1-34 PROPOSED BY CONSTITUTIONAL CONVENTION

- 1. 12 MEMBER JURY; CIVIL CASE AMOUNT** (Article I, Section 13 and 14)
- If adopted, this amendment provides that:
- a person can have a jury trial in a civil case where the amount in question is \$1,000 or more rather than \$100 or more as it now reads.
  - a person shall have a 12 member jury in a criminal jury trial.
- 2. INDEPENDENT GRAND JURY COUNSEL.** (Article I, Section II)
- If adopted, this amendment provides:
- an independent lawyer to advise the grand jury.
  - a way to choose those lawyers, and requires that the legislature set their pay and how long they shall work.
- 3. RIGHT TO PRIVACY.** (Article I, Section 6)
- If adopted, this amendment:
- adds a new section on the right to privacy for people to do certain personal things, and controls the use of some personal information about themselves.
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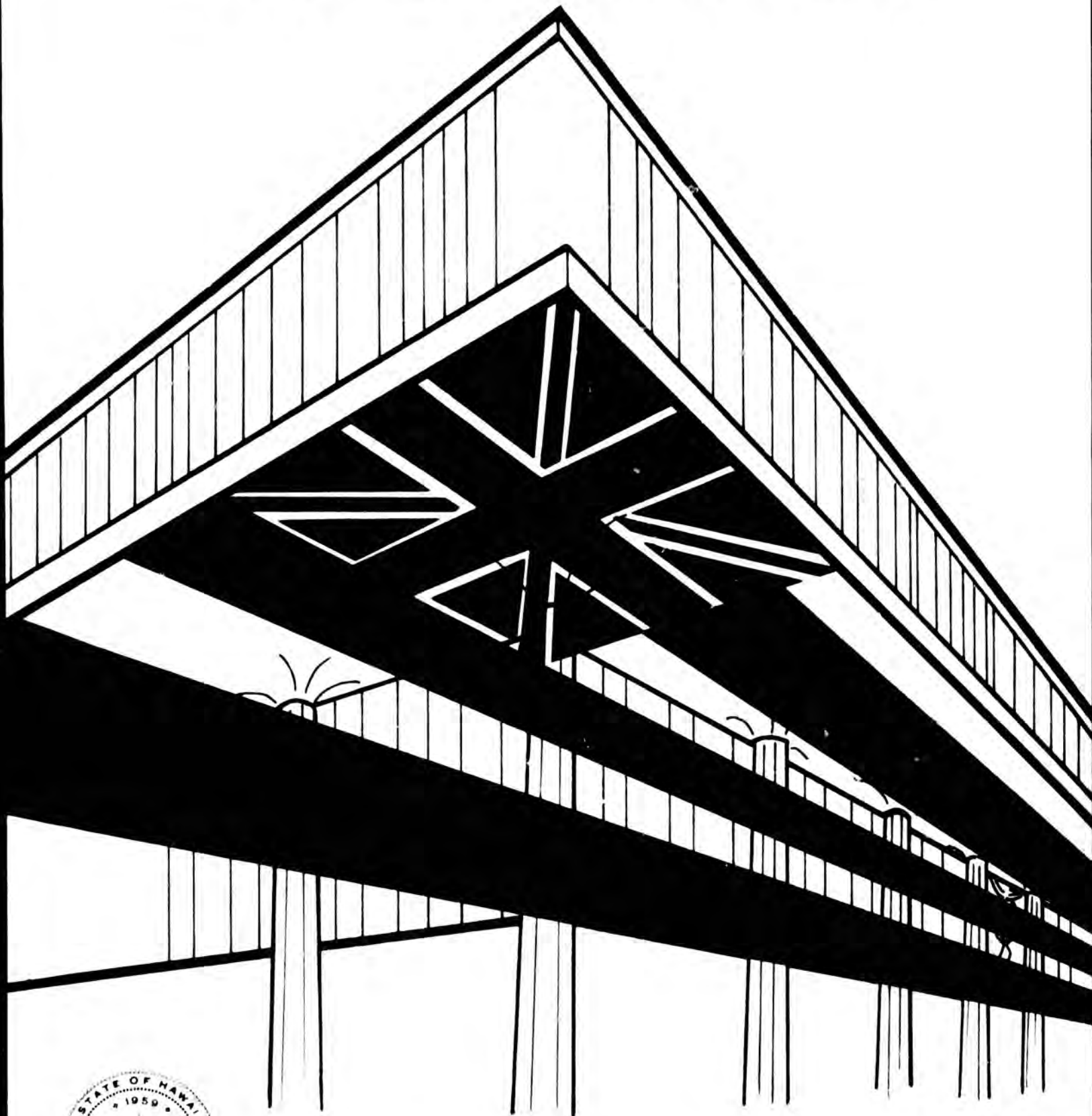
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# 1978 MANUAL FOR CANDIDATES



Prepared By The  
OFFICE OF THE LIEUTENANT GOVERNOR

**1978**  
**MANUAL FOR CANDIDATES**

**CHIEF ELECTION OFFICER**  
**LT. GOVERNOR NELSON K. DOI**



OFFICE OF THE LIEUTENANT GOVERNOR

STATE CAPITOL

HONOLULU, HAWAII 96813

NELSON K. DOI  
LIEUTENANT GOVERNOR

Dear Candidate:

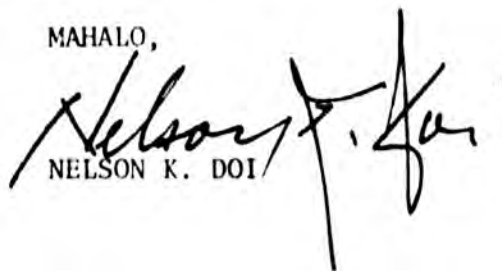
At a time when people look at our government with caution and mistrust, I wish to congratulate you for choosing to become actively involved by running for office.

I sincerely hope that the example set by you and other candidates will help to sustain a faith in the democratic process that has made this nation great. I commend you for offering your services and for taking on the risks and burdens of a campaign. We need more citizens like you.

This edition of the MANUAL FOR CANDIDATES has been prepared to help you with information most frequently requested by candidates and their staff members.

I hope this manual will be of value to you as you conduct your campaign. If you need further assistance, please contact one of the persons listed on the next page.

MAHALO,

  
NELSON K. DOI

# ELECTION PERSONNEL

For additional information, contact the appropriate office listed below.

## OFFICE OF THE LIEUTENANT GOVERNOR

5th Floor  
STATE CAPITOL  
Honolulu, Hawaii 96813

Morris Takushi .....	(548-2517)	Director of Elections
Marsha Onaga .....	(548-2517)	Nomination papers, maps and other candidate information
Evelyn Oshiro .....	(548-2517)	Voter Registration
Tom Masaki .....	(548-6717)	Voter Education Coordinator
Shirlene Uyehara .....	(548-6717)	Voter Education

## OFFICE OF THE CITY CLERK, CITY AND COUNTY OF HONOLULU

Honolulu Hale  
Honolulu, Hawaii 96813

Eileen Lota .....	(523-4291)	City Clerk
John Kamana .....	(523-4293)	Deputy City Clerk
Kenneth Hashimoto .....	(523-4292)	Election Administrator

## OFFICE OF THE COUNTY CLERK, COUNTY OF HAWAII

25 Aupuni Street  
Hilo, Hawaii 96720

Rudy Legaspi .....	(961-8271)	County Clerk
Yasuki Arakaki .....	(961-8255)	Deputy County Clerk
Ed Kozohara .....	(961-8277)	Supervisor of Elections

## OFFICE OF THE COUNTY CLERK, COUNTY OF MAUI

200 So. High Street  
Wailuku, Maui 96793

James Ushijima .....	(244-7825)	County Clerk
Manuel K. Oishi .....	(244-7826)	Deputy County Clerk
George dela Nux .....	(244-7749)	Election Clerk

## OFFICE OF THE COUNTY CLERK, COUNTY OF KAUAI

4396 Rice Street  
Lihue, Kauai 96766

Tad Miura .....	(245-4786)	County Clerk
Tatsuo Kato .....	(245-5786)	Deputy County Clerk
William Pascua .....	(245-5785)	Election Administrator

## CAMPAIGN SPENDING COMMISSION

Room 436, State Capitol  
Honolulu, Hawaii 96813

Jack Gonzales .....	(548-5411)	Executive Director
Ray Onishi .....	(548-5411)	Associate Director
Rochelle Oshiro .....	(548-5411)	) Campaign Spending laws, reports, and general information
Linda Takushi (Notary Public) .....	(548-5411)	
Caralyn Kuehneman (Notary Public) .....	(548-5411)	

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# NOMINATION PROCEDURES AND QUALIFICATIONS

## WHERE TO OBTAIN NOMINATION PAPERS:

ON OAHU: Lieutenant Governor's Office for Federal & State offices;  
City Clerk's Office for City & County offices.

ON OTHER ISLANDS: County Clerk's Office for all offices.

## QUALIFICATIONS FOR OFFICE:

For qualifications for specific offices, please refer to pages 15-20.

## NUMBER OF REQUIRED SIGNATURES:

For U.S. Senator, U.S. Representative, Governor, Lieutenant Governor and School Board Member.....not less than 25;

For all other offices.....not less than 15.

[Candidates are advised to get more than the required minimum amount of signatures in the event some of the signers are disqualified. Signers should be encouraged to include their social security numbers and birthdates to aid in the verification process. If a signer cannot be positively identified due to a name or an address change, that signer will be disqualified. The task of identifying a signer would be made much easier if the requested information is provided.]

## QUALIFICATION OF SIGNING NOMINATION PAPERS:

Signers must be registered voters who will be qualified to vote for their candidate in the designated election. In addition, they:

- Must be registered in the same district as the candidate;
- Must have same party preference as the candidate, or change party preference up to 4:30 p.m., July 7, 1978, at the City & County or County Clerk's Offices. (Party Preference is not applicable to the Constitutional Convention);
- Shall not sign the nomination papers of more than one candidate for the same office unless there is more than one seat available, in which case no person shall sign more nomination papers for candidates than the actual number of seats available.
- May sign the nomination paper of an individual running as a candidate from any party or as a non-partisan if they have not been designated a party preference.

## DESIGNATION OF CANDIDATE'S NAME ON THE BALLOT:

- The Candidate's name must be correctly spelled in the portion of nomination paper called "DECLARATION OF CANDIDACY";
- Hawaiian or English equivalent or nickname is allowed on the ballot.
- Up to a maximum of 26 type spaces for letters, punctuation and blank spaces will be allowed for a candidate's name (including Hawaiian or English equivalent or nickname) to be printed on the ballot.

Constitutional Convention Election..... 4:30 p.m., April 20, 1978  
1978 Primary Election ..... 4:30 p.m., August 8, 1978

## WHERE TO FILE NOMINATION PAPERS:

File papers at the office where they were issued.

## FILING FEE:

For filing fees for specific offices, please refer to pages 15-20.

## INDIGENT CANDIDATE:

Filing fee will be waived if:

- The candidate declares by affidavit that he is an indigent;
- The candidate files a petition signed by at least 1/2 of 1% of the registered voters qualified to vote for the office sought;
- The petition and affidavit are filed with the nomination papers.

## CHALLENGE:

Any nomination paper received by the Chief Election Officer or a County Clerk shall be deemed valid unless it is challenged. The candidate shall be notified through registered or certified mail of any challenge accepted by the Chief Election Officer or County Clerk. The decision of the Chief Election Officer or County Clerk concerning a challenged nomination paper shall be provided in writing to the candidate upon his request. Challenges:

- Must be made by 4:30 p.m. on the second day after the filing deadline or next working day;
- Will be decided by the Chief Election Officer or County Clerk not later than 4:30 p.m. on the second day after they are made.

## IMPORTANT ELECTION LAWS

### SECTION 11-72(3), HAWAII REVISED STATUTES (HRS)

**Precinct officials; submission of names and assignments; vacancies.** No parent, spouse, child, or sibling of a candidate shall be eligible to serve as a precinct official in any precinct in which votes may be cast for the candidate; nor shall any candidate for any elective office be eligible to serve as a precinct official in the same election in which he is a candidate. No candidate who failed of nomination in the primary or special election shall be eligible to serve as a precinct official in the general election next following.

### SECTION 11-117, HRS

**Withdrawal of candidates; disqualification; death; notice.** Any candidate may withdraw not later than 4:30 p.m. on the day immediately following the close of filing for any reason and may withdraw after the close of filing up to 4:30 p.m. on the tenth day prior to an election for reasons of ill health when the notice is accompanied by a statement from a licensed physician indicating that such ill health may endanger the candidate's life, if he is a candidate for member of Congress or for state office, by giving notice in writing to the chief election officer, or if he is a candidate for a county office, by giving notice in writing to the county clerk of the county in which the candidate was seeking nomination or election.

On receipt of the notice of withdrawal, the chief election officer or the clerk shall inform the chairman of the political party of which the person withdrawing was a candidate. When the candidate dies, withdraws or is disqualified after the close of filing and the ballots have been printed, the chief election officer or the clerk shall either order the candidate's name stricken from the ballot or that a notice of disqualification, withdrawal or death be prominently posted at the polling place on election day. In no case shall the filing fee be refunded after filing.

### SECTION 11-210, HRS

**Advertising.** (a) All advertisements shall contain the name and address of the candidate, committee, or person paying for same.

(b) In addition to subsection (a) above, no person shall cause or submit any advertisement in support for a candidate or against a candidate's opponent, to be published, broadcasted, televised or otherwise circulated and distributed except under the following conditions:

- (1) The advertisement shall contain a notice in a prominent location that the literature or advertisement is published, broadcasted, televised, or circulated with the approval and authority of the candidate, provided that in the event that the literature or advertisement is paid for by the candidate or committee directly associated with a candidate, the notice of approval and authority need not be included; or
- (2) The advertisement shall contain a notice in a prominent location that the literature or advertisement is published, broadcasted, televised, or circulated without the approval and authority of the candidate.

# CAMPAIGN SPENDING LAW

## PURPOSE OF THE CAMPAIGN SPENDING LAW

The Legislature stated that the purpose of the Campaign Spending Law is to require disclosure of political campaign contributions and expenditures in order to promote public participation in the electoral process.

## CAMPAIGN SPENDING COMMISSION SUPERVISES THE LAW

A five-member Campaign Spending Commission, appointed by the Governor, supervises the campaign spending laws through an Executive Director and staff. The Campaign Spending Commission is located in Room 436, Fourth Floor, State Capitol. The telephone number is 548-5411.

## WHO MUST FILE WITH THE CAMPAIGN SPENDING COMMISSION?

All candidates, committees, and political parties are required to file reports.

## ORGANIZATIONAL REPORT

An organizational report containing the name, address, office being sought and party affiliation of the candidate or candidates, the names and addresses of the committee or party, campaign treasurer and deputies, campaign chairman and deputy campaign chairman, together with a list of all banks or other depositories used and the applicable account numbers, and an accounting of contributions received as prescribed by law and the rules of the Commission must be filed on the earliest of the following applicable dates:

1. On or before the day of filing for nomination or election;
2. At least forty-five days before the primary or special primary election;
3. At least forty-five days before the general, special general, or special election; or
4. By the tenth day after:
  - A. Receiving any contributions in an aggregate amount of more than \$100 or
  - B. Making or incurring any expenditure which is reportable under section 11-207 or 11-208, HRS.

## OTHER REPORTS REQUIRED AND DATES TO BE FILLED WITH THE COMMISSION

REPORT	DUE DATE
1. Preliminary report for Con-Con	May 10, 1978 (4:30 p.m.)
2. Final report for Con-Con	June 9, 1978 (4:30 p.m.)
3. Pre-Primary Report	Sept. 27, 1978 (4:30 p.m.)
4. Final Primary Report	Oct. 27, 1978 (4:30 p.m.)
5. Pre-General Report	Oct. 27, 1978 (4:30 p.m.)
6. Final General Report	Nov. 27, 1978 (4:30 p.m.)

## REQUIRED FORMS MAY BE OBTAINED AT THE FOLLOWING LOCATIONS:

Campaign Spending Commission State Capitol Room 436 Honolulu, Hawaii 96813	County Clerk's Office County of Maui 200 South High Street Wailuku, Hawaii 96793
County Clerk's Office County of Hawaii 25 Aupuni Street Hilo, Hawaii 96720	County Clerk's Office County of Kauai 4396 Rice Street Lihue, Hawaii 96766

## FURTHER INFORMATION MAY BE OBTAINED BY TELEPHONE

Phone: 548-5411

(Toll-free calls from the Neighbor Islands may be placed by dialing "0" and asking the operator for Enterprise 5406.)

# CAMPAIGN SIGN ORDINANCES

## CITY AND COUNTY OF HONOLULU

The following guidelines have been established, based on current provisions in the Comprehensive Zoning Code (CZC):

- 1) **General Provision:** Political signs are prohibited signs as provided in Section 21-223 (CZC).
- 2) **Headquarters Signs:** Signs which identify the candidate's headquarters are permitted when such signs are located on the premises, subject to the sign regulations of the respective zoning districts. Before installing a "headquarters sign", it will be necessary to obtain a sign permit issued by the Building Department, City Hall. Detailed information can be obtained over the business counter or by telephone (523-4651). For interpretation or clarification of the rules, call the Zoning Plan Check Section at 523-4553.
- 3) **Window Signs:** Political signs which are posted inside windows are permitted in the candidate's bona fide campaign office.
- 4) **Bumper Stickers:** Bumper stickers are permitted on operable motor vehicles.
- 5) **Hand-carried Political Signs:** Political signs are permitted when carried by individuals.
- 6) **Aerial Political Advertising:** No person shall use an aircraft to display any political sign or advertising device, including but not limiting the generality of the foregoing, poster, banner, writing, picture, painting, light, model, display, emblem, notice, illustration, insignia, symbol and any other forms of advertising sign or device.

## COUNTY OF HAWAII

### ORDINANCE NO. 48, SECTION 2. Definitions.

(a) "Sign" shall mean and include every sign, device, figure, painting, drawing, message, placard, poster, billboard, ground sign, wall sign, roof sign, illuminated sign, projecting sign, temporary sign, marquee, awning, canopy, and street clock. and shall include any announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any person when the same is placed out of doors on real property or buildings or structures thereon in view of the general public.

### ORDINANCE NO. 48, SECTION 3. Exempt Signs.

(4) Political campaign signs. Signs or posters not exceeding 1 square foot in display surface, announcing candidates seeking political office; provided that such signs or posters shall be permitted only for a period of 60 days preceding a general or special election and for a period of 10 days following such election.

## COUNTY OF MAUI

### ORDINANCE NO. 308, SECTION 3. Exempt Signs.

(4) Political campaign signs. Signs or posters not exceeding 18 square feet in display surface, announcing candidates seeking political office; provided that such signs or posters shall be permitted only for a period of 60 days preceding a general or special election and for a period of 10 days following such election.

## COUNTY OF KAUAI

### ORDINANCE NO. 159 (AMENDING PARAGRAPH "a" (4) OF SECTION 20.3 CHAPTER 4, CODE OF ORDINANCES, RELATING TO THE REGULATION OF OUTDOOR SIGNS)

(4) Political Campaign Signs. All political campaign billboards, signs, and posters are prohibited, with the exception of the following:

- (a) Bumper stickers and other signs attached by adhesives to motor vehicles announcing candidates seeking political office.
- (b) Signs identifying the headquarters of a political candidate may be erected and may be maintained in accordance with this Chapter; provided, however, that each political candidate shall be permitted to designate only one such headquarters.
- (c) Signs or posters not exceeding 18 square feet in display surface announcing the candidate seeking political office; provided that these signs or posters should be permitted only within the limits of a County park wherein a political rally is being held, and for a period not to exceed 24 hours beginning 9 a.m. of the date of the political rally. The candidates shall be responsible for the removal of all posters or signs announcing their candidacy.

## **ELECTIONEERING IN THE POLLING PLACES**

More detailed information can be found in the **Hawaii Revised Statutes, Sections 11-132 and 19-6(7).**

### **THOSE ALLOWED IN THE POLLING PLACES:**

- (1) Election officials;
- (2) Watchers, if any, pursuant to Section 11-77;
- (3) Candidates;
- (4) Voters actually engaged in voting, going to vote or returning from voting;
- (5) Any person, designated by a voter who is physically disabled, while he is assisting the voter; and
- (6) Any person or nonvoter group authorized by the chief election officer or the county clerk to observe the election.

### **WHAT CANDIDATES MAY DO AT THE POLLING PLACES:**

The candidates may vote and also observe the voting process to see that voting is progressing correctly and fairly. (They should identify themselves as candidates to the chairperson of the precinct officials when they enter the polling places.)

### **WHAT CANDIDATES CANNOT DO AT THE POLLING PLACES:**

Candidates cannot engage in any activity for the purpose of influencing votes.

### **WHAT WATCHERS MAY DO:**

The watchers may observe the conduct of the election in the polling places after presenting their identification to the chairperson of the precinct officials.

### **WHAT WATCHERS CANNOT DO:**

The watchers will not be allowed to use polling place telephones, except to appeal to the clerk of the county if the chairperson fails to correct any violation called to his attention.

### **POLITICAL SIGNS AND BUMPER STICKERS ON CARS AT THE POLLING PLACES:**

In general—cars, wagons, motorcycles, etc., with political signs and stickers may remain within the 1,000-foot area ONLY for the time that voters are actually engaged in voting. Cars belonging to workers that are parked within 1,000 feet of the polling places shall not display any political signs or bumper stickers.

### **OTHER FORMS OF POLITICAL ADVERTISING NOT ALLOWED WITHIN THE 1,000-FOOT AREA AROUND THE POLLING PLACES:**

All political signs within public and private properties are prohibited.

All political clothing—armbands, hatbands, shirts, muumuu, dresses, campaign buttons, etc.—are prohibited.

### **RECOMMENDATION:**

Candidates and/or their supporters should check the 1,000-foot area around each of their polling places prior to the election to insure that the laws are being complied with.

# ELECTIONS 1978

## CONSTITUTIONAL CONVENTION DELEGATE ELECTION

May 20, 1978

7:00 a.m. to 6:00 p.m.

102 Delegates to be elected from 51 Con-Con Districts

### PRIMARY ELECTION

October 7, 1978

7:00 a.m. to 6:00 p.m.

### GENERAL ELECTION

November 7, 1978

7:00 a.m. to 6:00 p.m.

## ELECTIVE OFFICES PRIMARY & GENERAL ELECTIONS

### FEDERAL

U.S. Representatives - 2 seats

### STATE

Governor - 1 seat

Lieutenant Governor - 1 seat

Senators - 25 seats

Representatives - 51 seats

Board of Education - 9 seats

### CITY AND COUNTY OF HONOLULU

Councilmen - 9 seats

### COUNTY OF MAUI

Mayor - 1 seat

Councilmen - 9 seats

### COUNTY OF KAUAI

Mayor - 1 seat

Councilmen - 7 seats

## IMPORTANT DEADLINES

	CON CON	PRIMARY	GENERAL
VOTER REGISTRATION	April 20, 1978 4:30 p.m.	September 7, 1978 4:30 p.m.	October 10, 1978 4:30 p.m.
PARTY PREFERENCE DESIGNATION CHANGE —PRIMARY ONLY—	Not Applicable	July 7, 1978 4:30 p.m.	Not Applicable
FILING NOMINATION PAPERS	April 20, 1978 4:30 p.m.	August 8, 1978 4:30 p.m.	Not Applicable
RECEIPT OF ABSENTEE BALLOT REQUESTS	Between March 21- May 13, 1978	Between August 8- September 30, 1978	Between August 8- October 31, 1978
RECEIPT OF ABSENTEE BALLOTS: a) If confined in home, hospital or institution:	By 6:00 p.m. on May 20, 1978* Ballots must be delivered to City Clerk's or County Clerk's Offices by Deadline	By 6:00 p.m. on October 7, 1978*	By 6:00 p.m. on November 7, 1978*
b) Voting in-person at Offices of City & County Clerks (contact your county clerk for hours)	May 10 to May 19, 1978	Sept. 28 to Oct. 6, 1978	Oct. 27 to Nov. 6, 1978

**SECTION  
OF  
HAWAII  
REVISED  
STATUTES DEADLINE**

**CONSTITUTIONAL CONVENTION  
ELECTION CALENDAR  
1978**

11-72	<b>FEBRUARY 18</b>	Political Parties to submit names of precinct officials
11-20	<b>FEBRUARY 18</b>	Clerk to notify voter to transfer registration.
11-92	<b>FEBRUARY 18</b>	Change precincts or establish central polling places.
11-20	<b>MARCH 21</b>	2nd notification to voter to transfer registration.
15-4	<b>MARCH 21</b>	Voters to begin request for an absentee ballot.
11-20	<b>APRIL 05</b>	List of voters with questionable address made available.
11-91	<b>APRIL 10</b>	Issue and publish election proclamation.
<b>SLH 1977</b>	<b>APRIL 20</b>	<b>FILE NOMINATION PAPERS.</b>
11-18	<b>APRIL 20</b>	Transfer of registration from one precinct to another.
11-24	<b>APRIL 20</b>	Close voter registration for CON-CON.
15-4	<b>APRIL 21</b>	Clerk may begin to mail request form for absentee ballot to voter in remote area for CON-CON.
12-8	<b>APRIL 24</b>	Filing objections to nomination papers.
12-9	<b>APRIL 25</b>	Transmit list of candidates to county clerks and vice versa.
11-207	<b>MAY 10</b>	Candidates to file Campaign Spending Preliminary Report.
11-77	<b>MAY 10</b>	Political parties to submit list of watchers for CON-CON.
11-117	<b>MAY 10</b>	Candidates to withdraw for a reason.
11-119	<b>MAY 10</b>	Delivery of absentee ballots to County Clerks.
15-4	<b>MAY 13</b>	Voters request for an absentee ballot for CON-CON.
11-73	<b>MAY 15</b>	Instruct precinct officials for CON-CON.
15-7	<b>MAY 19</b>	Close absentee voter precincts for CON-CON.
<b>SLH 1977</b>	<b>MAY 20</b>	<b>CONSTITUTIONAL CONVENTION DELEGATE ELECTION.</b>
15-9	<b>MAY 20</b>	Voters to return mailed, or other than mailed, absentee ballot to County Clerk.
11-174.5	<b>JUNE 09</b>	File complaint on contests for cause in CON-CON.
11-208	<b>JUNE 09</b>	Candidates to file final Campaign Spending Report.
<b>SLH 1977</b>	<b>JULY 05</b>	<b>CONSTITUTIONAL CONVENTION CONVENES.</b>

**PRIMARY AND GENERAL  
ELECTION CALENDAR  
1978**

<b>H.R.S.</b>	<b>DEADLINE</b>	
11-62	<b>MAY 10</b>	Formation of new parties.
11-63	<b>MAY 10</b>	Filing party rules.
11-64	<b>JUNE 09</b>	Filing names of party officers.
11-72	<b>JUNE 09</b>	Political parties to submit names of precinct officials.
12-31	<b>JULY 07</b>	Change of party preference.
11-20	<b>JULY 08</b>	Clerk to notify voter to transfer registration.
11-92	<b>JULY 08</b>	Change precincts or establish central polling places for PRIMARY.
11-91	<b>JULY 29</b>	Issue and publish election proclamation.
11-20	<b>AUGUST 08</b>	Transfer of registration, 2nd notification to voters.
15-4	<b>AUGUST 08</b>	Voters to begin request for an absentee ballot.
<b>12-6</b>	<b>AUGUST 08</b>	<b>File Nomination Papers for PRIMARY.</b>
11-92	<b>AUGUST 09</b>	Change precincts or establish central polling places for GENERAL.
12-8	<b>AUGUST 10</b>	Filing objections to nomination papers.

12-9	AUGUST 14	Transmit list of candidates to county clerks and vice versa.
11-20	AUGUST 23	List of voters with questionable addresses made available.
14-21		Parties to submit certified names and addresses of nominees as candidates for presidential electors and alternates.
11-18	SEPTEMBER 07	Transfer of registration from one precinct to another for PRIMARY.
11-24	SEPTEMBER 07	Close of voter registration for PRIMARY.
15-4	SEPTEMBER 08	Clerk may begin to mail request form for absentee ballot to voter in remote area for PRIMARY.
11-77	SEPTEMBER 27	Political party to submit list of watchers for PRIMARY.
11-117	SEPTEMBER 27	Candidates to withdraw for a reason.
11-119	SEPTEMBER 27	Delivery of absentee ballots to county clerks for PRIMARY.
11-207	SEPTEMBER 27	Candidates, committees and parties to file preliminary primary report.
15-4	SEPTEMBER 30	Voters to request for an absentee ballot for PRIMARY.
11-73	OCTOBER 02	Instruct precinct officials for PRIMARY.
15-7	OCTOBER 06	Close absentee voter precincts for PRIMARY.
12-2	OCTOBER 07	<b>PRIMARY ELECTION</b>
15-9	OCTOBER 07	Voters to return mailed, or other than mailed, absentee ballot to clerk for PRIMARY.
11-18	OCTOBER 10	Transfer of registration from one precinct to another for GENERAL.
11-24	OCTOBER 10	Close voter registration for GENERAL.
15-4	OCTOBER 11	Clerk may begin to mail request form for absentee ballot to voter in remote area for GENERAL.
11-173.5	OCTOBER 13	File complaint on contests for cause in PRIMARY.
11-208	OCTOBER 27	Candidates, committees and parties to file final primary report. Candidates, committees and parties to file preliminary general report of campaign spending.
11-77	OCTOBER 28	Political party to submit list of watchers for GENERAL.
11-117	OCTOBER 28	Candidates to withdraw for a reason in GENERAL.
11-119	OCTOBER 28	Delivery of absentee ballots to county clerks for GENERAL.
15-4	OCTOBER 31	Voters to request for an absentee ballot for GENERAL.
14-22		Final determination on contested nomination of presidential electors and alternates, made by presidential elector's committee.
11-73	NOVEMBER 02	Instruct precinct officials for GENERAL.
15-7	NOVEMBER 06	Close absentee polling place for GENERAL.
<b>CONSTITUTION</b>		
	NOVEMBER 07	<b>GENERAL ELECTION.</b>
15-9	NOVEMBER 07	Voters to return mailed, or other than mailed, absentee ballot to reach clerk for GENERAL.
11-174.5	NOVEMBER 27	File complaint on contests for cause in GENERAL.
11-208	NOVEMBER 27	Candidates, committees and parties to file final general report of campaign spending.
14-24		Chief Election Officer to certify to governor the names of the presidential electors and later alternates of the same political party of the winning candidates for president and vice president.
14-26		Presidential Electors assemble at State Capitol.
11-17	JANUARY 06	Remove voters from register upon failure to vote.
11-65	MARCH 07	Determine party disqualification.

\*\*\*Deadlines for presidential election years, not applicable for 1978.

# AVAILABLE ELECTION MATERIALS

## OFFICE OF THE LIEUTENANT GOVERNOR (FOR DISTRIBUTION)

- 1) **District and Precinct Boundaries, State of Hawaii, 1976**
- 2) **Election Laws of Hawaii, 1978**
- 3) **Political Boundary Maps (Available for Purchase)**
- 4) **Result of Votes Cast, Primary Election (1959-1976)**
- 5) **Result of Votes Cast, General Election (1959-1976)**
- 6) **Result of Votes Cast, Constitutional Convention, 1968**
- 7) **Voter Participation in Hawaii, 1970 (A Joint Publication of the Office of the Lieutenant Governor and the Department of Planning and Economic Development of the State of Hawaii)**
- 8) **Voter Registration Program, Reports for 1968, 1970 and 1972-1974**

## OFFICE OF THE LIEUTENANT GOVERNOR (FOR USE IN OFFICE)

- 1) **Attorney General's Opinions**
- 2) **Hawaii Revised Statutes**
- 3) **Daniel W. Tuttle, Jr., HAWAII VOTING BEHAVIOR: A Background Guide To Some Significant Characteristics Of Honolulu's (Oahu's) 139 Precincts (Honolulu: Center for Governmental Development September, 1972)**
- 4) **Daniel W. Tuttle, Jr., HAWAII VOTING BEHAVIOR: A Guide to Estimated Social and Economic Characteristics Of Honolulu's (Oahu's) 139 Precincts (Honolulu: Center for Governmental Development September, 1972)**
- 5) **Daniel W. Tuttle, Jr., 1972 HAWAII VOTING BEHAVIOR: A Background Guide to Some Significant Characteristics Of Honolulu's (Oahu's) 139 Precincts (Honolulu: Center for Governmental Development 1973)**
- 6) **Daniel W. Tuttle, Jr., 1972 HAWAII VOTING BEHAVIOR: A Background Guide To Some Significant Characteristics Of The Neighbor Islands' 100 Precincts (Honolulu: Center for Governmental Development 1973)**
- 7) **Precinct Official Training Manual**
- 8) **The Report and Reapportionment Plan of the 1973 Legislative Reapportionment Commission, State of Hawaii, July 16, 1973**
- 9) **The Reapportionment and Redistricting of Senatorial and Representative Districts for the State of Hawaii as Adopted by the Legislative Reapportionment Commission, July 16, 1973**
- 10) **Rules and Regulations Relating to Elections**
- 11) **Session Laws of Hawaii**

## OFFICE OF THE CITY CLERK, CITY AND COUNTY OF HONOLULU (FOR DISTRIBUTION)

- 1) **Council District Maps (May be purchased for \$1.00 each)**
- 2) **Information brochures on elections and voter registration**
- 3) **Listing of Service Bureaus that provide list of registered voters and other mailing and elections services**
- 4) **Voter Registration Street Directory (May be purchased for \$2.00)**

## OFFICE OF THE CITY CLERK, CITY AND COUNTY OF HONOLULU (FOR USE IN OFFICE)

- 1) **Report and Reapportionment Plan of the Council of the City and County of Honolulu, 1973.**

## OFFICE OF THE COUNTY CLERK, COUNTY OF HAWAII (FOR DISTRIBUTION)

- 1) **Campaign Spending Law forms and materials**
- 2) **Chronological Order of Important Dates**
- 3) **City Map (\$5.00)**
- 4) **Island map (\$5.00)**
- 5) **List of Polling places**
- 6) **List of Registered Voters (Island-\$30.00, 2nd Rep. District-\$15.00, 1st, 3rd and 4th Rep. District-\$5.00)**
- 7) **Localities, County of Hawaii (\$.50)**
- 8) **South Hilo District Street Directory (\$.50)**

**OFFICE OF THE COUNTY CLERK, COUNTY OF HAWAII (FOR USE IN OFFICE)**

- 1) 1974 and 1976 Reports of Campaign Contributions and Expenditures

**OFFICE OF THE COUNTY CLERK, COUNTY OF MAUI (FOR DISTRIBUTION)**

- 1) Campaign Spending Law forms and materials

**OFFICE OF THE COUNTY CLERK, COUNTY OF MAUI (FOR USE IN OFFICE)**

- 1) 1974 and 1976 Reports of Campaign Contributions and Expenditures

**OFFICE OF THE COUNTY CLERK, COUNTY OF KAUAI (FOR DISTRIBUTION)**

- 1) Campaign Spending Law forms and materials

**OFFICE OF THE COUNTY CLERK, COUNTY OF KAUAI (FOR USE IN OFFICE)**

- 1) 1974 and 1976 Reports of Campaign Contributions and Expenditures

**CAMPAIGN SPENDING COMMISSION (FOR DISTRIBUTION)**

- 1) Campaign Spending Law forms and materials

**CAMPAIGN SPENDING COMMISSION (FOR USE IN OFFICE)**

- 1) 1976 Reports of Campaign Contributions and Expenditures (Federal and State office candidates only)
- 2) 1976 Reports of Campaign Contributions and Expenditures (all candidates, committees, and parties)
- 3) Supplemental Reports
- 4) 1974 to present Reports of Campaign Contributions and Expenditures for Federal elective candidates, committees, and parties (includes Presidential and Congressional candidates)

**EXECUTIVE OFFICERS**

**APPENDIX**

OFFICE	TERM	QUALIFICATIONS	NOMINATION REQUIREMENTS	COMPENSA-TION	ELECTION YEAR
<p><b>United States Senator</b> (2 seats)  STATEWIDE</p>	<p>6 years (Noon, Jan. 3 to Noon, Jan. 3, 6 yrs. after election)</p>	<p>Qualified Voter U.S. citizen for 9 yrs. 30 years of age</p>	<p>Obtain papers at the Lt. Governor's Office No. of signatures: Not less than 25 registered voters of State Filing Deadline: By 4:30 p.m. sixtieth Day prior to Primary Filing Fee: \$75.00 at time of filing</p>	<p>\$57,000</p>	<p>1-1980 1-1982</p>
<p><b>United States Representative</b> (2 seats)  2 CONGRES-SIONAL DISTRICTS</p>	<p>2 years (Noon, Jan. 3 to Noon, Jan. 3, 2 yrs. after election)</p>	<p>Qualified Voter U.S. citizen for 7 yrs. 25 years of age Inhabitant of State</p>	<p>Obtain papers at the Lt. Governor's Office No. of signatures: Not less than 25 registered voters of Congressional District seeking election Filing Deadline: By 4:30 p.m. August 8, 1978 Filing Fee: \$75.00 at time of filing</p>	<p>\$57,000</p>	<p>1978</p>
<p><b>Governor</b> (1 seat)  STATEWIDE</p>	<p>4 years (Noon, 1st Monday in Dec. to Noon, 1st Monday in Dec., 4 yrs. after election)</p>	<p>Qualified Voter of State 30 years of age State resident for 5 yrs. preceding election</p>	<p>Obtain papers at the Lt. Governor's Office No. of signatures: Not less than 25 registered voters of State Filing Deadline: By 4:30 p.m. August 8, 1978 Filing Fee: \$75.00 at time of filing</p>	<p>\$50,000</p>	<p>1978</p>

# ELECTIVE OFFICES

OFFICE	TERM	QUALIFICATIONS	NOMINATION REQUIREMENTS	COMPENSA-TION	ELECTION YEAR
<p><b>Lieutenant Governor</b>  (1 seat)  STATEWIDE</p>	<p>4 years (Noon, 1st Monday in Dec. to Noon, 1st Monday in Dec., 4 years after election)</p>	<p>Qualified Voter of State 30 years of age State resident for 5 yrs. preceding election</p>	<p>Obtain papers at the Lt. Governor's Office No. of Signatures: Not less than 25 registered voters of State Filing Deadline: By 4:30 p.m. August 8, 1978 Filing Fee: \$75.00 at time of filing.</p>	<p>\$45,000</p>	<p>1978</p>
<p><b>State Senator</b>  (25 seats)  8 SENATORIAL DISTRICTS</p>	<p>4 years (General Election Day to General Election Day, 4 yrs. after election)</p>	<p>Qualified Voter of respective Senatorial District State resident for not less than 3 years and a resident of the district seeking election for a period of at least three months prior to filing of Nomination papers</p>	<p>Obtain papers at the Lt. Governor's Office if from Oahu; and at respective County Clerk's Office if from county other than Oahu No. of Signatures: Not less than 15 registered voters of respective Senatorial District Filing Deadline: By 4:30 p.m. August 8, 1978 Filing Fee: \$25.00 at time of filing</p>	<p>\$12,000 (plus \$1,500 annual allowance; Non-Oahu legislator receives additional \$20 per day)</p>	<p>1978</p>
<p><b>State House of Representatives</b>  (51 seats)  27 REPRE-SENTATIVE DISTRICTS</p>	<p>2 years (General Election Day to General Election Day, 2 yrs. after election)</p>	<p>Qualified Voter of respective Representative District State resident for not less than 3 years and a resident of the district seeking election for a period of at least three month prior to filing of Nomination papers.</p>	<p>Obtain papers at the Lt. Governor's Office if from Oahu; and at respective County Clerk's Office if from county other than Oahu No. of Signatures: Not less than 15 registered voters of respective Rep. District Filing Deadline: By 4:30 p.m. August 8, 1978 Filing Fee: \$25.00 at time of filing</p>	<p>\$12,000 (plus \$1,500 annual allowance; Non-Oahu legislator receives additional \$20 per day)</p>	<p>1978</p>

OFFICE	TERM	QUALIFICATIONS	NOMINATION REQUIREMENTS	COMPENSATION	ELECTION YEAR
<p><b>State Board of Education</b> (9 seats-7 at-large for the City &amp; County of Honolulu and 2 at-large for the Neighbor Islands)</p>	<p>4 years (General Election Day to General Election Day, 4 yrs. after election)</p>	<p>Voters of respective School Board District or at-large district Shall not hold any other public office</p>	<p>Obtain papers at the Lt. Governor's Office if from Oahu; and at respective County Clerk's Office if from county other than Oahu No. of Signatures: Not less than 25 registered voters of respective School Board District Filing Deadline: By 4:30 p.m. August 8, 1978 Filing Fee: \$25.00 at time of filing</p>	<p>\$50 per day of actual attendance at meeting; \$25 personal expenses to outer islands</p>	<p>1978</p>
<p><b>Mayor, City &amp; County of Honolulu</b> (1 seat)</p>	<p>4 years (Noon, Jan. 2 to Noon, Jan. 2, 4 yrs. after election)</p>	<p>Qualified Voter of the City 30 years of age Resident of the District seeking election for a period of at least three months prior to filing of nomination papers.</p>	<p>Obtain papers at City Clerk's Office No. of Signatures: Not less than 15 registered voters of the City Filing Deadline: By 4:30 p.m. sixtieth day prior to the primary Filing Fee: \$50.00 at time of filing</p>	<p>\$46,049 (Based on a percentage)</p>	<p>1980</p>
<p><b>Councilmen, City &amp; County of Honolulu</b> (9 seats)</p>	<p>4 years (Noon, Jan. 2 to Noon, Jan. 2, 4 yrs. after election)</p>	<p>Qualified Voter of respective Council District Resident of the district seeking election for a period of at least three months prior to filing of nomination papers.</p>	<p>Obtain papers at City Clerk's Office No. of Signatures: Not less than 15 registered voters of respective Council District Filing Deadline: By 4:30 p.m. August 8, 1978 Filing Fee: \$25.00 at time of filing</p>	<p>\$17,500 Chairman \$19,250</p>	<p>1978</p>

# ELECTIVE OFFICES

APPENDIX

OFFICE	TERM	QUALIFICATIONS	NOMINATION REQUIREMENTS	COMPENSA-TION	ELECTION YEAR
<p><b>Mayor County of Hawaii</b>  (1 seat)</p>	<p>4 years (Noon, 1st Monday of Dec. to Noon, 1st Monday of Dec., 4 years after election)</p>	<p>Resident of the county for at least 1 yr. immediately preceding his election. Qualified voter of the county.</p>	<p>Obtain papers at County Clerk's Office No. of Signatures: Not less than 15 registered voters of the County Filing Deadline: By 4:30 p.m. sixtieth day prior to primary election Filing Fee: \$50.00 at time of filing</p>	<p>\$45,144</p>	<p>1980</p>
<p><b>Councilmen, County of Hawaii</b> (9 seats) --1-resident of Puna District; 1-Kau District, 1-N. and S. Kona District; 1-N. and S. Kohala; 1-Hamakua &amp; 1-N. and S. Hilo)</p>	<p>4 years (Noon, 1st Monday of Dec. to Noon, 1st Monday of Dec., 4 yrs. after election)</p>	<p>Resident of the county for at least 1 yr. immediately preceding his election. Qualified voter of the Council District from which he is to be elected for District Councilman (6) or qualified voter of county for at large councilman (3).</p>	<p>Obtain papers at County Clerk's Office No. of signatures: Not less than 15 registered voters of the County or district in which to be elected Filing Deadline: By 4:30 p.m. sixtieth day prior to primary election Filing Fee: \$25.00 at time of filing</p>	<p>\$14,580 for members; \$16,200 for Council Chairman</p>	<p>1980</p>
<p><b>Prosecuting Attorney, County of Hawaii</b>  (1 seat)</p>	<p>4 years (Noon, 1st Monday of Dec. to Noon, 1st Monday of Dec., 4 years after election)</p>	<p>Attorney licensed to practice and in good standing before the Supreme Court of the State of Hawaii. Resident of the county for at least 1 yr. immediately preceding his election. Qualified voter of the county.</p>	<p>Obtain papers at County Clerk's Office No. of Signatures: Not less than 15 registered voters of the County Filing Deadline: By 4:30 p.m. sixtieth day prior to primary election Filing Fee: \$25.00 at time of filing</p>	<p>\$34,968</p>	<p>1980</p>

OFFICE	TERM	QUALIFICATIONS	NOMINATION REQUIREMENTS	COMPENSA-TION	ELECTION YEAR
<b>Mayor County of Maui</b> (1 seat)	4 years (Noon, Jan. 2 to Noon, Jan. 2, 4 yrs. after election) limited to two consecutive full terms of office.	Qualified Voter of the County. Citizen of the United States	Obtain papers at County Clerk's Office No. of Signatures: Not less than 15 registered voters of the County Filing Deadline: By 4:30 p.m. August 8, 1978 Filing Fee: \$50.00 at time of filing	\$35,000	1978
<b>Councilmen, County of Maui</b> (9 seats elected at-large; 1-resident of Lanai; 1-Molokai (except Kalawao); 1-E. Maui 1-W. Maui 3-Central Maui 2-No Dist. residency Requirements.)	2 years (Noon, Jan. 2 to Noon, Jan. 2, 2 yrs. after election)	Qualified Voter of the County Citizen of the United States Residency in a district as required.	Obtain papers at County Clerk's Office No. of Signatures: Not less than 15 registered voters of the County or district in which to be elected Filing Deadline: By 4:30 p.m. August 8, 1978 Filing Fee: \$25.00 at time of filing	\$10,800 for Members; \$12,000 for Council Chairman	1978
<b>Mayor, County of Kauai</b> (1 seat)	2 years (Noon, Jan. 2 to Noon, Jan. 2, 2 yrs. after election)	Qualified Voter of the County for at least 3 years immediately prior to his election 30 years of age	Obtain papers at County Clerk's Office No. of Signatures: Not less than 15 registered voters of the County Filing Deadline: By 4:30 p.m. August 8, 1978 Filing Fee: \$50.00 at time of filing	\$34,000	1978

# ELECTIVE OFFICES

APPENDIX

OFFICE	TERM	QUALIFICATIONS	NOMINATION REQUIREMENTS	COMPENSA-TION	ELECTION YEAR
<p><b>Councilmen, County of Kauai</b> (7 seats at-large)</p>	<p>2 years (Noon, Jan. 2 to Noon, Jan. 2, 2 years after election)</p>	<p>Qualified Voter of the County for at least 2 years immediately preceding his election</p>	<p>Obtain papers at County Clerk's Office No. of Signatures: Not less than 15 registered voters of the County Filing Deadline: By 4:30 p.m. August 8, 1978 Filing Fee: \$25.00 at time of filing</p>	<p>\$10,800 for Members; \$12,000 for Council Chairman</p>	<p>1978</p>
<p><b>Prosecuting Attorney, County of Kauai</b> (1 seat)</p>	<p>4 years (Noon, Jan. 2 to Noon, Jan. 2, 4 years after election)</p>	<p>Attorney licensed to practice and in good standing before the Supreme Court of the State of Hawaii and shall have engaged in the practice of law in the State for at least 3 years Qualified Voter of County for at least 1 year immediately pre- ceding his election</p>	<p>Obtain papers at County Clerk's Office No. of Signatures: Not less than 15 registered voters of the County Filing Deadline: By 4:30 p.m. 60 days prior to Primary election Filing Fee: \$25.00 at time filing</p>	<p>\$28,800</p>	<p>1980</p>