HAWAII--ALASKA AND STATEHOOD:
AN ANALYSIS AND CASE STUDY FOR STATEHOOD

By

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PREFACE

Hawaii and Alaska are now knocking at the door of Statehood, but it is not an unfamiliar sound that falls upon its ears.

Statehood movements have been familiar patterns to follow in the historical development of our Nation. Twenty-nine of the present States experienced similar trials and tribulations which Hawaii and Alaska are currently going through before they became States. The importance of the Hawaiian and Alaskan Statehood movement lies in the fact that the struggle is going on in our day and age.

The writer has endeavored to trace the Territorial evolution of Hawaii and Alaska from the time that they were acquired by the United States until they became integral parts thereof.

Using the case study method the writer has traced the developments of Oklahoma, New Mexico, and Arizona from the time that the Organic Acts established a territorial form of government for them, until they became States within the Federal Union. It is only through the study of these cases that the policy of the United States towards Territories unfolds itself. The United States has followed virtually the same policy for admitting new States into the Union since the adoption of the Northwest Ordinance of 1787.

By analyzing the Hawaiian and Alaskan Statehood movements, the writer has tried to show why these movements have failed to date, and what might be expected to develop from them.

The writer who began this study with only the fundamental concepts of the status of dependent territories had to overcome many pitfalls. With the utmost of sincerity, he wishes to express that without the valuable criticism and suggestions from his teachers who patiently guided and inspired him during the past months, this study would not have been possible.

Dr. Glenn B. Hawkins, Head of the Political Science Department of Oklahoma A. & M. College, has been more than a teacher to the writer. He has always been a constant source for invaluable guidance and criticism.

To Dr. Robert E. Powers, who during the past months has devoted a great deal of his time to put this study in a scholarly form, the writer is deeply indebted. To Dr. R. R. Oglesby, the writer is deeply indebted for his invaluable information and criticism, while as a student in Political Science Seminar 503.

Dr. John D. Hall, the writer's adviser, who has consistently bestowed invaluable advice and criticism, and who has had unwavering patience and understanding, has been a continual source of invaluable information for which the writer is immeasureably indebted.

The writer wishes to express his gratitude for the friendly service given him by Mmes. Evelyn Benton and Colleen McMullen, Miss Barbara Chase, and Messrs. Alton P. Juhlin and Raymond Piller of the Reference Department, The Library, Oklahoma A. & M. College.

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CHAPTER I

ACQUISITION AND TERRITORIAL EVOLUTION -- HAWAII AND ALASKA

Hawaii and Alaska are the only incorporated and organized territorial possessions of the United States. The two territories are similar in many respects: both operate under a territorial form of government established by an organic act of Congress; both are non-contiguous territories from the continental United States; and both are seeking statehood. There are a few differences also: Alaska was acquired by treaty of purchase from Russia while, Hawaii was annexed by a joint resolution of Congress; in addition there are contrasts in population, race, area, and economics. These similarities and differences are best described by analyzing each territory separately.

A. Hawaii.

1. Introduction.

Geographically, the Territory of Hawaii or the Sandwich Islands is an archipelago, consisting of twenty islands extending from 154 degrees 40 minutes to 162 degrees west longitude, and from 18 degrees 55 minutes to 23 degrees north latitude.[1] The main group, however, lies about two thousand miles west of the mainland of the United States and consists of the eight larger islands. The principal islands and in order of their size, are Hawaii, Maui, Oahu, Kauai, Molokai, Lanai, Niihau, and Kahoolawe.[2]

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[1] W. C. Dill, Statehood for Hawaii, (Philadelphia, 1949), p. 36; Map of Hawaii See Appendix A.

[2] Hawaii Statehood Commission, Hawaii . . . . and Statehood, (Washington, 1949), p. 41.

The islands of Hawaii contain a total land area of 6,435 square miles. Hawaii is larger than Connecticut, Delaware, and Rhode Island, and is only slightly smaller than New Jersey and Massachusetts.[3]

Physically, Hawaii can be reached in twelve hours by daily air transportation, although, the average flight is nine hours. The islands may also be reached by a four-an-one-half day trip by ocean liner, a leisurely cruise in this day of modern air transportation.[4]

Politically, the Hawaiian Islands have been an integral part of the United States since they were annexed in 1898, and its importance as a frontier of the United States has increased since 1898 when the United States Navy used these islands as a coaling base during the Spanish American War. During World War II Hawaii was considered the bastion of the Pacific, the great transhipping base and assembly point for the armed forces in the Pacific. At the present, Hawaii is the center of the naval administration of the Pacific trust islands for the United Nations.[5]

The population of Hawaii was estimated at 540,500 in 1948, a larger population than the populations of Delaware, Nevada, Vermont, and Wyoming.[6]

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[3] Idem.

[4] Thrum's Hawaiian Annual and Standard Guide, All About Hawaii, (Honolulu, 1949), p. 13.

[5] Idem.

[6] Hawaii Statehood Commission, loc. cit.

Economically, Hawaii contributes more revenue to the support of the federal government than twelve states: Arizona, Idaho, Mississippi, Montana, Nevada, New Hampshire, New Mexico, North Dakota, South Dakota, Utah, Vermont and Wyoming.[7]

2. History.

Historically, Hawaii remained isolated from the world in general until Captain James Cook, English navigator and explorer, anchored in what is now known as Waimea Bay, off the island of Kauai in 1778.[8] Cook named his discovery the Sandwich Islands, after the Earl of Sandwich.

At this time Hawaii was ruled by hereditary chiefs who set up independent kingdoms on each of the larger islands.[9] Kamehameha I, one of the two monarchs on the Island of Hawaii, rose to power and in 1795 by a series of invasions he conquered island after island and by 1810 had founded the kingdom of Hawaii.[10]

The first Americans to settle in the islands were mainly traders and adventurers, but in 1820, during the reign of Kamehameha II, a group of New England missionaries arrived at Kailua, and Kauai. Additional missions were founded at Hilo and Lahaina in 1823. Growing in size and importance the missions

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[7] Thrum's Hawaiian Annual and Standard Guide, loc. cit.

[8] Dill, op. cit., p. 40.

[9] Hawaii Statehood Commission, op. cit., p. 14.

[10] Chamber of Commerce of Honolulu, Hawaii Facts and Figures, 1946-1947, (Honolulu, 1948), p. 7.

became a strong influence in the Americanization of Hawaii.[11]

Kamehameha III inherited the throne, in 1824, at the early age of twelve, but as he was too young to manage the government it was administered by two regents, Queen Kaahumanu and Queen Kalanimoku. In 1826, during their regency, a treaty of perpetual friendship between the United States and Hawaii providing for the protection of American Commerce and the guarantee of respect of Hawaiian interests was concluded, but the United States Senate failed to ratify the treaty. Despite this, Hawaii faithfully carried out its provisions.[12]

In 1840, Kamehameha III, now ruler in his own right, promulgated the first Constitution for the government of Hawaii. Besides incorporating the laws enacted the previous year, it also provided for a legislature, in which the people were to have a voice of their own.[13]

France and Great Britain jointly had recognized the independence of Hawaii in 1843.[14] On several occasions, during the period 1839 to 1848, France had threatened the independence of the Islands over the problem of Catholicism. In the early part of 1851 Kamehameha III became alarmed over the hostile attitude which the French were taking toward Hawaii. In order to maintain the integrity of his kingdom, lest it be annexed by the French, he presented to Mr. Severance,

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[11] Dill, op. cit., pp. 46-47.

[12] Ibid., pp. 49-50.

[13] Ibid., p. 51.

[14] Ibid., p. 57.

United States Representative in Hawaii, the following document:

> We, Kamehameha III, by the grace of God, of the Hawaiian Island, King; by and with the advice of our kuhina nui and counsellors of native chiefs, finding our relations with France so oppressive to my kingdom, so inconsistent with its rights as an independent State, and so obstructive of all our endeavours to administer the government of our Islands with equal justice with all nations, and equal independence of all foreign control, and despairing of equity and justice from France, hereby proclaim as our royal will and pleasure that all our Islands, and all our rights as sovereign over them, are, from the date hereof, placed under the protection and safeguard of the United States of America until some arrangement can be made to place our said relations with France upon a footing compatible with my rights as an independent sovereign under the law of nations; or, if such arrangements be found impracticable, then it is our wish and pleasure that the protection aforesaid under the United States of America be perpetual.
>
> And we further proclaim, as aforesaid, that from the date of publication hereof the flag of the United States of America shall be hoisted above the national ensign on all our forts and places and vessels navigating with Hawaiian registers.
>
> Done at Honolulu this tenth day of March, A.D. 1851, and in the twenty-sixth year of our reign.
>
> (Signed) KAMEHAMEHA,
> KEONI ANA.[15]

The provisions of the document suggest that the Hawaiian government was virtually seeking annexation to the United States. The king's plans, however, were grounded when Mr. Severance was ordered to return the document.[16]

3. The Growth of American Interest.

That the United States was alarmed by France's move is evidenced by the fact that Daniel Webster, Secretary of State, wrote a letter to Mr. Severance, dated July 14, 1851, stating

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[15] A. P. Sharpe, Spotlight on Hawaii, (Forest Hills, 1945), pp. 76-77.

[16] Ibid., p. 77.

that:

> The Navy Department will receive instructions to place and keep the naval armament of the United States in the Pacific Ocean in such a state of strength and preparation as will be required for the preservation of the honor and dignity of the United States and the safety of the government of the Hawaiian Islands.[17]

A copy of this letter was also presented to the French minister to the United States. The United States had by this action substantially assumed the role of a protectorate over the Islands.

The question of annexation was brought to the attention of Congress, for the first time, in August 1852, when Representative J. W. McCorkle, of California, told the House:

> In the annexation of the Sandwich Islands it makes a part of ourselves--no "entangling alliances" are formed--no treaty promise of protection--no obligations with other nations; but we become one power, independent in the balance of the world.[18]

The question, however, received no further action during that session of Congress.

Kamehameha III fearing a French invasion in 1854 expressed an open desire for annexation to the United States.[19] The King instructed Robert C. Wyllie, the Foreign Minister, to feel out the United States on this subject.[20]

Wyllie, with David L. Gregg, United States Commissioner

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17 Writings and Speeches of Daniel Webster, (National Edition), XIV, (Boston, 1903), pp. 437-439.

18 Congressional Globe, 32 Cong., 1 sess., XXV, (1852), p. 1085.

19 J. C. Furnas, "Will Hawaii Become a State?" Saturday Evening Post, (April 6, 1946), p. 134.

20 Hawaii Statehood Commission, op. cit., p. 21.

to Hawaii under President Pierce's instructions, drafted a treaty of annexation providing for the admission of Hawaii eventually "enjoying the same degree of sovereignty as other States of the Union."[21] The aged King died without ratifying the treaty. His successor, Kamehameha IV, opposed the treaty on the ground that the Hawaiians wanted to be annexed as a State rather than a Territory.[22]

Kamehameha V who ascended the throne in 1858 felt that the Hawaiian Constitution of 1852 was far too liberal. Fearing that universal suffrage might eventually lead to the establishment of a republic, and that such a republic would inevitably be annexed by the United States he decided to supplant the Constitution of 1852 with a new one. On August 20, 1864 a new constitution was proclaimed. The constitution strengthened the position of the king, and limited the electorate by educational and property qualifications.[23]

During the period 1855 to 1875 the Hawaiian government, in order to prevent annexation by the United States, and yet maintain the best of relations possible, had to rely on a substitute policy to gain her end. To meet the problem reciprocal

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21 W. Matheson, "Hawaii Pleads for Statehood," North American Review, CCXLVII, (March, 1939), p. 131.

22 Ibid., p. 132.

23 R. S. Kuykendall and A. G. Day, Hawaii: A History From Polynesian Kingdom to American Commonwealth, (New York, 1948), pp. 111-113. "The qualifications for voting limited the privilege to male subjects of the kingdom who (if born since 1840) must be able to read and write, and who must be possessed of real estate valued at $150, or of leasehold property renting at $25 a year, or of an income not less than $75 a year." p. 113.

treaties were initiated, but were rejected by the United States until 1875. On January 30, 1875 a reciprocal treaty was signed with the United States. However, it was not effective until September 9, 1876. The treaty was to continue for seven years; after that period either party could terminate the treaty by submitting a one year's notice.[24]

H. A. P. Carter, Hawaiian minister, negotiated with Secretary of State, F. T. Frelinghuysen, in Washington for an extension of the treaty for an additional seven years. On December 6, 1884 the treaty was signed, but approval was delayed for approximately three years.[25]

The American policy toward Hawaii was not changed by the election of Grover Cleveland in 1885. The new Secretary of State, Thomas F. Bayard, continued to push the reciprocity agreement of Carter and Frelinghuysen. On April 14, 1886, to his surprise, the Senate Committee on Foreign Relations included an amendment to this agreement. The amendment gave the United States the right to enter Pearl River and establish a coaling and repair station for United States vessels. The Senate approved the amendment on January 20, 1887.[26] After assurances by the United States that this was not a threat to Hawaiian independence, Kalakaua, King of Hawaii, signed the treaty on November 9, 1887. The treaty remained in effect until Hawaii's annexation to the United States in 1898. During this

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[24] Ibid., pp. 113-116, 149-151.

[25] Ibid., p. 160.

[26] Ibid., pp. 160-161.

period the Pearl River Harbor rights were never utilized by the United States.[27]

On the death of Kalakaua, his sister, Liliuokalani was proclaimed Queen on January 29, 1891. Her whole reign was marked by a great economic depression, resulting from the McKinley Tariff Bill of 1890. The depression plus a growing political unrest laid fertile seeds for revolutionary ideas. Out of this turmoil there was formed an Annexation Club in 1892. The members, mainly haoles (Whites), claimed that annexation was the only move which would ensure stable government in Hawaii.[28]

The queen had more or less decided to do away with the Constitution of 1887, and supplant it with a new one modelled on that of 1864.[29] Immediate protests were voiced. On January 14, 1893 a Committee of Safety was organized to study and plan a course of action to counteract the queen's plan. This Committee, whose members were predominantly of the Annexation Club, decided that the time had come to abolish the monarchy, and set up a provisional government. The immediate outcome of this move was to result in the annexation of Hawaii to the United States.[30]

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[27] Ibid., p. 161.

[28] Ibid., pp. 174-175.

[29] H. G. Pratt, Hawaii Off-Shore Territory, (New York, 1944), p. 90. "Every constitution issued in the Kingdom (from 1864 to 1887) gave the Throne considerable power and restricted the participation of the people in government affairs . . ." Words in parentheses are the author's.

[30] Kuykendall and Day, op. cit., p. 177.

The reigning sovereign was overthrown by a successful revolution on January 17, 1893, and a Provisional Government was established with Sanford B. Dole as its President. Coinciding with the revolution troops were disembarked from the Boston, an American cruiser, at the demand of United States Minister, John J. Stevens. The purpose of this move, as stated by Stevens, was to protect American property and lives. However, according to Kuykendall and Day, it was well-known that the minister favored annexation and was friendly to the revolutionary group.[31] A few days later a commission of five members was sent to Washington to negotiate a treaty of annexation. The proposed treaty asked for "full and complete political union."[32] Hawaii, in other words, was to be admitted as a State.

A treaty for annexation was signed with the United States on February 14, 1893.[33] On February 15, President Harrison in sending the treaty to the Senate for ratification said:

> Only two courses are now open, one the establishment of a protectorate by the United States, and the other annexation full and complete . . . I think the latter course . . . is the only one that will adequately receive the interests of the United States.[34]

On February 17 this treaty was favorably reported on by the Senate, but before final action could be taken Cleveland, the

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[31] Ibid., p. 178.

[32] Hawaii Statehood Commission, op. cit., p. 22.

[33] R. M. Littler, The Governance of Hawaii, (Stanford, 1929), p. 24.

[34] Matheson, op. cit., p. 133.

newly elected President, withdrew the treaty from Senate consideration on March 9.[35]

Walter Q. Gresham, Secretary of State, advised President Cleveland to send a special commissioner to Hawaii to investigate Stevens' participation in the revolution. James H. Blount was sent as the special commissioner, and instructed to report on the circumstances pertaining to the overthrow of the Hawaiian monarchy. Blount charged that the revolution was a direct result of a conspiracy between the revolutionary group and Stevens. President Cleveland upon receipt of this report decided that the United States should restore Queen Liliuokalani to the throne. In order to accomplish this he sent Albert S. Willis as the new minister to Hawaii. Willis tried hard to undo the revolution and to secure the return of Queen Liliuokalani to the throne, but the revolutionary groups remained adamant. The Provisional Government strongly denied Blount's charges, and let it be known that the United States was not to meddle in the internal affairs of Hawaii. Congress at this time decided to follow a policy of non-intervention, and President Cleveland's investigation was brought to an end.[36]

The Provisional Government was dissolved on July 4, 1894, and the Republic of Hawaii was proclaimed. From this time on

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35 W. F. Willoughby, Territories and Dependencies of the United States: Their Government and Administration, (New York, 1905), p. 62.

36 Kuykendall and Day, op. cit., pp. 178-179.

the movement for annexation was energetically pursued. President McKinley transmitted another treaty to the Senate on June 16, 1897, but it received no action.[37]

The Legislature of the Republic of Hawaii on September 9, 1897, enacted by vote a treaty to make Hawaii a part of the United States.[38] Although a majority of the United States Senate approved annexation, the required two-thirds vote was lacking. Despite this failure, a joint resolution was prepared in Congress, and ratified by both houses and signed by the President on July 7, 1898.[39]

Formal transference of sovereignty was marked by the raising of the United States flag during the official ceremony on August 12, 1898, at Honolulu.[40]

Congress in drafting the joint resolution (Newlands Resolution) followed the same policy that it had adopted in the annexation of Louisiana and Florida by providing:[41]

> Until Congress shall provide for the government of such islands, all of the civil, judicial and military powers exercised by the officers of the existing government in said islands shall be vested in such person or persons and shall be exercised in such manner as the President of the United States shall direct; and the President shall have power to remove said officers and fill

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[37] E. Bicknell, The Territorial Acquisitions of the United States 1787-1904, (Boston, 1904), p. 97.

[38] J. R. Farrington, "Hawaii's Goal--Statehood," Christian Science Monitor Magazine, (June 7, 1947), p. 8.

[39] Willoughby, op. cit., pp. 62-63. See Appendix AI.

[40] Pratt, op. cit., p. 30.

[41] Willoughby, op. cit., p. 62.

the vacancies so occasioned.[42]

The resolution concluded with a provision for the appointment of a commission of five for the purpose of recommending to Congress a plan of government for the Islands.[43] "It was the purpose," according to R. M. Littler, "of Congress to put the Islands on a temporary basis, and Hawaii did not become a territory until the passage of the Organic Act of 1900."[44]

President McKinley appointed, with the consent of the Senate, five distinguished men to the commission to draft an organic act. The two representatives chosen from Hawaii were Sanford B. Dole, President of the Republic, and Walter F. Frear, later to become governor of the territory. The remaining three were, United States Senator S. M. Cullom, Representative R. R. Hitt, and J. T. Morgan a student of insular affairs. The commission drafted an act for territorial government. A number of its provisions can be traced to the Northwest Ordinance of 1787. Congress adopted this act with minor changes on April 30, 1900.[45]

The Organic Act established the islands as an organized territory under the title "Territory of Hawaii." At the same time the Act extended to the Territory all the provisions of the Constitution and the laws of the United States with the

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[42] 30 U.S. Stat. at Large 750. See Appendix AI.

[43] 30 U.S. Stat. at Large 751.

[44] Littler, op. cit., p. 28.

[45] Ibid., p. 54.

exception of those especially excepted, which were locally inapplicable.[46]

"Under this act," as S. S. Bowman says, "the Territory of Hawaii became almost a State, except that she does not have a vote."[47]

B. Alaska.

1. Introduction.

Geographically, the Territory of Alaska is a peninsula bounded on the north by the Arctic Ocean, on the west by the Arctic Ocean, Bering Sea and Bering Strait, and on the south and southwest by the Gulf of Alaska and the Pacific Ocean. On the east Alaska is connected with Canada by a land base of approximately a 600 mile width along the 141st meridian between the Arctic and Pacific Oceans. The panhandle in southeastern Alaska is not a part of this peninsula, but is the coastal section of northern British Columbia. The narrow peninsula on the southwest which swings westward toward the Kamchatka Peninsula of eastern Asia is known as the Aleutian Islands. Thus, this unusual configuration gives Alaska a width extending in longitude and latitude between the parallels 51 degrees and 70 degrees North, and between the meridians 130 degrees West and 173 degrees East.[48]

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[46] 31 U.S. Stat. at Large 141.

[47] S. S. Bowman, "Hawaii Knocks at the Door," Forum, XCV, (June, 1936), p. 353.

[48] W. Tewkesbury, (comp. and ed.), Alaska Almanac, (Anchorage, 1950), pp. 1-2. Map of Alaska See Appendix B.

Alaska contains a total land area of 586,400 square miles, an area equal to nearly one-fifth that of continental United States.[49]

The population of Alaska in 1939 was 75,524, according to the Sixteenth Census, but recent estimates indicate that Alaska's civilian population is now between 90,000 and 94,000.[50]

Physically, Alaska can be reached in five to six hours by daily air transportation from the Pacific Northwest and the Midwest.[51] Alaska may also be reached by a three to eight day trip by ocean liner depending upon the port of entry.[52] The peninsula may also be reached by the Alaska Highway, the only highway connecting Alaska with the Canadian road system, and then to the United States road system. The Alaska Highway begins at Dawson Creek, British Columbia, extending to Big Delta, Alaska, where it joins the Richardson Highway and continues on to Fairbanks, a distance of 1,523 miles.[53]

Politically, Alaska has been an integral part of the United States since it was acquired in 1867. Its importance as a strategic area and as a northern frontier has grown since

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[49] "Alaska," Encyclopaedia Britannica, I, 15th ed., (Chicago, 1947), p. 498.

[50] Alaska Almanac, op. cit., p. 23.

[51] Ibid., p. 18.

[52] Ibid., p. 21.

[53] Ibid., pp. 23-25.

World War II. With the present communist threats emanating from Russia, the communistic surge into China, the Atomic bomb, and lately the threat of a Hydrogen bomb, Alaska might well be considered our bastion of the North.

2. History.

Historically, the area now known as the Territory of Alaska was, prior to the Treaty of 1867, a part of the Russian Empire. Russia had claimed this territory by right of discovery.[54]

Vitus Behring, a Danish sea captain in the service of the Russian government, discovered the St. Lawrence Island in 1728 and passed through the strait which now bears his name.[55] The Russians stimulated by this discovery sent Behring and Chirikof on an expedition to open trade routes to America. Behring sighted Mt. St. Elias on July 16, 1741 and Chirikof sighted the Alaskan coast in the vicinity of Prince of Wales Island on July 15, 1741. Russia based her claims to the northwestern portion of America on this expedition.[56]

The Russian government continued to send expeditions, the main object being the fur trade.[57] It was not until 1784, however, when Gregor Shelikof, a trader, established the first permanent settlement at Three Saints Bay, Kodiak Island.[58]

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[54] H. O. S. Heistand, The Territory of Alaska, (Washington, 1898), p. 17.

[55] G. W. Spicer, The Constitutional Status and Government of Alaska, (Baltimore, 1927), p. 1.

[56] H. H. Bancroft, History of Alaska, 1730-1885, (San Francisco, 1886), pp. 67-70.

[57] Spicer, op. cit., p. 2.

[58] M. S. Pilgrim, Alaska, (Caldwell, 1945), p. 36.

Charles Sumner, advocate for the purchase of Alaska, in a speech in April, 1867, had this to say:

> The first trace of government which I find was in 1790, at the important Island of Kodiak, or the Great Island, as it was called, where a Russian company was established under the direction of a Greek.[59]

From 1784 various smaller companies were formed for trade between Asiatic Russia and the American Colonies. In 1799 these companies were consolidated under one establishment. The new firm, the Russian American Company, was granted a charter providing exclusive rights to all territory and resources of land and water in the Russian possessions for a twenty year period.[60]

From 1821 to 1859 the Russian American Company was managed respectively by Muraviev, Chistiakof, Wrangell, Kuprinaof, Etholin, Tebenkof, Rosenberg, Voievodsky and Furuhelm. The company refused to select Furuhelm's successor until its charter was renewed. The Emperor of Russia, after the company's refusal to appoint a new manager, appointed Prince Maksutof as Military Governor. Maksutof remained in that capacity carrying on the business of the Russian American Company until it was officially transferred to the United States.[61]

3. The Growth of American Interest.

The conditions which prompted Russia to transfer the Russian possessions to the United States are not clearly defined.

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[59] C. Sumner, "The Cession of Russian America to the United States," April 7, 1867, House Executive Document 177, 40 Cong., 2 sess., (1868), p. 148.

[60] Heistand, op. cit., p. 20.

[61] Ibid., pp. 23-24.

There were, however, certain circumstances which lent weight to her decision in 1867. First, the Russian possessions were too far from the Capitol of Russia for direct action. Second, the Russian Government reaped no financial benefits from the Russian American Company, and it would have been too expensive for her to have placed them under Imperial control. Third, as a result of the Crimean War Russia was afraid that England might seize these possessions.[62]

Just when negotiations were opened for the transfer of Alaska to the United States is hard to determine. One of the first moves for a possible transfer of the territory came from Russia at the outbreak of the Crimean War. The Russian American Company's officers knowing that Russia did not have a fleet in the Pacific, and fearing that Britain would take these possessions by force attempted a fictitious sale of the company to a San Francisco concern known as the American Russian Company. The contract for the transaction was left blank in regard to the selling price and date of transference. It was then sent to the Russian legation at Washington for approval. When the contract reached Stoeckl, the Russian Minister to the United States, he contacted Secretary of State, William Marcy, and Senator Gwin to find out whether it would be advisable to make this fictitious sale public. Marcy and Gwin would have nothing to do with the transaction. In the meantime rumors were being circulated that Russia desired to sell Alaska. Marcy and Gwin contacted Stoeckl

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[62] Spicer, op. cit., pp. 4-6.

and told him that if Russia were willing to sell, the United States would pay well for the territory. Stoeckl informed them that the rumors were false and asked them to drop the matter.[63]

The man who did more to foster the sale of Alaska to the United States was Grand Duke Constantine, brother of Tsar Alexander II. In April 1857, Constantine wrote a letter to Russian Foreign Minister Gorchakov urging that the Russian Colonies be transferred to the United States.[64] He gave as his reasons: the slight worth of the possessions to Russia, Russia's need of capital, and that the territory would fill out the United States holdings in the Pacific area. To figure the desired worth of these possessions he suggested that Baron Wrangell and the retired officers should be consulted. Wrangell set the price of the colonies at 7,442,800 rubles silver, one-half to go to the company, and the other half to the government. Gorchakov reported the figures to the Russian Government, but he was more interested in protecting the Russian American Company. He stated that it would be unfair to the company and that if any action was to be taken, the initiative should come from the United States instead of Russia.[65]

Returning to Petrograd during his vacation in 1858-1859, Stoeckl discussed with Gorchakov the Alaskan situation, and they agreed that if the United States should make another offer

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63 F. A. Golder, "Purchase of Alaska," American Historical Review, XXV, (April, 1920), p. 413; Spicer, op. cit., pp. 7-8.

64 Idem.

65 Idem.

to purchase Alaska Russia would consider it seriously. The opportunity came toward the end of 1859. Stoeckl, on January 4, 1860, reported to Russia that Senator Gwin had brought up the subject and that the President was ready to buy. A few days later Gwin brought the subject up again and said that the President desired to sound out the Russian Government on the matter. At the same time he informed Stoeckl that negotiations should be transacted with Assistant Secretary of State Appleton, and not with Secretary of State Cass. Gwin said that the United States was willing to offer $5,000,000. for the Russian posessions.[66]

In an official communication of May 1860, Foreign Minister Gorchakov stated that he could not see that it would be politically advantageous for Russia to cede the territory and, since the only reason that would compel him to sell would be a financial one, the sum offered was inadequate. Gorchakov notified Stoeckl to keep on negotiating with Appleton and Gwin and to get them to raise the purchase price. While negotiations were pending the minister of finance was instructed to send a commission to the colonies to study the conditions and make a report. On the basis of their report the Alaskan policy would be determined.[67]

With the coming presidential election and then the Civil War negotiations were temporarily set aside. Bancroft maintains

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[66] Idem.

[67] Bancroft, op. cit., p. 592; Golder, op. cit., pp. 416-417; Spicer, op. cit., p. 9.

that in view of the impoverished condition of the Russian American Company in 1860 and the uncertainty of its charter being renewed, it was not improbable that a positive offer of five million dollars would have been accepted, had it not been for the outbreak of the Civil War which put an end for several years further negotiations.[68]

In 1861, the Russian Commission returned and their report was unfavorable to the Russian American Company, but the opportunity for selling was gone.[69]

At the close of the Civil War an influence was brought to bear for the transference of this territory. The territory which had been leased in 1837 to the Hudson Bay Company, and released several times was due to expire in June 1868. Mr. Cole, Senator from California, sought to obtain a franchise, on behalf of certain persons in that State, to gather furs in certain sections of the Russian possessions. Senator Cole, in other words, wanted to establish an American Company which would be substituted for the Hudson Bay Company with holdings directly from the Russian Government. Mr. Clay, United States Minister at St. Petersburg, was notified about the subject. In a letter of February 1867 Clay stated that the Russian American Company at the time was then in correspondence with the Hudson Bay Company in regard to a renewal of the lease, and that no action could be taken until a definite answer was received.

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[68] Bancroft, op. cit., p. 592.

[69] Golder, op. cit., p. 417; Spicer, op. cit., p. 10.

[70] Bancroft, op. cit., p. 593; Spicer, op. cit., p. 11.

Bancroft holds that Alaska might have become another British colony, rather than becoming a colony of the United States, if the Hudson Bay Company had given a prompt reply.[71]

As the Russian American Company continued to decline financially Reutern, Minister of Finance, turned to Stoeckl, who was in Petrograd in 1866, and asked him if the United States would now consider buying Alaska. Grand Duke Constantine also questioned Stoeckl on the subject. Stoeckl told them of the previous offer by the United States and the mistake Russia had made by not accepting, but he added that there were hopes of its being renewed. The Grand Duke and Reutern went to Tsar Alexander II and laid the issue before him. Alexander requested Gorchakov, Minister of Foreign Affairs, to investigate the matter. Early in December Gorchakov asked the Grand Duke, Reutern, and Stoeckl to submit their opinions in writing. All three complied and agreed that Alaska should be sold to the United States. These reports were submitted to Alexander II on December 12, and at the same time Gorchakov suggested that a committee be formed, composed of the Grand Duke, Reutern, and himself, to investigate the subject. The committee met at the Imperial Palace on December 16 and out of this meeting it was agreed to sell Alaska to the United States. The Tsar ordered Stoeckl to return to the United States to complete the transaction. Gorchakov instructed Stoeckl not to accept less than $5,000,000. and the Grand Duke handed him a map on which the frontiers were marked. With these

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[71] Bancroft, op. cit., p. 594.

limited instructions Stoeckl landed in America in February 1867.[72]

Stoeckl, after a brief illness, proceeded to Washington arriving there early in March. He immediately called on Secretary of State, William H. Seward. After their preliminary formalities were over, Seward asked Stoeckl if Russia was willing to sell Alaska. Gorchakov had gained his point as the United States had taken the first step. Conversation moved easily after this, and both agreed that the transaction would be of mutual benefit. Seward after consulting the President and the Cabinet proceeded to negotiate.[73]

Stoeckl preferred to list the support of his friends in Congress, but Seward said it would be unwise due to the administrative nature of the subject, therefore, it must be done in secrecy. Stoeckl was doubtful of the Senate, but Seward assured him that there would be no difficulty in getting their ratification. The important question was the price. Stoeckl taking advantage of Seward's eagerness to buy demanded seven million dollars and it was finally agreed upon. With the price settled there still remained two minor problems to be solved. Stoeckl had been advised by the Russian government to demand that the money be paid in London and that the United States should take over certain obligations of the Russian American Company. Seward would not accept these conditions, but in the

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[72] Golder, op. cit., pp. 416-419; Spicer, op. cit., pp. 11-12.

[73] Golder, op. cit., p. 419; Spicer, op. cit., p. 12.

end an agreement was reached. Seward, on March 23, added two hundred thousand dollars to the purchase price, subject to the approval of the President, to make up the loss in exchange, and Stoeckl agreed to give up the stipulation about taking over the obligations of the Company. The treaty was cabled to Russia on March 25 and four days later final instructions were received from Petrograd. On the same day Stoeckl sent a message to the Secretary of State informing him that the Tsar had consented to the treaty for the stipulated sum of seven million two hundred thousand dollars in gold. On March 30, 1867, the treaty was signed by the Secretary of State and the Russian Minister.[74] The treaty was ratified by both parties in May, and it was proclaimed by President Johnson on June 20, 1867.[75]

The New York Times summing up the spirit of the day states:

> . . . Radical joined hand with Democrat, New England with Kentucky and California, to secure the domain which our diplomacy had placed within grasp. The spectacle was a pleasant one; for it was the first occasion during many years on which men of all parties acted together for a national and patriotic object.
>
> . . . The manoeuvre of Mr. Seward took everybody by surprise, and in the general bewilderment it was hard to form a judgment one way or another . . .[76]

The United States by this purchase had abandoned the theory of contiguity of territory as the determining fact in its right of annexation.[77]

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[74] Bancroft, op. cit., p. 594; Golder, op. cit., pp. 419-420; Spicer, op. cit., pp. 12-13.

[75] Bancroft, op. cit., p. 594. See Appendix BI.

[76] New York Times, April 11, 1867, p. 4.

[77] J. R. Procter, "Hawaii and the Changing Front of the World," Forum, XXIV, (September, 1897), p. 43.

The transference of the Russian possessions to the United States took place, at Sitka, on October 18, 1867, by Captain Pestchourof on behalf of the Russian Government, and Major-General Rousseau, on behalf of the United States.[78] By this simple ceremony Russia had discharged her obligations under the treaty.

The ceremony over General Jefferson C. Davis and two companies of troops, whom had arrived on the steamer, John L. Stephens, took possession of all the buildings at Sitka.[79] However, it was not until March 18, 1868 that the Military Department of Alaska was established, with General Davis in command. The apathetic attitude of the congressmen at Washington led to the withdrawal of the troops in June, 1877. After their withdrawal Alaska remained without military occupation for a period of two years. In the meantime government affairs were managed by the collector of customs. As his authority was held in contempt there was little effort on his part to administer government affairs.[80]

After a native uprising had threatened the territory, the Navy Department was issued instructions to occupy Alaskan waters, and from 1879 to 1884 the Navy Department had charge of the territory.[81] Alaska, therefore, was nominally under

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[78] Bancroft, op. cit., p. 599; Spicer, op. cit., pp. 14-15.

[79] Bancroft, op. cit., p. 600.

[80] Pilgrim, op. cit., pp. 53-54; Heistand, op. cit., pp. 29-30.

[81] Pilgrim, loc. cit.; Heistand, loc. cit.

the jurisdiction of the War Department from 1867 to 1884.

W. F. Willoughby holds that Alaska as a dependent Territory illustrates the danger which all dependent Territories goes through when it suffers from apathetic administration on the part of the parent government rather than on the enactment of positive legislation which might be injurious. This Territory seemed so unimportant at the time that no provision was made for its government.[82]

The United States flag had hardly been raised over the territory when there began a festival of waste which lasted approximately seventeen years. During this period the territory existed in a condition of social, moral, and orderless chaos. Individual might made right, and under such lawless order, rapacity and greed reigned.[83] Without civil government the territory existed as nothing more than "a mere piece of property belonging to the United States."[84] Thus, the inhabitants of Alaska were allowed to manage themselves.

By the Act of Congress of May 17, 1884 entitled "An act providing a civil government for Alaska," Alaska was constituted "a civil and judicial district."[85] Max Farrand maintains that "it was not a regularly organized territory but a "civil

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[82] Willoughby, op. cit., p. 75.

[83] A. Holman, "Alaska as a Territory of the United States," Century, LXXXV, (February, 1913), pp. 589-591.

[84] U.S. Cong. Rec., 47 Cong., 1 sess., XIII, (1882), p. 2344.

[85] 23 U.S. Stat. at Large 24.

district" that was thereby constituted."[86] The dependency retained the designation "District of Alaska" until Congress passed the Organic Act of 1912.

The act of 1884 provided for the appointment of a Governor by the President, with the advice and consent of the Senate. The Governor was vested with practically all governmental powers except those of a judicial nature. As the Act states, he was "charged with the interests of the United States that may arise within said territory." Provision was also made for the judicial power to be vested in a district court presided over by a judge to be appointed by the President with the civil and criminal jurisdiction of the district and circuit courts of the United States. Provision was also made for four commissioners to be appointed by the President to act as justices of the peace. As Alaska was without a system of law, it was provided that the general laws of the State of Oregon were to be declared in force in so far as they were applicable. In addition to these mentioned, certain executive departments in Washington were given the power to include those interests in the district which pertained to their field. Therefore it was made the duty of the Secretary of the Interior to provide for the education of children; of the Attorney-General to codify and publish the laws which existed in Alaska, and supervise the administration of justice; and of the Secretary of the Treasury to have power over the collection of revenue

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86 M. Farrand, "Territory and District," American Historical Review, V, (July, 1900), p. 679.

and other matters.[87]

It was not until 1900 that Congress took any action to give Alaska a more complete form of civil government. Congress on June 6, 1900 enacted a civil code and a code of civil procedure. The civil code made a few slight changes in the government. It provided for the collection of certain license taxes on business and trade and the establishment of a surveyor-general, who should be the secretary ex-officio. The most important provision of the code made it possible for settled communities to become incorporated as towns.[88] Though provisions had been made for the civil and criminal laws, and for local government, Willoughby says, "no serious attempt has been made to work out a system for its general administration such as is enjoyed by the organized territories."[89]

President Theodore Roosevelt in 1906 stressed the desire for a delegate from Alaska to be added to the list of officials.[90] Congress on May 7, 1906 passed an act which declared, "That the people of the Territory of Alaska shall be represented by a Delegate in the House of Representatives of the United States;" but it also states that the Delegate "shall be an inhabitant and qualified voter of the District of Alaska."[91]

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87 23 U.S. Stat. at Large 24-28.

88 31 U.S. Stat. at Large 322, 331, 521-522.

89 Willoughby, op. cit., pp. 77-78.

90 Pilgrim, op. cit., p. 55.

91 34 U.S. Stat. at Large 170.

Alaska had gained representation in Congress, but without a vote.[92]

The "District of Alaska" though represented in Congress still lacked a legislative assembly. The congressional and territorial leaders who favored an assembly kept the issue before the people and it became the political topic of the day.[93] During President Taft's administration the matter came up again and again. Pressure was brought to bear in Washington by lobbyists representing the great financial organizations, which had been developing the resourses of Alaska since its purchase. This pressure group besides favoring an appointive legislative body to make tentative laws, wanted to incorporate the territory under the Bureau of Insular Affairs of the War Department. James Wickersham, on April 14, 1911, introduced in Congress a bill for an elective Territorial Legislature in Alaska, with the legislation passed to have the approval of Congress.[94] However, it was not until August 24, 1912 that Congress passed the Organic Act which established a territorial legislature.[95] At the same time the act terminated the "District of Alaska" and constituted the "Territory of Alaska" under the laws of the United States.

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[92] L. R. Huber, "Alaska: Our Deep Freeze," Atlantic, (September, 1945), p. 81.

[93] Pilgrim, op. cit., p. 55.

[94] Idem.

[95] 37 U.S. Stat. at Large 513.

CHAPTER II

GOVERNMENTAL EVOLUTION -- HAWAII AND ALASKA

Congress in 1900, two years after the annexation of Hawaii, enacted an Organic Act for Hawaii, which incorporated the Territory as an integral part of the United States, and formally established the form of government under which the Territory would operate. In 1912, forty-five years after Alaska was acquired by the United States, Congress enacted an Organic Act for Alaska, which incorporated the Territory as an integral part of the United States, and formally established the form of government under which the Territory would operate. The forms of government as established for the two Territories are best described by analyzing each Territory separately.

A. The Government of Hawaii.[1]

The Organic Act of April 30, 1900 and its amendments has divided the government of Hawaii into three branches, or departments: the executive, the legislative, and the judicial.

The executive power is vested in a Governor, who is appointed by the President of the United States, by and with the advice and consent of the Senate. The term of office is four years, but the President can remove him sooner. He must be thirty-five years of age, a citizen of the United States and of Hawaii, and shall have resided in Hawaii for at least three years prior to his appointment. He is responsible for the

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[1] The paragraphs on Hawaii follow closely 31 U.S. Stat. at Large 141, et seq.; The United States Code (1946 ed.), Title 48, chap. iii; W. C. Dill, Statehood for Hawaii, (Philadelphia, 1949).

faithful execution of the laws of the United States and of Hawaii, and whenever necessary may call upon the commanders of the military and naval forces of the United States in the Territory of Hawaii, or summon the militia of the Territory to prevent or suppress lawless violence, invasion, insurrection, or rebellion in the Territory.

Section 67 of the Organic Act authorizes the Governor:

> . . . In case of rebellion or invasion, or imminent danger thereof, when the public safety requires it, suspend the privilege of the writ of habeas corpus, or place the Territory, or any part thereof, under martial law until communication can be had with the President and his decision thereon made known.[2]

On December 7, 1941, immediately following the surprise attack by the Japanese on Pearl Harbor, Governor Joseph B. Poindexter by proclamation suspended the privilege of the writ of habeas corpus, and placed the Territory of Hawaii under martial law. President Franklin Delano Roosevelt approved Governor Poindexter's action on December 9.[3] The Commanding General, on December 8, established military tribunals to take the place of the civil and criminal courts which were forbidden to summon

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[2] 31 U.S. Stat. at Large 141, 153.

[3] Duncan v. Kahanamoku (1946), (327 U.S. 304, 308). "By radio the Governor of Hawaii on December 7, 1941, notified the President of the United States simply that he had placed the Territory under martial law and suspended the writ. The President's approval was requested and it was granted by radio on December 8, 1941. Not until 1943 was the text of the Governor's December 7 proclamation furnished Washington officials, and it is still doubtful if it has yet been seen by the President."

jurors and witnesses and to try cases.[4]

Lloyd C. Duncan, a citizen of the United States, while temporarily employed by the Navy Department at Pearl Harbor, on February 24, 1944, assulted two marine corps sentries while on duty within the naval reservation. Later Duncan was summoned before the provost court (at this time the courts had been authorized to exercise their normal functions with certain exceptions) where he was tried without a jury and was found guilty and sentenced to serve a term of six months.[5] Duncan petitioned the District Court, which held the trial by the military tribunal void and ordered the release of the petitioner. Kahanamoku, the sheriff, appealed the case to the Circuit Court of Appeals, which reversed the District Court's decision. The Supreme Court of the United States granted certiorari.[6] Justice Black speaking for the court, in 1946, said:

> In interpreting the Act we must first look to its language. Section 67 makes it plain that Congress did intend the Governor of Hawaii, with the approval of the President, to invoke military aid under certain circumstances. But Congress did not specifically state to what extent the army could be used or what power it could exercise. It certainly did not explicitly declare that the Governor in conjunction with the military could for days, months, or years close the courts and supplant them with military tribunals.
>
> Our system of government clearly is the antithesis of total military rule and the founders of this country were not likely to have contemplated complete military dominance within the limits of a territory made part of this country and not recently taken from an enemy.

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[4] Duncan v. Kahanamoku (1946), (327 U.S. 304, 308).

[5] Duncan v. Kahanamoku (1946), (327 U.S. 304, 310).

[6] Duncan v. Kahanamoku (1946), (327 U.S. 304, 305, 306).

> We believe that when Congress passed the Hawaiian Organic Act and authorized the establishment of "martial law" it had in mind and did not wish to exceed the boundaries between military and civilian power, in which our people have always believed, which responsible military and executive officers had heeded, and which had become part of our political philosophy and institutions prior to the time Congress passed the Organic Act. The phrase "martial law" as employed in that Act, therefore, while intended to authorize the military to act vigorously for the maintenance of an orderly civil government and for the defense of the Islands against actual or threatened rebellion or invasion, was not intended to authorize the supplanting of courts by military tribunals.[7]

The Supreme Court in concluding its decision ordered the release from custody of Lloyd Duncan.

The Secretary of the Territory of Hawaii (who is the Lieutenant Governor), is appointed by the President of the United States, by and with the consent of the Senate. His term of office is four years, but can be removed sooner by the President. He shall be a citizen of the Territory of Hawaii. It is his duty to record and preserve all the laws and proceedings of the legislature and all acts and proceedings of the Governor. He shall transmit to the President of the United States, the President of the Senate, and the Speaker of the House of Representatives of the United States, within thirty days after the end of each session of the Territorial legislature, one copy each of the laws and journals of such session. On the first days of January and July he shall transmit to the President of the United States a copy of the executive proceedings. He shall perform such other duties as may be

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[7] Duncan v. Kahanamoku (1946), (327 U.S. 304, 315, 322, 324).

required of him by the Legislature of Hawaii.

The Secretary, in case of the death, removal, resignation, or disability of the governor, or his absence from the Territory, shall exercise all the powers and duties of the Governor until such vacancy, disability, or absence, or until another Governor is appointed.

The other executive officers, such as, the Attorney General, Treasurer, Commissioner of Public Lands, are appointed by the Governor, by and with the advice and consent of the Senate of the Territory of Hawaii. These officers hold office for four years, but may be removed sooner by the Governor with the advice and consent of the Senate of the Territory. These officers must be citizens of the Territory of Hawaii and must have resided therein for at least three years next preceding their appointment.

The legislative branch of the Territory consists of two houses; the upper house, called the Senate, and the lower house, called the House of Representatives. The two houses are styled "The Legislature of the Territory of Hawaii."

The Senate is composed of fifteen members, who hold office for a four year term. A Senator to be eligible for election must be a citizen of the United States, thirty years of age, and must have resided in the Territory of Hawaii not less than three years prior to his election, and be a qualified voter for his office. In the case of a vacancy caused by death, resignation, or otherwise the office will be filled at a general or special election. Representatives to the Senate are elected on an

apportionment basis according to the population of the citizens in their respective districts.

For the purpose of representation the Territory is divided into the following senatorial districts: First District--the island of Hawaii; Second District--the islands of Maui, Molokai, Lanai, and Kahoolawe; Third District--the island of Oahu; Fourth District--the islands of Kauai and Nihau. The apportionment of Senators in the districts are: in the First District, four; Second District, three; Third District, six; and the Fourth District, two.

The House of Representatives is composed of thirty members, who are elected every second year. A Representative to be eligible for election must be a citizen of the United States, twenty-five years of age, and must have resided in the Territory of Hawaii not less than three years prior to his election. In the case of a vacancy caused by death, resignation, or otherwise the office will be filled at a special election. Representatives in the House as that of the Senate are elected on an apportionment basis according to the population of the citizens of their respective districts.

For the representation in the House the Territory is divided into the following representative districts: First District--that portion of the island of Hawaii known as Puna, Hilo, and Hamakua; Second District--that portion of the island of Hawaii known as Kau, Kona, and Kohala; Third District--the island of Maui, Molokai, Lanai, and Kahoolawe; Fourth District--

that portion of the island of Oahu lying east and south of Nuuanu Street and a line drawn in extension thereof from the Nuuanu Pali to Mokapu Point; Fifth District--that portion of the island of Oahu lying west and north of the Fourth District; Sixth District--the islands of Kauai and Niihau.

The apportionment of Representatives in the districts are: First District, four; Second District, four; Third District, six; Fourth District, six; Fifth District, six; Sixth District, four.

The Hawaiian legislature's sessions are held on the third Wednesday in February, biennially, in odd numbered years, at Honolulu. Each session meets for a period not longer than sixty days, excluding Sundays and holidays, but the Governor may extend such session for not more than thirty days. The Governor may convene either house alone, in special session. Neither house may adjourn during any session for more than a three day period, or sine die, without consent of the other house.

A bill in order to become a law must pass three readings in each house, on separate days, the final passage in each house shall be by a majority vote of all members to which such house is entitled, taken by ayes and noes. After the bill has passed both houses it is presented to the governor. If he approves it and signs it, it becomes a law. If he does not approve it, he may return it to the legislature with his objections. He may veto any specific item or items in an appropriation bill, but all other bills if vetoed, must be vetoed as a

whole. The legislature upon receiving a vetoed bill will as a rule reconsider such a bill, or part of a bill, and again vote upon it. If after such reconsideration the bill is approved by a two-thirds vote of all the members it becomes a law. If the Governor fails to sign or veto a bill within ten days after it is presented to him it will become a law without his signature, unless the legislature adjourns sine die prior to the expiration of the ten day period. If the Governor fails to return a bill within the ten day period, Sundays excepted, the bill shall become a law even though he has not signed it, unless the legislature adjourns sine die within the ten days. The Laws passed by the Legislature of Hawaii are, however, subject to repeal or amendment by the Congress of the United States.

The judicial power of the Territory is vested in one territorial supreme court, several circuit courts, and such inferior courts as the Territorial Legislature may authorize. The Supreme Court consists of a chief justice and two associate justices, who are appointed by the President of the United States, by and with the advice and consent of the United States Senate. The judges must be citizens of Hawaii, that is, they must have resided within the Territory for at least one year preceding their appointment. The jurisdiction of the territorial courts is similar to that of the State courts of the Union. Final decisions of the Territorial Supreme Court may be appealed to the Circuit Court of Appeals for the Ninth District in all cases, civil or criminal, involving the United States

Constitution, a Federal Statute, or treaty of the United States, or any authority expressed thereunder, in all other civil cases where the value in controversey, exclusive of interest and costs, exceeds five thousand dollars, and in all habeas corpus proceedings. Judgments from the Circuit Court of Appeals can be taken to the United States Supreme Court.

The interpretation of statutory law of a State made by the highest court of such a State is binding even upon the Supreme Court of the United States. This, however, is not true as to the Territorial Supreme Court. The interpretations, of the latter court, of local Hawaiian law are to be given "great weight" and are "persuasive," but they are not binding either upon the Circuit Court of Appeals for the Ninth Circuit or upon the Supreme Court of the United States.

Hawaii also has a federal District Court, which has the same jurisdiction as district courts of the United States. This court also serves over Midway, Wake, and other Pacific Islands. Final judgments can be appealed to the Circuit Court of Appeals for the Ninth Circuit and thence to the Supreme Court of the United States.

The main difference between this federal court and those of the United States is that it is a "legislative" and not a "constitutional" court. The federal District Court for Hawaii is solely a creation of Congress, while district courts in the States are provided for in the federal Constitution. The judges, therefore, of the territorial federal court do not enjoy

the constitutional immunities against removal from office during good behavior and diminution of salary which are shared by other members of the federal judicial system.

The two district judges, a district attorney, and a marshal of the United States are appointed by the President of the United States, by and with the advice and consent of the Senate. These officers must be citizens of Hawaii and must have resided therein for at least three years prior to their appointment. Their term of office is six years, but they can be removed sooner by the President.

A Territorial Delegate to the House of Representatives of the United States, to serve during each Congress, is elected by the voters qualified to vote for members of the House of Representatives of the Hawaiian Legislature. The Delegate in order to be eligible for election must possess the qualifications necessary for membership to the Senate of the Hawaiian Legislature. The Delegate is entitled to a seat in the House of Representatives of the United States, with the right of debate, but not of voting. In the case of a vacancy it is the responsibility of the Governor to call a special election to fill such vacancy. No vacancy, however, shall be filled which occurs within five months of the expiration of a congressional term.

The Organic Act also provides that:

> All persons who were citizens of the Republic of Hawaii on August 12, 1898, are declared to be citizens of the United States and citizens of the Territory of Hawaii.
>
> All citizens of the United States resident in the

> Hawaiian Islands who were resident there on or since August 12, 1898, and all the citizens of the United States who shall reside in the Territory of Hawaii for one year shall be citizens of the Territory of Hawaii.[8]

As noticed there is nothing in the provision which granted citizenship to any person not already a citizen under prior Hawaiian law. Therefore, foreign-born Chinese and Japanese residents of Hawaii, who had previously been denied citizenship, were still precluded from naturalization under the Organic Act.

The franchise laws as provided by the Act requires that a voter must be a citizen of the United States, and must have resided in the Territory not less than one year, be twenty-one years of age, and be able to speak, read, and write the English or Hawaiian language.

The executive, legislative and judicial branches of the government of Hawaii are for the most part similar to those of the continental States. There are, however, certain differences, namely: Congress can repeal or amend any law which is passed by the Territorial Legislature (the Congresses to date have never utilized this authority); while the interpretation of a statutory law of a State made by the highest court withina State is binding upon the Supreme Court of the United States, the same, however, is not true for the Territorial Supreme Court's interpretations upon local Hawaiian law, which is not binding either upon the Circuit Court of Appeals for the Ninth Circuit or upon the Supreme Court of the United States; although the Territory is represented in the House of Representatives of Congress by a

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[8] 31 U.S. Stat. at Large 141.

Delegate, he is a voteless figure and, it leaves Hawaii with no voice in the Senate of the United States; lastly, though incorporated into the Union as an integral part thereof, alien residents, namely Chinese and Japanese, are still excluded from naturalization under the Organic Act's franchise laws.

Hawaii as a Territory looks to the Federal Government for security through its national defense measures.

> Militarily, Hawaii stands at one corner of our inner Pacific defense triangle that extends from Alaska's mainland down to Hawaii and across to our Pacific coast.
> Hawaii also is a pivot for our outer Pacific defense triangle that extends southward to encompass the Pacific islands now under our trusteeship, Samoa and Guam; extends westward to Okinawa, and extends north to the tip of the Aleutians.[9]

Hawaii, as with Alaska, is today a prime target under the American flag of the most powerful enemy (the U.S.S.R.) that has ever threatened the United States.[10] Therefore, it is one of the most important key areas for our strategic defense plans against Russia. It is a vital area in our cold war against the world spread of communism.

Japan struck at both Territories in World War II. Will World War III see Russia doing the same?

The Federal Government must build an impregnable Hawaii for the national security. The strategic importance and significance in building an impenetrable defense at Hawaii will mean that Hawaii will be a stronger bastion against the forces

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[9] U.S. Cong. Rec., 81 Cong., 2 sess., (1950), XCVI, no. 44, p. 2823.

[10] Ibid., p. 2822.

of communism and of totalitarianism. The very next war that the United States is engaged in, Hawaii will be one of the most strategic places in the world for the defense of the continental United States.

Hawaii plays a crucial role in our national destiny, in that it is our western bastion of defense.

B. The Government of Alaska.[11]

The Acts of Congress of 1884, 1900, and the Organic Act of August 24, 1912 and their amendments have divided the government of Alaska into three branches, or departments: the executive, the legislative, and the judicial.

The executive power is vested in a Governor, who is appointed by the President of the United States, by and with the advice and consent of the Senate. His term of office is four years, but the President can remove him sooner for cause.

The Governor is responsible for the interests of the United States Government within the Territory and to that end he shall have authority to see that the laws enacted for the Territory are enforced and to require the faithful discharge of their duties by the officials appointed to administer the same. He is ex officio commander in chief of the Territorial militia, and is empowered to call out the same when necessary to place into execution the laws and to preserve the peace. It is required that the Governor shall make an annual report, on the 1st day

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[11] The paragraphs on Alaska follow closely 23 U.S. Stat. at Large 24, et seq.; 31 U.S. Stat. at Large 322, et seq.; 37 U.S. Stat. at Large 512, et seq.; and The United States Code (1946 ed.), Title 48, chap. ii.

of October in each year, to the President of the United States, of his official acts and doings, and of the condition of the Territory, with special reference to its resources, industries, population, and the administration of the civil government thereof.

The legislative branch of the Territory consists of two houses; the upper house, called the Senate, and the lower house, called the House of Representatives.

The Senate consists of sixteen members, four from each of the four judicial divisions into which Alaska is divided. Each Senator at the time of his election must have the qualifications of an elector in Alaska, and must have been a resident and inhabitant in the division from which he is elected for at least two years prior to the time of his election. The term of office of each Senator is four years.

The House of Representatives consists of twenty-four members elected from the four judicial divisions into which Alaska is divided. Each division is entitled to the following number of representatives: First judicial division, eight representatives; second judicial division, four representatives; third judicial division, seven representatives; and the fourth judicial division, five representatives. The term of office is two years, and each representative must posses the same qualifications as are prescribed for members of the Senate. In the case of a vacancy in either house, the Governor must call an election to fill such vacancy.

Elections for members of the Legislature are held every second even numbered year, and it convenes on the fourth Monday in January of the odd numbered year and every two years thereafter. The legislature does not continue in session longer than sixty days in any two years unless again convened in extraordinary session by proclamation of the Governor. This extraordinary session can not exceed thirty days when so requested by the President of the United States.

The legislative power of the Territory extends to all rightful subjects of legislation not inconsistent with the Constitution and laws of the United States, but the legislature can not pass a law which interferes with the primary disposal of the soil; it can not pass a law which taxes the property of the United States; nor can it tax non-residents' property higher than that of residents; nor can it grant to any corporation, association, or individual a special or exclusive privilege, immunity, or franchise without the approval of Congress, nor can the legislature pass an act or law providing for a county form of government without the approval of Congress. All acts and laws passed by the Territorial Legislature are subject to the approval and rejection by Congress.

A bill in order to become a law must pass three separate readings in each house, the final passage of such bill must be by a majority vote of all members in each house. All bills passed by the legislature, except in certain cases, are valid only upon the Governor's signature. After a bill passes the

legislature it is presented to the Governor. If he approves it, he signs it, and it becomes a law at the expiration of ninety days thereafter, unless the legislature deems otherwise by a necessary two-thirds vote. If the Governor does not approve it, he may return the bill, with his objections, to the legislature. He has the prerogative of vetoing any specific item or items in any bill which appropriates money for specific purposes, but should he veto other bills, he must veto them as a whole. The Legislature upon receiving a vetoed bill usually will proceed to reconsider such a bill, or part of a bill, and again vote upon it. If, after reconsideration, such a bill or part of a bill is approved by a two-thirds vote of each house, the bill then becomes a law. If the Governor neither signs nor vetoes a bill within three days, Sundays excepted, after it is presented to him, it becomes a law without his signature, unless the Legislature should adjourn sine die prior to the expiration of the three day period. If the Governor does not return the bill within the three days, Sundays excepted, it becomes a law in like manner as if he had signed it, unless the Legislature by its adjournment prevents the return of the bill, in which case it will not become a law.

The Governor must, within ninety days after the termination of each Legislative session, transmit a correct copy of all the laws and resolutions passed by the Territorial Legislature, certified to by the Secretary of Alaska, to the President of the United States and to the Secretary of State of the

United States. In addition, all laws passed by the Territorial Legislature must be submitted to Congress by the President of the United States and if such laws are disapproved by Congress they are null and void.

The judicial power of the Territory of Alaska is vested in a district court with the same jurisdiction of district courts of the United States and with general jurisdiction in civil, criminal, equity, and admiralty causes. One general term of court is held each year and such additional terms at other places in the first division, second division, third division, and the fourth division, as the Judicial Council for the Ninth Judicial Circuit may direct. Each of the judges is authorized and directed to hold such special terms of court as may be necessary for the public welfare or for the dispatch of the business of the court within their respective divisions, as they deem expedient, or as the Judicial Council of the Ninth Judicial Circuit may direct. At least thirty days notice must be given by the judge, or the clerk, as to the time and place of holding the several terms of court.

The judges, attorneys, and marshals are appointed by the President of the United States, by and with the advice and consent of the Senate. The term of office is four years, unless sooner removed by the President.

The Territory of Alaska is represented in the House of Representatives of the United States Congress by a Delegate chosen by the people thereof. The Delegate to be eligible

for election must prior to his election have been a citizen of the United States for seven years, and must be an inhabitant and qualified voter of Alaska, and shall be not less than twenty-five years of age. The Delegate is elected every second year on the second Tuesday in September in even numbered years. When a vacancy occurs the Legislature of Alaska may prescribe by an act when an election will be held. When such an election occurs it is governed by the laws passed by Congress governing such election.

The present franchise law governing Alaska requires that no person can become or be an elector or voter at any general election, special election, primary election, which is held in the Territory for the purpose of electing or nominating any person or persons to or for the office of Delegate, Senator or Representative, or to or for any other elective Territorial, municipal, or school office in the Territory, unless such proposed voter or elector at the time of any such election and prior to voting thereat must be able to read the Constitution of the United States in the English language and also be able to write the English language.

The Territorial Government of Alaska is similar in its functions as those of the States of the Union. There are, however, certain differences which are: Congress can repeal or amend any law or resolution which is passed by the Territorial Legislature; though the Territory is represented in Congress by a Delegate, he lacks the power of a vote;

the Territory is not represented in the United States Senate; and lastly, the Legislature of Alaska cannot create courts of either original or appellate jurisdiction.

The Territory of Alaska is a bridge between continental United States and the U.S.S.R. From the mainland of the United States via Alaska the shortest way to the Far East is by the great circle air route. Considering the strategic importance of this route, the Territory of Alaska is no longer the backdoor, but the front door to America.[12]

Alaska may well be the Pearl Harbor of World War III. It is only a few flying hours away from our mainland, and is within bombing range of Vladivostok and Tokyo.[13]

At the present time, according to Governor Gruening of Alaska, the defenses in the Territory are so weak that Russia could take Alaska with two parachute divisions.[14] It is, therefore, imperative that the Federal Government make this an impregnable bridge. If World War III were to strike tomorrow, Alaska would be an easy prey for Russia. Once Russia has landed troops in Alaska it would be extremely difficult to drive them out.

The Territory of Alaska is important to the National Defense as a whole. By making it impregnable, the United States would make it a stronger bastion against the forces of communism and totalitarianism.

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12 U.S. Cong. Rec., 81 Cong., 2 sess., (1950), XCVI, no. 38, p. 2343.

13 U.S. Cong. Rec., 81 Cong., 2 sess., (1950), XCVI, no. 44, p. 2794.

14 New York Times, (January 30, 1950), p. 34.

CHAPTER III

UNITED STATES POLICY TOWARD DEPENDENCIES

In the course of less than two centuries the United States has passed from a colonial dependency to that of an imperial power. At first there were the original thirteen colonies, then the colonies revolted and became States and then they united to become the United States of America, and finally the United States rose to a world power with colonies and dependencies under its control.

With our own experience in mind Max Farrand indicates that:

> . . . the term "colony" seemed to carry with it something of reproach and inferiority, and consequently it was an appellation most carefully to be avoided.[1]

With the enactment of the Northwest Ordinance[2] the term "territory" instead of "colony" has been applied to the intermediate stage of government before the dependency attains statehood.

A. Early Plans for Territorial Government and Statehood.

The original thirteen States by the Treaty of 1783, with England, gained possession of the land lying west to the Mississippi River. Prior to this, however, the Congress under the Confederation, in 1780, resolved that any such lands as might be "ceded or relinquished to the United States, by any particular state," should be "disposed of for the common benefit of the United States, and be settled and formed into distinct republican states, which shall become members of the federal

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[1] M. Farrand, "Territory and District," American Historical Review, V, (July, 1900), p. 676.

[2] H. S. Commager, Documents of American History, (New York, 1944), pp. 128-132. Included in Appendix C.

union. . . ."[3] Thus, as early as 1780 the question of statehood was foreshadowed.

As there were conflicting claims to this western land and, as there was no form of government provided for it, the Congress of the Confederation in 1783 appointed a committee, headed by Thomas Jefferson, to formulate a plan which would annex the ceded lands to the Confederation and, provide a form of government.[4] On March 1, 1784 Jefferson submitted a plan for the government of the western territory.[5] This plan provided that the territory be divided directly into States. The plan, however, met with the disapproval of the existing States. Subsequently between May 1, 1786, and July 9, 1787,[6] the Congress considered three different ordinances providing for the government of the western territory. Finally, on July 13, 1787, Congress adopted Jefferson's famous Ordinance of 1787.[7]

B. The Northwest Ordinance.[8]

The "Northwest Ordinance" or "Ordinance for the government of the Territory of the United States Northwest of the River Ohio" might well be considered one of the most important

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[3] Ibid., pp. 119-120.

[4] W. F. Willoughby, Territories and Dependencies of the United States: Their Government and Administration, (New York, 1905), p. 27.

[5] M. Farrand, The Legislation of Congress for the Government of the Organized Territories of the United States, 1789-1895, (Newark, 1896), p. 7.

[6] Ibid., p. 8.

[7] Idem.

[8] See Appendix C.

Congressional enactments. The Ordinance, according to W. F. Willoughby, had three distinct purposes:

> . . . First, a solemn grant to the inhabitants of the territory of those fundamental political and personal rights which are deemed to lie at the basis of American liberty; second, the formulation of a plan for the immediate government of the territory; and, third, a statement of the general attitude of the Federal Government toward, and its policy in respect to, the ultimate status of such territory.[9]

It[10] provided for a temporary form of government for the territory under a governor, a secretary, and judges appointed by Congress, but before the provisions of the Ordinance could be carried out the new Constitution of the United States became effective. It thus became the responsibility of the Federal Government to decide what was to be the territorial policy under the Constitution. The latter provided that:

> The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.[11]

With this constitutional authority Congress, on August 7, 1789, re-enacted the Ordinance of 1787 and provided that the President with Senate approval would "appoint all officers which by the said ordinance were to have been appointed by the United States in Congress assembled."[12]

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[9] Willoughby, op. cit., p. 28.

[10] See Appendix C.

[11] U.S. Constitution, Art. IV, sec. iii, par. 2.

[12] Annals of the Congress of the United States, First Cong., (1789-90), (Washington, 1834), p. 2215.

C. Congressional Action (1787-1912).

Congressional legislation affecting the Territories may be divided into three periods. The First Period began with the Ordinance of 1787 and its re-enactment two years later by the First Congress. For the first thirty-years the Ordinance of 1787 was the model in establishing the government in the Territories.[13] The method employed by Congress was to set aside a portion of the public domain, and establish a Territory by name, re-enacting, with slight modifications, the existing legislation relating to some prior Territory. After forty-five years the "trial-and-error" legislation resulted in the following modifications in the form of territorial government:

> 1. Congress has the right to divide any Territory or change its boundaries as it chooses.
> 2. The governor cannot prorogue the legislature.
> 3. The governor may grant pardons for offenses against the Territory and reprieves for those against the United States, until the decision of the President be made known.
> 4. The legislature and 5), the Delegate to Congress shall be elected by the people.
> 6. All local officers are to be elected by the people or they are left to the legislature to determine.
> 7. Property qualifications for the exercise of the suffrage have been abolished.
> 8. Every voter is eligible to every office.
> 9. Expenses of the legislature are paid by the United States.
> 10. The sessions of the legislature are limited in length and frequency.
> 11. The members of the legislature shall not be eligible during their term or for one year thereafter to any office which has been created or the emoluments of which have been increased during that term.
> 12. There shall be an organized judiciary consisting of a superior court, district courts, and other inferior courts.

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[13] Farrand, op. cit., p. 14.

13. The superior court must be held by a quorum of the superior judges, while each of the district courts may be held by one of the superior judges.

14. The legislature may be authorized to fix the jurisdiction of all the courts, always provided:

a. That justices of the peace do not have jurisdiction in land questions, or where the amount in controversy exceeds a certain fixed sum (commonly $100).

b. That the supreme and district courts have chancery as well as common-law jurisdiction.

c. That writs of error and appeal lie from the district courts to the Territorial supreme court and from that court to the Supreme Court of the United States where the amount in controversy exceeds $1,000. And

d. That the district courts in all cases arising under the laws and Constitution of the United States have the same jurisdiction as is vested in the United States circuit and district courts, with appeal to the Territorial supreme court as in other cases.

15. An attorney and a marshal for the United States are appointed in every Territory.

16. The legislature is authorized to locate the seat of government of the Territory.[14]

Two important changes which took place at a later date were: the legislatures by a two-thirds vote were able to override the governor's veto and, the superior court judges term of office was limited to four years.[15]

Thus, Congress was slowly evolving a set pattern of government for all the Territories, but this did not come about until the Second Period.

The Second Period commenced in 1836 with the establishment of the Organic Act for the Territory of Wisconsin, and lasted until 1895.[16] The year 1836 marked the beginning of

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[14] Ibid., pp. 36-37.

[15] Ibid., p. 37.

[16] Ibid., p. 38.

a new period: Congress for the first time passed legislation for a new Territory which, contained all previous legislative acts for territorial government in a single enactment.[17] Congress, however, did not proceed to this step until a most important question had been settled,--the question as to what extent Congressional authority could be exercised over the Territories. The question arose in the disputes over the prohibition of slavery in the Territories. The abolition of slavery throughout the United States furthered the claim of Congress's right to enact such a prohibition. As a result of the Civil War the absolute control of the Territories by Congress was established.[18]

The Third Period, extending from 1895 to the present time, is most pertinent to this study. Alaska acquired by the United States during the Second Period was organized as a Territory by the Organic Act of 1912. Hawaii annexed by a joint resolution of Congress in 1898 was organized as a Territory by the Organic Act of 1900. The main provisions of these Organic Acts have already been mentioned in chapter two. A survey of these Acts shows that Congress has deviated very little from the Ordinance of 1787 and the subsequent organic acts.

D. Legal Basis to Acquire and Govern Territory.

Two schools of thought arose over the question relative to the government's power to acquire territory. One, has held that the power to acquire territory resides in the treaty-making

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[17] Idem.

[18] Ibid., p. 39.

power, and the other, that the power remains in the hands of Congress. Throughout our history both contentions for acquiring territory have been utilized.

North Carolina in 1789 enacted legislation authorizing the cession of its western land to the Federal government.[19] This cession was accepted by Congress on April 2, 1790,[20] and its constitutionality never seems to have been questioned.

The acquisition of Louisiana, in 1803, was the first territorial acquisition external to the limits of the United States at the time of the adoption of the Constitution. This purchase and its legal implications raised numerous questions.[21] Texas was annexed by a joint resolution of Congress in 1845. Florida, California, and Alaska were acquired through the treaty-making power. Mr. J. Lowndes holds that, "the President assumed that the power of annexation was vested in the treaty-making power,"[22] when a treaty for annexation of Hawaii was negotiated in 1893.

The Supreme Court of the United States has upheld both of the above views relative to the acquisition of territory. Chief Justice John Marshall speaking for the court, in 1828,

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[19] J. Lowndes, "Law of Annexed Territory as Declared by the Supreme Court of the United States," Political Science Quarterly, XI, (December, 1896), p. 673.

[20] Idem.

[21] Following are some of the legal questions posed at this time. Could the President annex territory by treaty when no such power appeared to be given by the Constitution? Would the Constitution have to be amended in order to purchase Louisiana? Did the United States as a Nation have the inherent right to acquire territory? Could a territory that was acquired by purchase be incorporated into the Union?

[22] Lowndes, op. cit., p. 676.

said:

> The Constitution confers absolutely on the government of the Union the power of making wars and treaties. Consequently, that government possesses the power of acquiring territory, either by conquest or treaty.[23]

Again Chief Justice Taney, speaking for the court, in 1849, said:

> The United States, it is true, may extend its boundaries by conquest or treaty, and may demand the cession of territory as the condition of peace, in order to reimburse the government for the expenses of war. But this can be done only by the treaty-making power, or the legislative authority, and it is not a part of the power conferred upon the President by the declaration of war.[24]

Mr. Justice Bradley, speaking for the court, in 1889, said:

> The power to acquire territory, other than territory northwest of the Ohio River (which belonged to the United States at the adoption of the constitution) is derived from the treaty-making power and the power to declare and carry on war. The incidents of these powers are those of national sovereignty, and belong to all independent governments. The power to make acquisitions of territory by conquest, by treaty and by cession is an incident of national sovereignty.[25]

Thus, in the early stage of our government, the precedents for acquiring territory for the United States were firmly established, either through the treaty-making power or by legislative authority.

Hence, the United States has the right to acquire new territory, on the par with other nations. This can not be

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[23] American Insurance Co. v. Canter, (1828), (1 Peters 511, 542.).

[24] Fleming v. Page (1849), (9 Howard 603, 615.).

[25] Mormon Church v. United States (1889), (136 U.S. 42.).

denied. In addition, the power to acquire territory coupled with the express provision of the Constitution: "Congress shall have Power to dispose of an make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States,"[26] confers upon the Federal Government the authority to provide a form of government and administration of such territory. This power to establish a government for the acquired territory rests solely with Congress as provided by Article IV of the Constitution. Congress can, exept for certain reservations, exercise this power with practically no limitations. Congress can establish the form of government which best suits the varying conditions prevailing, whether the territory be contiguous to or non-contiguous to the United States:

> The Territories of the United States are entirely subject to the legislative authority of Congress. They are not organized under the constitution, nor subject to its complex distribution of powers of government as the organic law, but are the creation, exclusively, of the legislative department and subject to its supervision and control. The United States having rightfully acquired the territory, and being the only government which can impose laws upon them, has the entire domain and sovereignty, national and municipal, federal and state. . . . It may legislate in accordance with the special needs of each locality, and vary its regulations to meet the conditions and circumstances of the people. Whether the subject elsewhere would be a matter of local police regulation, or within state control under some other power it is immaterial to consider. In a territory all of the functions of government are within the legislative jurisdiction of congress, and may be exercised through a local government, or directly by such legislation as we have now under consideration.[27]

This almost unlimited authority of Congress to legislate

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[26] U.S. Constitution, Art. IV, sec. iii, par. 2.

[27] Endleman, et al. v. United States (1898), (86 Fed. Rep. 456, 459.).

relating to a territory cannot be overemphasized. With the varying conditions of the different territories, this congressional power conferred upon Congress by federal court interpretation was fortunate. Fortunate, indeed, while a territory was in the tutelage stage, but perhaps not so fortunate after a territory passed the necessary test for Statehood.

E. Status of Territories.

Before the final step to Statehood is accomplished it is necessary for a Territory to pass through three stages. The first is the acquisition of the territory; the second, that it become incorporated as an integral part of the Union; and, third, that the Territory become organized with a territorial form of government. In the following sections these three prerequisites for Statehood are briefly explained.

1. Acquisition.

By acquisition the United States obtained the Louisiana, Florida-Oregon, and Mexican territories, and the Territory of Alaska from foreign powers. The same form of treaty was practically adopted in each instance, so that, the Territory of Alaska stands with equal weight to the other acquired Territories. The legal right of the United States to acquire territory through the legislative power is evidenced by the annexation of Texas in 1845 and Hawaii in 1898, by joint resolutions of Congress.

2. Incorporation.

Incorporation as J. Wickersham states, is "the act of

admitting a foreign territory into the body corporate"[28] of the Union. The United States in acquiring Louisiana granted the inhabitants of the territory the right to participate in the Government of the United States:

> The inhabitants of the ceded territory should be incorporated in the Union of the United States and admitted as soon as possible according to the principles of the Federal Constitution to the enjoyment of all the rights, advantages and immunities of citizens of the United States.[29]

When the United States acquired the Florida-Oregon, Mexican, and the Alaskan territories, the same obligation of incorporation was assumed. The treaty with Russia for the cession of Alaska although worded somewhat differently has the same legal effect.[30] It provided for incorporation:

> Article 3. The inhabitants of the ceded territory, according to their choice, reserving their natural allegiance, may return to Russia within three years; but if they should prefer to remain in the ceded territory, they, with the exception of uncivilized native tribes, shall be admitted to the enjoyment of all the rights, advantages and immunities of citizens of the United States.[31]

Further proof in respect to incorporation was stated by Justice White for the Supreme Court in 1901:

> Without referring in detail to the acquisition from Russia of Alaska, it suffices to say that that treaty also contained provisions for incorporation and was acted upon. . . .[32]

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[28] J. Wickersham, "The Forty-Ninth Star," Collier's, XLV, (August 6, 1910), p. 17.

[29] W. M. Malloy, Treaties, Conventions, International Acts, Protocols, and Agreements between the United States and other Powers, 1776-1909, (Washington, 1910), p. 509.

[30] Wickersham, op. cit., p. 17.

[31] Malloy, op. cit., p. 1523.

[32] Downes v. Bidwell (1901), (182 U.S. 244, 335.).

Again in 1905, Justice White reiterated this position when he said:

> We are brought, then to determine whether Alaska has been incorporated into the United States as a part thereof, or is simply held, as the Philippine Islands are held, under the sovereignty of the United States as a possession or dependency.[33]

In reply to this query the court declared:

> Indeed, both before and since the decision in Downes v. Bidwell the status of Alaska as an incorporated Territory was and has been recognized by the action and decisions of this court.
>
> It follows, then, from the text of the treaty by which Alaska was acquired, from the action of Congress thereunder, and the reiterated decisions of this court, that the proposition that Alaska is not incorporated is devoid of merit . . .[34]

Since the incorporation of Hawaii as a Territory, its status has been questioned upon on several occasions: as early as 1903 the Supreme Court decided, "By this act (Organic Act of April 30, 1900) the Constitution was formally extended to these islands . . ."[35]

3. Organization.

The territorial organization requires two steps: the first is to organize the Territory[36] and the second, to organize the State.[37] The United States Supreme Court in Binns v.

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[33] Rassmussen v. United States (1905), (197 U.S. 516, 521.).

[34] Rassmussen v. United States (1905), (197 U.S. 516, 523, 525.).

[35] Hawaii v. Mankichi (1903), (190 U.S. 197.). Words in parentheses the author's.

[36] Supra., Ch. ii, p. 30.

[37] Infra., Ch. iv, pp. 76-78.

United States[38] held that Alaska is an organized and incorporated Territory. Even as late as 1948 the court declared, "although Alaska is not a state it is an organized and incorporated territory."[39]

Historically, the incorporated Territories, contiguous to the continental United States, have gone through a period of tutelage before attaining the higher status of Statehood. All the States west of the Allegheny, except Texas and California, went through this process.[40] Even Nevada which was sparsely populated and a semi-arid area was admittted to the Union during the Civil War.[41]

At the present time there are four Organic Acts in effect--for Alaska, Hawaii, Puerto Rico and the Virgin Islands.[42] In the Organic Acts for Hawaii and Alaska provisions of the United States Constitution were formally extended as applicable to all territorial affairs. This provision was not made for the other two cases.[43] Via a number of United States Supreme Court decisions,[44] it has been established that Hawaii and Alaska are

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[38] Binns v. United States (1904), (194 U.S. 486.).

[39] United States v. Farwell (1948), (76 Fed. Supp. 35, 40.).

[40] R. L. Wilbur, "Statehood for Hawaii," Atlantic Monthly, CLXVI, (October 7, 1940), p. 494.

[41] R. M. Littler, The Governance of Hawaii, (Stanford, 1929), p. 53.

[42] Congressional Digest, "Questions of Granting Statehood to Hawaii and Alaska," XXVI, (November, 1947), p. 267.

[43] Idem.

[44] Supra., pp. 59-61.

incorporated within the Union by their Organic Acts--the other territories today are not incorporated.

Alaska and Hawaii as "incorporated and organized Territories" have met all the prerequisites necessary for Statehood. They are now knocking at the door. Hawaii has been under a period of tutelage for approximately fifty years. Beginning with the Fifty-eighth Congress, in 1903, and continuing to the Eighty-first Congress, in 1950, inclusive, Hawaii has persistently urged Congress to enact an enabling act permitting it to form a State Constitution and enter the Union as a State on an equal footing with the rest of the States. Alaska has been under a period of tutelage for eighty-three years--the last thirty-eight of these as an organized and incorporated Territory functioning under the Organic Act of 1912. Alaska first requested Statehood in 1919. Continuing from 1919 to the Eighty-first Congress, inclusive, it has urged Congress to enact legislation permitting it to be admitted as a State.

CHAPTER IV

THE GENERAL TRANSITION FROM TERRITORY TO STATEHOOD

A. The General Procedure Toward Statehood.

The policy which the United States has held in respect to dependent territories, according to W. F. Willoughby, is based upon the following principles:

> First, the administration of each dependent territory primarily with a view to its own benefit or advancement, and in no way as constituting a field for exploitation in the interest of the mother country;
> Secondly, the conferring upon each territory the largest measure of self-government that the condition and character of its inhabitants renders feasible;
> And, finally, the ultimate incorporation of the territory into the United States as a State or States of the Union, coordinate in all respects with those already included, as soon as the conditions prevailing in it sufficiently approximate those in the United States . . .[1]

This chapter is mainly centered around these latter two principles.

The problem of territorial government first arose through the cession to the Federal Government, by the original thirteen States, of the lands stretching to the Mississippi River, the possession of which was conferred upon them by the Treaty of 1783.[2] Prior to this, however, the Congress under the Confederation realizing that the individual States might cede their western lands to the Union resolved in 1780, that the lands ceded should "be settled and formed into distinct republican states, which shall become members of the federal

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[1] W. F. Willoughby, Territories and Dependencies of the United States: Their Government and Administration, (New York, 1905), pp. 11-12.

[2] Supra., chap. iii, par. 3, p. 49.

union . . ."[3] The cession of this land by the different States took place from 1781 to 1802.[4] The territory which was turned over to the Federal Government was divided into two areas: "The territory of the United States northwest of the River Ohio" and "The territory of the United States south of the River Ohio," which are commonly known as "The Northwest Territory" and "The Southwest Territory."[5]

Prior to the complete cession of these territories to the Federal Union, the Congress under the Confederation appointed a committee, headed by Thomas Jefferson, to formulate a plan which would annex the ceded lands to the Confederation and, provide a form of government.[6] Finally, on July 13, 1787, Congress adopted Jefferson's famous "Northwest Ordinance."[7]

The Ordinance, according to W. F. Willoughby, had three distinct purposes:

> . . . First, a solemn grant to the inhabitants of the territory of those fundamental political and personal rights which are deemed to lie at the basis of American liberty; second, the formulation of a plan for the immediate government of the territory; and, third, a statement of the general attitude of the Federal Government toward, and its policy in respect to, the ultimate status of such territory.[8]

Two plans of government were provided for by the Ordinance: one to go into effect immediately, and the other to

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[3] Supra., chap. iii, par. 3, p. 49; Footnote 3, p. 50.

[4] Willoughby, op. cit., p. 27.

[5] Idem.

[6] Supra., chap. iii, par. 4, p. 50.

[7] Idem.

[8] Supra., chap. iii, par. 5, p. 51.

be substituted for it as soon as certain conditions were fulfilled.[9] A more complete scheme of government was to go into force as soon as there were five thousand free male inhabitants of full age in the district.[10] The significant difference between this scheme of government and the former lay in the provisions for the legislative power. As soon as the necessary conditions were met a two house legislature should be constituted--these two houses and the governor were given all legislative power. There was, however, no provision regarding the passage of a bill over the governor's veto. In order that the district should have representation in national affairs a territorial delegate was provided for to sit in the United States Congress with the right of participating in debates, but not voting.[11] The United States has consistently followed this latter policy in regard to its treatment of dependent territories.

In regard to the final purpose of the Ordinance--the ultimate status of the territory--the act provided that in time the territory should be divided into districts which should be admitted into the Union as States on an equal footing with the original States.[12]

The importance of the Northwest Ordinance lies not in the fact that a detailed or intricate system of government was

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[9] Supra., chap. iii, par. 5, p. 51; Willoughby, op. cit., p. 28.

[10] See Appendix C.

[11] Idem.

[12] Idem.

worked out, but the fact that certain fundamental principles were put into effect which have had a profound influence upon subsequent action.

The Northwest Ordinance furnished the model upon which subsequent legislation was based. On May 26, 1790, Congress passed an act providing a form of government for the Southwest Territory--the act was in all respects similar to that of the Northwest Ordinance.[13]

The dividing of these two Territories--the Northwest Territory and the Southwest Territory--into smaller districts with separate governments began almost immediately. Some of the more important changes made in these Territories were: Kentucky nominally within the boundaries of the Southwest Territory, was admitted as a State in 1792; Tennessee, likewise, a part of the Southwest Territory, was admitted in 1796. Congress, on May 7, 1800 provided for the division of the Northwest Territory into two districts--the "Indiana Territory" and "Territory Northwest of the River Ohio, and also provided that each Territory should have the same form of government as that provided for by the Northwest Ordinance. In 1802, a large section of the latter territory was admitted as the State of Ohio, while the remainder was attached to the Indiana Territory. In 1805 this latter territory was again divided, through the establishment of the northeast part, into the Territory of Michigan. Again in 1809 this territory was divided when the

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[13] Willoughby, op. cit., p. 34.

southeastern part being designated by the old name of "Indiana Territory" and the western part being renamed the "Territory of Illinois." All of these new Territories were provided the same form of government as that provided for by the Northwest Ordinance. The "Territory of Illinois" was subsequently broken up into three Territories, which were admitted into the Union as the States of Illinois, Michigan and Wisconsin. The Southwestern Territory underwent a similar breaking up into Territories, and their final admission into the Union as States.[14]

The acquisition of Louisiana, in 1803, was the first territorial acquisition external to the limits of the United States at the time of the adoption of the Constitution. The next acquisition came with the purchase of Florida from Spain in 1819. In 1846 Oregon formally became a part of the United States when the boundary dispute between the United States and Canada was fixed. Texas was admitted to the Union as a State in 1845. By the Treaty of Guadaloupe-Hildalgo in 1848, New Mexico and California were transferred to the United States. The former was slightly added to by the subsequent purchase from Mexico in 1853 of the Gadsden area.[15]

For the first thirty years the Ordinance of 1787 was the

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[14] For this paragraph the author is deeply indebted to W. F. Willoughby, Territories and Dependencies of the United States: Their Government and Administration, (New York, 1905), pp. 34-35.

[15] Ibid., pp. 35-38.

model in establishing the government in the Territories. After forty-five years of "trial-and-error" legislation there resulted certain modifications in the form of territorial government. In 1836, with the establishment of the Organic Act for the Territory of Wisconsin, Congress for the first time passed legislation for a new Territory which contained all previous legislation for territorial government in a single enactment.[16]

From 1781, when the original States began to cede their western lands to the Federal Government, until 1912 when Arizona and New Mexico were admitted as States, a set procedure had developed which became the accepted custom to follow (with certain exceptions) before a Territory could be admitted as a State.

There are seven main steps in this procedure:

1. Petition to Congress for passage of an enabling act to allow admission. This step, which is not mandatory but which is always followed, is taken by the legislature of the Territory. The territorial legislature passes an appropriate resolution requesting statehood and forwards it officially to the Congress of the U.S.

2. Passage of the Enabling Act by Congress. In taking this step Congress acts just as on any ordinary legislation. A majority vote of both Houses is required plus the signature of the President. The Act authorizes the Territory to call a constitutional convention for purposes of adopting the U. S. Constitution and formulating its own State constitution and sets forth the process and requirements for admission. Typical characteristics of such an act are set forth in some detail with respect to the bill for Hawaiian statehood, H.R. 49.

3. Meeting of the Constitutional Convention. As provided in the Enabling Act, the convention is called, delegates to the convention are apportioned and elected and their number specified. The convention adopts the

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16 Supra., chap. iii, pars. 7-9, pp. 52-54.

the U.S. Constitution and drafts the constitution which will govern the Territory when it becomes a State.

4. Ratification of the new State Constitution. When the convention has completed its work, it submits the new constitution to the people of the Territory for their vote. If approval by majority vote is not obtained the convention usually reconvenes and works over the constitution until it is acceptable. When it has been ratified, it is certified approved and sent to the President of the U.S. with a statement of the votes cast.

5. Action by the President. If the President finds the new State constitution to comply in all respects with the requirements set forth in the Enabling Act, he approves the document and so notifies the Governor of the Territory. In the event of his disapproval, the convention reconvenes in the Territory to make the necessary changes in the Constitution.

6. Election of Officers under the new Constitution. When the Governor of the Territory has received word from the President that the constitution is approved, he issues a proclamation calling for the election of all officers of the new government as provided in the constitution. These officers, legislative, executive, and judicial are elected (plus the appropriate members to Congress) and the President is so notified.

7. Final Proclamation of Statehood. When all steps up to this point have been taken, the President issues a proclamation announcing that the Territory of So-an-so is now deemed to be a full-fledged State of the United States and that the Territory no longer exists. This is the final and formal act of statehood. At this time all territorial officers cease their functions and the new State government begins.[17]

Since the enactment of the Ordinance of 1787 the policy of the United States for admitting territories into the Union has followed substantially the same pattern. Oklahoma, New Mexico, and Arizona the last three Territories to be admitted as States of the Union, likewise, have followed the set procedure for admission into the Union.

The description of Oklahoma's progress to statehood is approached mainly from the congressional action taken on the

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[17] Congressional Digest, "Questions of Granting Statehood to Hawaii and Alaska," XXVI, (November, 1947), p. 259.

territory until it was admitted as a State. The section on New Mexico is very brief, as most of the bills relating to Statehood were linked with those of Arizona. The story of Arizona is related mostly through the action of the Territorial Assembly. The Constitutional Conventions, for the three Territories, are mentioned, and their final outcome given.[18]

A complete descriptive analysis concerning the movements toward Statehood is outside the immediate scope of this study, but a brief analysis is presented to furnish the necessary background.

B. Admission of Oklahoma.

1. Territorial Government.

On March 23, 1889 President Harrison issued a proclamation which announced that at noon on 23 April 1889 the lands of the Oklahoma district would be open to settlement.[19] In December 1889, when the Fifty-first Congress convened, three different bills were introduced for the creation of a territorial government.[20] Of these, only Senator Platt's Oklahoma bill received recognition, and was finally passed. On May 2, 1890, President Harrison approved it, and it provided the government for the Oklahoma Territory.[21] Section one provided:

That all that portion of the United States now known

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[18] The issues behind these conventions, which were argued pro and con before final ratifications of the constitutions, are too lengthy for this study, therefore, only a limited consideration is given them.

[19] 21 U.S. Stat. at Large 799.

[20] J. B. Thoburn, A Standard History of Oklahoma, (Chicago, 1916), II, p. 648.

[21] Idem.

> as the Indian Territory except so much of the same as is actually occupied by the five civilized tribes, and the Indian tribes within the Quapaw Indian Agency, and except the unoccupied part of the Cherokee Outlet, together with that portion of the United States known as the Public Land strip, is hereby enacted into a temporary government by the name of the Territory of Oklahoma.[22]

This Act conformed closely to previous acts of Congress which organized the other territories of the United States.

The government established for the new Territory was to be republican in form, and the usual separation of powers division: the executive, legislative and judicial.[23]

The executive power was vested in a governor appointed by the President, with Senate approval, for a four year period. Another executive officer was the Secretary of the Territory, appointed under the same terms as the Governor. It was the Secretary's duty to record and preserve all the laws and proceedings of the Legislative Assembly, and all acts and proceedings of the Governor. The Secretary, in the case of the death, removal, resignation, or necessary absence of the Governor, would perform all duties of the Governor until another was appointed.

The legislative power was vested in the Governor and the Legislative Assembly. The Legislative Assembly consisted of a Council of thirteen members, and a House of Representatives of twenty-six members, popularly elected, and to serve for two years.

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[22] 26 U.S. Stat. at Large 81..

[23] The following paragraphs follow closely 26 U.S. Stat. at Large 81, et seq.

The judicial power was vested in a Supreme Court composed of a chief justice and two associate justices appointed by the President with Senate approval, District Courts, and Probate Courts, and justices of the peace. The three justices were assigned as district judges; one for each of the three judicial districts that the Territory was divided.[24]

The Territory was represented in the United States Congress by a Delegate elected by electors qualified to elect members of the Legislative Assembly. He could participate in the work of Congress but could not vote.

The Territory of Oklahoma[25] besides functioning under the Organic Act also came under the laws of the State of Nebraska.[26]

2. Early Statehood Movement.

The territorial government had scarcely started to function when agitation for Statehood appeared in the press.[27] Finally out of this agitation a convention for Statehood was held in Oklahoma City, on December 15, 1891, and a memorial was sent to Congress asking for Statehood.[28] Delegate David A. Harvey, on January 25, 1892, presented the memorial to Congress, and at the same time introduced in the House of Representatives a bill authorizing the people of Oklahoma and Indian Territories to

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[24] The salaries of the Governor and the Secretary were fixed at twenty-six hundred and eighteen hundred dollars per annum, respectively, while the chief justice and associate justices received three thousand dollars, per annum.

[25] Like Alaska, which in 1884 had the laws of Oregon applied to it.

[26] Thoburn, op. cit., p. 649.

[27] Ibid., p. 672.

[28] Idem.

formulate and adopt a constitution for admission into the Union, as a State.[29] The House Committee on Territories held a series of hearings on the Harvey bill but nothing came of it.[30]

On December 22, 1892, Senator Bishop W. Perkins, of Kansas, introduced a bill which provided for the admission of Oklahoma and the Indian Territory as a single State, but it did not receive consideration.[31]

3. Statehood Movement 1891-1896.

From 1891 to 1896, inclusive, the agitation for Statehood did not lead to any definite results, but it did arouse the interest of the people who now studied the question. Two schools of thought emerged, one, for the admission of Oklahoma and Indian Territories as a single State, and another, for the admission of each Territory as a separate State.

4. Factors Retarding Statehood 1896-1901.

The period 1896 to 1901 saw very little interest in the Statehood movement. Three factors seem to have been responsible for this: first, the proposed Free Homes Bill which provided for free homesteads for the settlers on the Iowa, Sac and Fox, Pottawatomie, Shawnee, and the Cheyenne-Arapahoe Indian reservations;[32] second, the election of 1896 had resulted in a change of party in control of the national administration, while the

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[29] Ibid., p. 675.

[30] Idem.

[31] Idem.

[32] 31 U.S. Stat. at Large 179.

election in Oklahoma resulted in an Legislative Assembly composed of a majority of fusionists (Democrat-Populist) members,[33] (with a split representation in the Assembly, Oklahoma had little chance for Statehood in Congress); third, the passage of the Dawes Act of 1898 seemed to have the effect of dampening the question for Statehood for the Indian Territory.[34]

Of all the bills introduced during this period only one was reported on by the Committee on Territories. The Flynn Bill introduced on January 3, 1896, provided for the admission of Oklahoma Territory, with the Indian Territory to be added when it was ready for Statehood.[35]

5. Congressional Action 1901-1906.

In the period 1901 to 1906, inclusive, three different types of Statehood bills were introduced. One provided for single Statehood for Oklahoma and Indian Territory, another provided for Statehood for the Oklahoma Territory alone, and another provided for admission of the Indian Territory as a separate State.

The high water mark for separate Statehood was reached in 1903, when the Omnibus Statehood Bill which had been introduced by Representative William S. Knox, was forced upon the Senate.[36] The bill provided for separate Statehood for Oklahoma,

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[33] Thoburn, op. cit., pp. 699-701.

[34] R. M. Camp, The Admission of Oklahoma 1889-1907, Unpublished Manuscript, (University of Colorado, 1937), p. 52.

[35] U.S. Cong. Rec., 54 Cong., 1 sess., (1896), XXVIII, 476.

[36] Thoburn, op. cit., p. 764.

Arizona, and New Mexico.[37]

Approximately thirty Statehood bills were introduced during this period. Partisan and sectional interests helped to retard the Statehood movement from achieving success, but even these were overcome and the Enabling Act providing for the admission of Oklahoma and Indian Territories as a single State was passed.[38]

On January 22, 1906, Representative Hamilton, of Michigan, introduced a Statehood bill, which later became the Enabling Act.[39] This bill provided for the admission of the Oklahoma and Indian Territories as a single State, and also the admission of Arizona and New Mexico as a single State.[40] On January 25, 1906 the House passed the bill.[41] On the same day the bill was referred to the Senate and four days later reported back to the House with amendments.[42] Finally on March 9, the Senate voted to strike out all reference to Arizona and New Mexico and adopted the bill, after adding amendments of its own.[43] The House upon receipt of the bill objected to the Senate's amendments concerning Arizona and New Mexico. A conference was held and on June 2 a report was presented to the Senate which

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[37] Idem.

[38] Camp, op. cit., p. 103.

[39] Thoburn, op. cit., p. 766.

[40] Idem.

[41] U.S. Cong. Rec., 59 Cong., 1 sess., (1906), XL, 1587.

[42] Ibid., p. 1667.

[43] Ibid., p. 3597.

provided for the admission of Oklahoma and Indian Territories as one State, and of Arizona and New Mexico as another;[44] but before the admission of the latter it had to be ratified by a majority vote of the people of each Territory before becoming effective.[45] The Senate accepted the report on June 13, and the House on June 14.[46] President Theodore Roosevelt approved the bill on June 16.

6. The Sequoyah Convention.

Before Oklahoma achieved Statehood two constitutional conventions were held. The first, the Sequoyah Convention met on August 21, 1905, at Muskogee, and was strictly for Statehood for the Indian Territory alone.[47] Although the objectives of this convention were not realized, it had a direct bearing on the Oklahoma Constitutional Convention which met on November 20, 1906.

7. The Oklahoma Constitutional Convention.

The Oklahoma Constitutional Convention, provided for in section two of the Enabling Act, convened on November 20, 1906.[48] The convention patterned itself after that of a legislative body. It was in session from November 20, to

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[44] Ibid., p. 7758.

[45] Ibid., p. 8582.

[46] Ibid., p. 8528.

[47] Thoburn, op. cit., p. 824.

[48] Ibid., p. 843.

December 20, 1906, and from January 3, to April 19, 1907.[49]

Many important questions immediately arose as soon as the convention proceeded to formulate a Constitution: the question of county boundaries and county seats attracted a great deal of attention, and was used as an early attempt to place party control in certain sections. Finally, when the seventy-five counties were formed and their county seats named it was found that eighteen of these were identical with those existing in Oklahoma Territory under the Organic Act. In that portion of the State, previously the Indian Territory, the counties and county seats followed closely the pattern worked out in the Sequoyah Convention.[50] Another important question posed was that of the prohibition of the liquor traffic. It was decided to submit this issue to a referendum of the voters of the new State, and if they approved, prohibition would be incorporated in the Constitution.[51]

The Constitution as a whole was adopted by the convention, on April 19, 1907, at which time a referendum was provided for the approval of the Constitution, as well as an election to determine the choice of state, district, county, and township officers, and the prohibition clause.[52] The Convention then adjourned on April 22, and convened again on August 5.[53]

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[49] Ibid., p. 846.

[50] Ibid., p. 854.

[51] Ibid., p. 855.

[52] Ibid., pp. 846-847.

[53] Idem.

Governor Frank Frantz, on July 24, 1907, issued a proclamation which called for September 17, 1907 as the date for the general election to vote on the Constitution, the prohibition of the liquor traffic, and for state, district, county and township officers.[54]

The result of the election was the adoption of the Constitution by a vote of 103,333 for, and 73,059 against it. Prohibition for the entire State was accepted by a vote of 130,361 for, to 112,258 against it. In addition, the Democratic candidate for Governor, Charles N. Haskell was elected over the Republican candidate, Frank Frantz, by 27,286 votes.[55]

The election results were certified to President Theodore Roosevelt in October, and on November 16, 1907 he issued a proclamation which declared Oklahoma to be a State in the Union.[56]

The first official act of the first Governor was to appoint and commission Robert L. Owen and Thomas P. Gore, as Senators from Oklahoma. Subsequently, the First Legislature of Oklahoma convened at Guthrie on December 2, 1907.[57]

C. Admission of New Mexico.

1. Territorial Government.[58]

The Organic Act of September 9, 1850 created a complete territorial civil government for New Mexico. Governmental

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[54] Ibid., p. 851.

[55] Ibid., p. 856

[56] Ibid., pp. 856-857.

[57] Ibid., p. 861.

[58] The following paragraphs follow closely U.S. 9 Stat. at Large 446-450.

authority was divided into three branches. The executive power was vested in a Governor appointed by the President, with Senate approval, for a four year term. He was commander-in-chief of the militia, and it was his duty to approve all laws passed by the Legislative Assembly before they were put into effect.

The Secretary of the Territory also was appointed by the President, with Senate approval, for a four year term, unless sooner removed. It was his duty to record and preserve all the laws and proceedings of the Legislative Assembly, and all acts and proceedings of the Governor in his executive department. It was provided that he transmit one copy of the laws and one copy of the executive proceedings, on or before the first day of December, to the President, and at the same time, two copies of the laws to the Speaker of the House of Representatives and the President of the Senate. In the case of the death, removal, resignation, or other necessary absence of the Governor from the Territory, the Secretary was to exercise all the powers and duties of the Governor during such absence or vacancy, or until another Governor was appointed.

The legislative power was vested in the Governor and a Legislative Assembly. The legislature consisted of a Council of thirteen members elected for two years, and a House of Representatives of twenty-six members elected for one year. All the laws passed by the Legislative Assembly and the Governor were subject to the approval or disapproval of the United States Congress.

The judicial power was vested in a Supreme Court, District Courts, Probate Courts, and in justices of the peace. The

Supreme Court consisted of a chief justice and two associate justices appointed by the President, with Senate approval, for a four year term. The Territory was divided into three judicial districts, and a District Court was assigned to each division presided over by one of the justices of the Supreme Court. The jurisdiction of the several courts provided for, both appellate and original, and that the Probate Courts and the justices of peace were limited by law.

A Delegate to the House of Representatives of the United States Congress was elected by voters qualified to elect members of the Legislative Assembly.

The Territory of New Mexico was reduced in size during the Civil War when the Territory of Colorado was organized in 1861.

2. Statehood Movement 1875-1910.

From 1875 to 1906 there were many bills introduced in Congress pertaining to Statehood, and though some of these were debated in both Houses, little was accomplished.

On January 22, 1906, Representative Hamilton, of Michigan, introduced a Statehood bill to enable Oklahoma and the Indian Territory to become one State, and New Mexico and Arizona as another.[59] This bill led to heated debates over joint Statehood, and subsequently ended with the defeat of the bill by an election.[60]

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[59] U.S. Cong. Rec., 59 Cong., 1 sess., (1906), p. 1499.

[60] This bill and its outcome is explained in this chapter under the section entitled "Admission of Arizona."

Other Statehood bills were introduced in Congress, but they received little action. Finally on January 17, 1910, another Statehood bill was introduced by Representative Hamilton.[61] This enabling act called for Arizona and New Mexico to be admitted as States, but separately. The bill was forwarded to the Senate on the 18th. On March 14, the bill slightly altered by Senator Beveridge was put on the calendar. On June 15, the Senate passed the bill, and on June 18, the House passed it.[62] President Taft signed the Enabling Bill on June 20, 1910 and New Mexico was authorized to draft its Constitution.

3. The Constitutional Convention.

The election for delegates, as provided by the Enabling Act, was held on September 6, and the Constitutional Convention met at Santa Fe', on October 3.[63] The Constitution was ratified by a vote of 31,742 for, to 13,399 against it, and it was approved by Congress and the President on August 21, 1911.[64] On January 6, 1912, when the official count of the votes reached Washington, President Taft proclaimed New Mexico as the Forty-seventh State of the Union.[65]

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61 U.S. Cong. Rec., 61 Cong., 2 sess., (1910), p. 1499.

62 L. B. Prince, New Mexico's Struggle for Statehood, (Santa Fe, 1910), pp. 121-126.

63 J. A. Vaughan, History and Government of New Mexico, (New Mexico, 1921), p. 241.

64 Ibid., p. 242.

65 Ibid., p. 243.

D. Admission of Arizona.

1. Territorial Government.

Arizona remained a part of the Territory of New Mexico until 1863 in which year Congress passed an Organic Act which organized the Territory of Arizona.[66]

The government for the new Territory was to consist of an executive, legislative, and judicial branch.[67] The executive power was vested in a Governor. The legislative power was vested in a Council of nine members, and a House of Representatives of eighteen members. The judicial power was vested in a Supreme Court consisting of three judges, and such inferior courts as the Legislative Council might prescribe. The Act also provided for a secretary, a marshal, and a district attorney to be appointed for the Territory. These officers were to be appointed by the President, with Senate approval.

2. Territorial and Congressional Action.

During the Fiftieth Congress, Representative Springer, of Colorado, introduced two Statehood bills in the House of Representatives. The first was to permit Arizona and Idaho to be admitted as States, and the second was to enable Arizona, Idaho, and Wyoming to be admitted as States, but nothing came of these bills.[68]

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[66] February 24, 1863. See H. H. Bancroft, History of Arizona and New Mexico, 1530-1888, (San Francisco, 1889), XVII, p. 503.

[67] This paragraph follows closely 12 U.S. Stat. at Large 664, 665.

[68] U.S. Cong. Rec., 50 Cong., 2 sess., (1889), pp. 481, 1253.

Action on Statehood was taken by the Territory during the Sixteenth Territorial Legislature, when Governor Murphy stated:

> The people are very desirious for self-government, and in my judgment, the Territory is ready and qualified therefor. The standard of intelligence and education will compare favorably with that of any other subdivision of the Union. It is believed that the progress and prosperity of the Territory are retarded by the dependency of the territorial relation to the general government. It may be claimed by some that a plea for statehood is now ill-timed when considered in connection with the financial condition of the Territory. If conditions are carefully analyzed it must certainly be apparent that the financial complications of Arizona are almost entirely due to a faulty revenue system . . . and cannot be consistently claimed as a reason of inability for successful self-government. To the contrary, it seems clear, with the extended advantages and jurisdiction that state government will necessarily bring, the conditions of our people cannot fail to be improved, and I earnestly recommend that so far as may be consistent with law and recognized precedent, you take action to induce the admission of Arizona into the Union of States.[69]

Governor Murphy in his territorial message urged the Legislative Assembly to pass a joint resolution recommending to Congress that Arizona be admitted to Statehood. The Legislature complied and joint resolution number one was sent to Washington.[70]

At the opening of the Eighteenth Legislative Assembly the Governor commented upon Statehood:

> The people in the Territory are much interested in the subject of the admission of Arizona to statehood. You can do much to hasten or retard the same. The

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[69] Journals of the 16th Legislative Assembly of Arizona, (1891), pp. 38-39.

[70] Journals of the 17th Legislative Assembly of Arizona, (1893), p. 490.

> character and scope of your legislative action may be taken by the people of the great States as an index of Arizona's qualification for admission into the family of States. The enactment of laws in the interest of good, pure and economical government must tell in our favor while the failure to repeal bad or questionable laws will operate against us.[71]

Subsequently the Assembly in response to this message sent the following memorial to Congress:

> . . . That Arizona has been in Territorial vassalage for nearly thirty years, that it has the wealth, the population, and that population the intelligence requisite to self-government; that the people of the Territory without regard to political affiliations are in favor of early admission to Statehood, and your Memorialists earnestly pray that Arizona be speedily admitted to the sisterhood of States.[72]

In spite of their effort, the Fifty-third Congress terminated with no action taken.

There was no mention of Statehood by the Governor in his message to the Nineteenth Legislative Assembly, but Governor Murphy, in his message to the Twentieth Legislature, said:

> By their patriotism and valor, by their thrift and ability, by their loyalty to the republic, fealty to national principles and every consideration of true Americanism, the citizens of Arizona have earned and are entitled to statehood, and the inestimable privilege of self-government.[73]

The Legislative Assembly passed another memorial and submitted it to Congress, but again the latter failed to act.

When the Twenty-first Legislative Assembly met, the

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[71] Journals of the 18th Legislative Assembly of Arizona, (1895), p. 30.

[72] Ibid., pp. 302-303.

[73] Journals of the 20th Legislative Assembly of Arizona, (1899), p. 192.

Governor emphasized the fact that the Territory was entitled to self-government and suggested that the Legislature summon a convention for the purpose of formulating a constitution which would be ready for submission to the next session of Congress. In compliance, with this request, the Legislature passed Council Memorial number one and sent it to Congress.[74]

The single (admission of Arizona as one State and New Mexico as another State) or joint (admission of Arizona and New Mexico as a single State) Statehood issue came to the foreground during the Fifty-seventh Congress, 1901, when Representative Knox, of Massachusetts, introduced his Statehood bill. The Knox bill, better known as the Omnibus Bill,[75] marked the high water mark to date when it was almost passed by the Senate.[76] The Twenty-second Legislative Assembly with high hopes sent a resolution to Congress in which they relinquished their stand of joint Statehood with certain reservations.[77] After a great deal of debate in both Houses, and after Committee investigations, the bill passed into oblivion.

In the regular session of the Fifty-eighth Congress,

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[74] Journals of the 21st Legislative Assembly of Arizona, (1901), pp. 27-28.

[75] The Knox bill is better known as the Omnibus Bill because the Committee on Territories had taken nine bills, two for New Mexico, two for Oklahoma, two for Arizona, two for Oklahoma and Indian Territory together, and one for Arizona, New Mexico and Oklahoma together, and compiled them into one bill.

[76] U.S. Cong. Rec., 57 Cong., 1 sess., (1902), pp. 5136-37.

[77] Journals of the 22nd Legislative Assembly of Arizona, (1903), pp. 25, 50, 100.

Representative Hamilton, of Michigan, introduced a Statehood bill which provided for the people of Oklahoma and Indian Territory to be admitted to the Union as one State, and for Arizona and New Mexico to do the same.[78] Again the joint Statehood Statehood issue flared anew. After bitter controversy by both houses of Congress the session closed with the issue undetermined and the would-be States still Territories.

The Twenty-third Legislative Assembly sent another memorial to Congress protesting against joint Statehood.[79]

In a special message to the Twenty-third Legislature the Governor said:

> . . . I hereby respectfully recommend to you that you enact a law directing the calling and authorizing the holding of a special election, at which the people of this Territory may emphatically, decisively, definitely and conclusively, convey to Congress the sentiment of the people upon that subject so that the question of our wishes can never again arise.[80]

The Legislature, in keeping with the Governor's request, prepared a bill, section two of which provided:

> The qualified electors of the territory to vote upon the following question to be submitted to them, that is to say: "Are you opposed to any Congressional legislation which has for its object the creation of a single state by the jointure of New Mexico and Arizona as one State?"[81]

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[78] U.S. Cong. Rec., 58 Cong., 2 sess., (1904), pp. 4131, 4281, 5125.

[79] Journals of the 23rd Legislative Assembly of Arizona, (1905), pp. 309-310.

[80] Ibid., p. 213.

[81] Ibid., p. 215.

Again in the Fifty-ninth Congress, Representative Hamilton introduced a bill for joint Statehood. The bill, debated pro and con by both houses of Congress, was passed by the House 195 to 150 and subsequently by the Senate with amendments.[82] The bill with the Senate changes was then returned to the House, but the House insisted upon a conference with the Senate.[83] The main bone of contention centered around the calling of the constitutional convention. Finally the compromise agreed upon by both houses was that an election should be called and that the electors should vote for joint Statehood.[84] The bill as revised became effective when it was signed by the President on June 19. The election was held jointly with the regular November election of 1906 and joint Statehood was defeated by a majority of 1,6664 votes in the two Territories.[85] Thus, Arizona narrowly escaped joint Statehood.

Again in the Sixty-first Congress Representative Hamilton introduced a bill providing for the admission of Arizona as a State. This bill was later to become the Enabling Act. The bill, debated pro and con by both houses, was passed, with amendments, by the Senate and the House, on June 16 and June 18, respectively.[86]

The President signed the bill on June 20,

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82 U.S. Cong. Rec., 59 Cong., 1 sess., (1906), pp. 1499, 1587, 3502.

83 Ibid., p. 7736.

84 Ibid., p. 8334.

85 Journals of the 24th Legislative Assembly of Arizona, (1907), p. 246.

86 U.S. Cong. Rec., 61 Cong., 2 sess., (1910), pp. 702-705, 8237.

1910, and Arizona was authorized to draft her constitution.[87]

3. The Constitutional Convention.

The election for delegates to the Constitutional Convention was held on September 12, 1910 according to the principles of the Enabling Act.[88] The important issues raised were the initiative, referendum, and recall and after considerable debate these three provisions were incorporated.[89] The document was completed sixty days after the opening of the convention and on the last day of the session the Constitution was accepted by a vote of forty to twelve.[90]

The Constitution was submitted to the voters on February 9, 1911, and it was ratified by 12,187 votes for and 2,822 against it.[91] On February 14, 1912, President Taft signed the proclamation which declared Arizona as the Forty-eighth State.[92]

E. Summary.

Since the enactment of the Northwest Ordinance the policy for admitting Territories into the Union has substantially followed the same pattern.

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87 36 U.S. Stat. at Large 557.

88 A. Sherman, The Admission of Arizona to the Union, Unpublished Manuscript, (University of Colorado, 1929), p. 119.

89 Ibid., p. 122.

90 Ibid., p. 125.

91 Ibid., p. 126.

92 Ibid., p. 147.

Oklahoma, New Mexico, and Arizona were provided a territorial form of government as provided for by the Northwest Ordinance, and subsequent legislation.

From 1789 until the admission of Oklahoma, New Mexico, and Arizona there had developed a set procedure for the admission of Territories into the Union as States.[93] This procedure was followed by the three Territories. As noticed these Territories petitioned Congress time after time to pass enabling acts allowing them admission as States. Finally Congress in 1906 passed an Enabling Act for Oklahoma and in 1910, likewise, passed Enabling Acts for New Mexico and Arizona. The respective Presidents approved these Acts. The Enabling Acts authorized the three Territories to call constitutional conventions for the purpose of adopting the United States Constitution and formulating their own State Constitutions. The Conventions, as provided for in the Enabling Acts, convened in Oklahoma, New Mexico, and Arizona and adopted their State Constitutions. These Constitutions were ratified by a majority vote in all three Territories, and the respective Presidents approved them. President Theodore Roosevelt, on November 16, 1907, declared Oklahoma to be a State. President Taft issued proclamations which proclaimed New Mexico as the Forty-seventh State, on January 6, 1912, and Arizona as the Forty-eighth State, on February 14, 1912.

The Territories of Oklahoma, New Mexico and Arizona, as with the previous Territories, had conferred upon them the

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[93] Supra., this chapter, pp. 68-69, for the seven steps in the procedure for admission into the Union as a State.

largest measure of self-government that conditions rendered feasible, and were finally incorporated into the Union as States, in keeping with the United States policy toward dependent Territories.

CHAPTER V

THE MOVEMENT FOR STATEHOOD -- HAWAII

The Statehood movement in Hawaii is not of recent origin for as early as 1854 Kamehameha IV proposed a treaty of annexation providing for the admission of Hawaii as a State of the Union.[1] A few days after the Monarchy was overthrown in 1893, the Provisional Government sent a commission to Washington to negotiate a treaty of annexation which called for full political Union.[2] Again in 1897, under the Republic of Hawaii, a treaty of annexation was negotiated, but failed to pass the Senate.[3] This treaty had as its basic premise the idea that Hawaii would become a part of the United States.

This chapter covers the Statehood movement from the annexation of Hawaii in 1900 to April 25, 1950 of the Eighty-first Congress, Second Session.

A. Territorial Action.

The first movement toward Statehood under the new Territory occurred on November 16, 1903 when the Hawaiian legislators petitioned Congress for admission into the Union.[4] This petition was allowed to die in the Committeeon the Territories. Helen Gay Pratt sums up the feeling of the day by stating:

The first session of the legislature was disgraceful

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1 Supra., pp. 6-7.

2 Supra., p. 10.

3 Supra., p. 12.

4 U.S. Cong. Rec., 58 Cong., 1 sess., XXXVII, (1903), 276.

> and harmful in that it permanently hurt the cause of statehood. In 1901, no one had expected that Hawaii would forever remain a Territory. It was hoped that Territorial status was, as it had been in the case of Mainland territories, a steppingstone to statehood. The first legislature of 1901, and the second in 1903, which was little better, made the granting of statehood by Congress entirely out of the question at that time.[5]

Session after session the territorial legislature requested Congress to enact legislation permitting Hawaii to become a State. Beginning in 1903, such petitions were addressed to Congress in 1904, 1911, 1913, 1915, 1919, 1925, 1931, 1935, 1937, 1939, 1941, 1943, 1945, 1947, 1948, and 1949.[6] These requests, in the majority of the cases, were similar in wording, the main exception being that the petition submitted to the Sixty-ninth Congress urged probationary Statehood:

> Whereas prior legislatures have on several occasions by concurrent resolution memorialized Congress to admit the Territory of Hawaii as a State of the United States; and
>
> Whereas the repeated refusals of the Congress to consider our petitions for statehood justify a conclusion that Congress does not deem the Territory sufficiently qualified to assume the responsibility of full self-government.
>
> Whereas it is deemed that the most effective and expedious means of conveying such answers would be by permitting the Territory of Hawaii to amend the organic act of the Territory and thereby in effect permitting

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[5] H. G. Pratt, Hawaii Off-Shore Territory, (New York, 1944), p. 94.

[6] U.S. Cong. Rec., 58 Cong., 2 sess., (1904), 685; 62 Cong., 1 sess., (1911), 1218; 63 Cong., 3 sess., (1913), 121; 64 Cong., 1 sess., (1915), 202; 66 Cong., 1 sess., (1919), 2693, 2809; 69 Cong., 1 sess., (1925), 603; 72 Cong., 1 sess., (1931), 64; 74 Cong., 1 sess., (1935), 6601; 75 Cong., 1 sess., (1937), 4258; 76 Cong., 1 sess., (1939), 5567; 77 Cong. 1 sess., (1941), 4352; 78 Cong., 1 sess., (1943), 4611; 79 Cong., 1 sess., (1945), 4501, 6015; 80 Cong., 1 sess., (1947), 1933; R. Emerson, (and others), "America's Pacific Dependencies," (New York, 1949), p. 72; U.S. House of Representatives, Hearings before Subcommittee on Territorial and Insular Possessions on H.R. 49 and Related Bills, March 3-8, 1949, 81 Cong., 1 sess., (1949), 8-9.

> the territory to establish a probationary State, the Congress of the United States retaining its present sovereignty over the territory.[7]

Even though this memorial deviated from the general pattern of requests it likewise brought forth no action.

B. Statehood Bills Introduced from 1919 to 1934.

On February 11, 1919, Delegate Kuhio Kalanianaole, from Hawaii, introduced into Congress a bill, H.R. 15865, the first of a series of bills to provide Statehood for Hawaii.[8] In the following session, on February 2, 1920, he introduced another bill, H.R. 12210, for granting Statehood to the Territory of Hawaii, leaving to Congress to determine the qualifications necessary for admission.[9] Delegate Victor S. K. Houston, from Hawaii, introduced a bill, H.R. 5130, on December 9, 1931, and Delegate Lincoln L. McCandless, from Hawaii, introduced a bill, H.R. 9403, on April 30, 1934, to enable the people of Hawaii to form a constitution and State government and to be admitted into the Union.[10] These bills met with little success and eventually died with each Congress.

C. Investigation of 1935 on Statehood Bill 3034.

On January 7, 1935, Delegate Samuel Wilder King, from

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[7] U.S. Cong. Rec., 69 Cong., 1 sess., LXVII, (1925), 603.

[8] U.S. Cong. Rec., 65 Cong., 3 sess., LVII, (1919), 3175.

[9] U.S. Cong. Rec., 66 Cong., 2 sess., LIX, (1920), 2383.

[10] U.S. Cong. Rec., 72 Cong., 1 sess., LXXV, (1931), 265; U.S. Cong. Rec., 73 Cong., 2 sess., LXXVIII, (1934), 7727.

Hawaii, introduced a bill, H.R. 3034, to enable the people of Hawaii to form a State government and to subsequently be admitted into the Union.[11] The bill was referred to the Committee on Territories.

On June 20, 1935, Representative Nicolas, of Oklahoma, introduced H.Res. 269 authorizing the Committee on Territories to hold hearings on H.R. 3034, and on H.Res. 270 to provide expenses for the hearings.[12]

Delegate King, on August 20, 1935, plead for statehood before the House of Representatives.[13] The support which he rallied for his measure led the House Committee on Territories to appoint a subcommittee to visit the Hawaiian Islands and investigate Statehood.[14]

The subcommittee arrived at Honolulu, T.H. during the first week in October and represented the first definite action in consideration for Statehood.[15] The first formal hearing was held at Iolani Palace, on October 7, but additional hearings continued there until October 16.[16]

Mr. W. Matheson indicated that the subcommittee on Territories cocked antipathetic ears to Hawaii's plea for

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[11] U.S. Cong. Rec., 74 Cong., 1 sess., LXXIX, (1935), 178

[12] Ibid., p. 9814.

[13] Ibid., p. 13861

[14] Hawaii Statehood Commission, "Hawaii. . . . and Statehood," (Washington, 1949), p. 24.

[15] New York Times, (October 4, 1935), p. 16.

[16] Idem.

Statehood:

> Surf riders, battling the combers off Waikiki Beach, thrilled the Congressmen; so did the hula dancers and the business of eating poi and pit and fish cooked in underground ovens. The Mighty Minds of Washington had been delighted with everything, but they had seen too many Japanese.[17]

In October the House committee said in its report:

> Your sub-committee found the Territory of Hawaii to be a modern unit of the American Commonwealth, with a political, social and economic structure of the highest type.
>
> Its educational program is an advanced one, with a large portion of the tax dollar being spent for the training of its youth. Even during the period of the depression, this program was neither relaxed nor reduced and its school facilities compare favorably with those of the most advanced states.
>
> Hawaii's economic standards are high, with an industrial and agricultural development forming a sound base for the continued growth of the Territory.[18]

The committee, though reporting somewhat favorably for the Islands, recommended that further study should be made before Statehood could be granted.

D. Investigation of 1937.

In January, 1937, Delegate Samuel Wilder King, from Hawaii, introduced H.R. 1523, and H.R. 7452 in the House of Representatives whereby the people of Hawaii could draw up a constitution for their State government and to be admitted into the Union.[19]

Through the persistent efforts of the Territorial

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17 W. Matheson, "Hawaii Pleads for Statehood," North American Review, CCXLVII, (March, 1939), p. 131.

18 Hearings on H.R. 3034, 74 Cong., 1 sess., (1935), 329.

19 U.S. Cong. Rec., 75 Cong., 1 sess., LXXI, (1937), 32, 5508.

Legislature and Delegate King, the House of Representatives adopted Senate Concurrent Resolution 18 on August 21, 1937, which provided for a joint congressional committee:

> That there is hereby created a joint congressional committee to be known as the Joint Committee on Hawaii, which shall be composed of not to exceed twelve Members of the Senate, to be appointed by the President of the Senate, and not to exceed twelve Members of the House of Representatives and the Delegate from Hawaii, to be appointed by the Speaker of the House of Representatives. The committee shall select a chairman from its members. The committee shall cease to exist upon making its report to Congress pursuant to this resolution.
>
> . . . The committee is authorized and directed to conduct a comprehensive investigation and study of the subject of statehood and of other subjects relating to the welfare of the Territory of Hawaii. The committee shall report to the Senate and to the House of Representatives not later than January 15, 1938, the results of its investigation and study, together with its recommendations for such legislation as it deems necessary or desirable.[20]

Pursuant to the resolution the committee was formed and held public hearings at Honolulu, Hilo, and Hoolehua, from October 8 to October 22, 1937.[21]

Prior to the committee's report, according to the New York Times, Dr. D. L. Crawford, President of the University of Hawaii, enroute to Washington, D.C., predicted that Hawaii would be forced to wait a decade for Statehood "because of racial prejudice in the United States," but he added that "most of the Congressmen who recently visited Hawaii discovered that admission would not imperil the Union and that the

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[20] Ibid., p. 9624.

[21] U.S. Senate Doc. 151, 75 Cong., 3 sess., (1938), 2-3.

140,000 American-born Japanese in the Islands are as good Americans as those born on the mainland."[22]

On February 15, 1938, Chairman William H. King, of Utah, submitted the report of the Joint Committee on Hawaii to the Senate, but whether the time was opportune for change of the territorial status remained a moot question. The committee summarized the discussions:

> That Hawaii was an independent nation for practically 100 years prior to annexation.
>
> That Hawaii was not a new land, occupied and settled by American immigrants, nor was it acquired by conquest nor purchase.
>
> That annexation was by voluntary action of the people and government of Hawaii; and was the consummation of the desire of the two contracting governments for a closer alliance, expressed over nearly 50 years of negotiations.
>
> That the history of those negotiations caused the Hawaiian people to believe that their place in the Union would follow the traditional course leading to statehood.
>
> That though annexation was by joint resolution of Congress, the latter's reference to the then pending treaty of annexation, and its own phraseology, confirmed this belief.
>
> That the prompt organization of Hawaii as an incorporated territory of the United States completed the purpose of annexation in accordance with the intent of both governments which were parties thereto.
>
> That such a government has always heretofore been a prelude to admission as a State.
>
> That the joint resolution of annexation extended American citizenship to all the citizens of the former Republic of Hawaii; and the people of Hawaii have since enjoyed all of the rights and privileges, and accepted without exception all of the duties and obligations, of American citizenship.
>
> That Hawaii has consistently paid into the Federal Treasury its share of the cost of the National Government

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[22] New York Times, (November 3, 1937), p. 27.

That Hawaii has fulfilled every requirement for statehood heretofore exacted of Territories.

That whatever the racial complexion of Hawaii may be was in fact already existent at the time of annexation and can hardly now be raised against its people.

That Hawaii's devotion to democratic principles, the patriotism and loyalty of its people, and the high development of its resources entitle it to a sympathetic consideration of its pleas for statehood.

On the other hand, the committee desires to call attention to the following:

That the admission of Hawaii as a state presents a departure as it would be the first noncontiguous area to be admitted.

That the present form of government, under which its people have prospered, has proven efficient and adequate to the needs of Hawaii.

That there is not complete unity on the question of statehood among the people of Hawaii itself, the number for or against being difficult to ascertain without a plebiscite.[23]

The committee then suggested that further study and consideration of the Statehood question be taken because of "the present disturbed condition of international affairs."[24] With this parting statement the committee recommended that the question of Statehood be deferred until a plebiscite is held to ascertain the wishes of the people.[25]

In accordance with this recommendation the Hawaiian Legislature authorized a plebiscite to be held at the general election November 5, 1940.[26] The plebiscite was held on November 5, and the results showed an overwhelming vote in favor of Statehood.[27]

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[23] Senate Doc. 151, op. cit., pp. 94-95.

[24] Idem.

[25] Idem.

[26] Hawaii Statehood Commission, op. cit., p. 27.

[27] New York Times, (November 15, 1940), p. 11.

E. The War Years.

The period of the war delayed further consideration of Statehood. Hawaii, with the rest of the Nation, diverted its energies toward the war and under martial law was forced to withhold its desires for Statehood.

The National Conventions held in 1940 saw both the Republican and Democratic parties backing the Territories' pleas for Statehood: the Republican Party in its platform stated, "Hawaii, sharing the nation's obligations equally with the several States, is entitled to the fullest measure of home rule; and to equality with the several States . . ."[28] while the Democratic platform, a little stronger in its sentiment, stated, "we favor a large measure of self-government leading to statehood for . . . Hawaii . . ."[29]

Delegate King, from Hawaii, introduced bills S. 4429, H.R. 597, and H.R. 4884, for the admission of Hawaii as a State, during the Seventy-sixth and Seventy-seventh Congresses, but each died in Committee.[30]

Hawaiian Delegate Joseph R. Farrington, on May 24, 1943, introduced a bill, H.R. 2780, to admit Hawaii as a State, but nothing came of it.[31]

The Republican Party platform in 1944 again favored

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[28] New York Times, (June 27, 1940), p. 5.

[29] New York Times, (July 18, 1940), p. 4.

[30] U.S. Cong. Rec., 76 Cong., 3 sess., LXXXVI, (1940), 13709; U.S. Cong. Rec., 77 Cong., 1 sess., LXXVII, (1941), 16, 4485.

[31] U.S. Cong. Rec., 78 Cong., 1 sess., LXXXIX, (1943), 4841.

Hawaiian Statehood by stating that it "supports the fullest measure of home rule looking toward Statehood for . . . Hawaii;"[32] while the Democratic platform stated that it, "favors enactment of legislation granting the fullest measure of self-government for . . . Hawaii and eventual Statehood . . ."[33]

During the Seventy-ninth Congress, first session, three additional Statehood bills were introduced in the House. Delegate Farrington introduced H.R. 3643, on June 5, 1945, and Representatives Hale and LaFollette introduced H.R. 7214 and 7267 respectively on July 3 and July 5, 1945. Of these, only H.R. 3643 received consideration.[34]

F. Congressional Investigation of 1946.

On May 28, 1945, the House of Representatives adopted House Resolution 236 which provided for the appointment of a committee or subcommittee to study and investigate conditions within Hawaii.[35] That part of the resolution dealing with the formation of a committee and a report to be submitted by said committee or subcommittee reads as follows:

> That the Committee on the Territories, acting as a whole or by a subcommittee or subcommittees, is authorized and directed to conduct a study and investigation of the various questions and problems relating to the

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[32] New York Times, (June 28, 1944), p. 14.

[33] New York Times, (July 21, 1944), p. 12.

[34] U.S. Cong. Rec., 79 Cong., 1 sess., XCI, (1945), 7104, 7214, 7267.

[35] Ibid., pp. 5218-5219.

Territories of Alaska and Hawaii.

The committee shall report to the House (or to the Clerk of the House if the House is not in session), as soon as practicable during the present Congress, the results of its investigation, together with such recommendations as it deems advisable. For the purpose of this resolution, the committee, or any subcommittee thereof, is authorized to sit and act during the present Congress at such times and places, whether or not the House is sitting, has recessed, or had adjourned, to hold such hearings, to require the attendance of such witnesses and the production of such books, papers, and documents, and to take such testimony as it deems necessary. Subpenas may be issued under the signature of the chairman of the committee or of any subcommittee, and may be served by any person designated by such chairman.[36]

On June 5, 1945 the resolution became effective when the chairman of the Committee on Territories appointed a subcommittee to visit the Territory of Hawaii to hold hearings and to make recommendations pursuant to the legislation introduced by Delegate Farrington.[37]

The subcommittee under Chairman Henry D. Larcade, Jr., of Louisiana, arrived at Honolulu on January 6 and the hearings were held from January 7 to January 18, at Honolulu, Hilo, Kona, and on the Islands of Maui and Molokai.[38] The subcommittee returned to the mainland on January 19, 1946. On January 24, 1946, Chairman Henry D. Larcade, Jr. submitted House Report 1620 to the House Committee on the Territories.[39]

After examining over one hundred witnesses in addition to

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[36] Idem.

[37] U.S. House Committee on the Territories, Statehood for Hawaii, hearings before the subcommittee, January 7-18, 1946, pursuant to H.Res. 236, 79 Cong., 2 sess., (1946), p. 2.

[38] U.S. House of Representatives, House Report 1620, 79 Cong., 2 sess., (1946), p. 2.

[39] Ibid., Letter Transmitting Report.

statements, memoranda, and statistical materials, the subcommittee's conclusions were:

> That Hawaii, with a population of over 500,000 has a larger population than any other State at the time of admission to the Union with the exception of Oklahoma.
>
> That the heterogeneous peoples of the Territory live and work together amicably, democratically, and harmoniously.
>
> That the mixed racial complexion of Hawaii existed at the time of annexation, was not regarded as an obstacle to statehood.
>
> That the percentage of persons of Japanese ancestry reached its peak in 1940 and has declined steadily since then due to prohibition of immigration, lower birth rate, and the increasing immigration of other peoples.
>
> That the people of Hawaii have demonstrated beyond question their loyalty and patriotism to the Government of the United States.
>
> That on the record of their behavior and their participation in the war, American citizens of Japanese ancestry can be little criticized.
>
> That such evidence of "block voting" as exists among Americans of Japanese ancestry is not likely to assume serious proportions, because they, like other peoples, are divided amongst themselves by differences, political, social, and economic.
>
> That Hawaii has been a Territory for 46 years, and now appears to be fully capable of self-government.
>
> That there is a concentration of land holdings in the hands of a few persons, companies, or estates, but attempts have been made to improve the situation . . .
>
> That the Big Five dominates a great portion of Hawaii's economy, but this economic dominance has not prevented the establishment of many and varied businesses. There are good prospects for small business in Hawaii. Further, the influence of the Big Five has not prevented the enactment of progressive legislation in the field of labor, education, health, and welfare.
>
> That in many communities of similar size, business policies are formulated by a relatively small number of individuals who hold positions of responsibility. There is no occasion to believe that these positions are maintained through stock control either directly or by means of proxies in Hawaii to any greater extent than is the case in many of the cities on the mainland.
>
> That labor has made great strides since 1937 and has contributed greatly to the Territory's progress in the field of social and economic legislation.

> That there is a growing mutual respect and confidence between management and labor in industrial relations.
>
> That the school system of Hawaii has been successful in instilling into the people of many races and backgrounds the objectives and ideals of democracy, and has produced a literate population capable of discharging the duties of citizenship.
>
> That modern inventions have annihilated distance. Honolulu today is closer to the American mainland in time than the cities of Boston and New York were to the Capital in the early days of the Nation. Hawaii is closer to the seat of the government today than all but the immediately adjacent States were when Washington first became the Capital of the United States . . .
>
> That a majority of the people of the Territory are in favor of immediate statehood. No organized group has appeared in opposition . . .[40]

In addition to these conclusions which enlarged upon those of the investigation of 1937, the subcommittee recommended the following:

> Therefore since--
>
> The people of the Territory of Hawaii have demonstrated beyond question not only their loyalty and patriotism but also their desire to assume the responsibilities of statehood; and since
>
> The policy of the United States Government is one of self-determination: that peoples be allowed to choose freely their form of political status; and since
>
> Hawaii's strategic location in the Pacific plays so large a part in our country's international position in this area; and since
>
> The Congress of the United States has through a series of acts and committee reports indicated to the people of the Territory that Hawaii would be admitted into the Union when qualified; and since
>
> The Territory of Hawaii now meets the necessary requirements for statehood:
>
> It is the recommendation of this subcommittee that the Committee on Territories give immediate consideration to legislation to admit Hawaii to statehood.[41]

On January 21, 1946, while the subcommittee was still in Hawaii, President Truman, in his message to Congress on the

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40 Ibid., pp. 10-11.

41 Idem.

State of the Union, urged that "Congress promptly accede to the wishes of the people of Hawaii that the Territory be admitted to statehood in our Union . . ."[42]

The subcommittee while holding its hearings did not have a formal report from the Interior Department, but the proposed bill, nevertheless, had the active support of the Department when its Srecretary, Julius A. Krug, in a letter dated April 25, 1946, stated:

> The period of apprenticeship served by the people of Hawaii should now be brought to a close and on the basis of the amply demonstrated readiness of Hawaii for statehood, the Congress should fulfill its early and reiterated pledges to admit the Territory to the Union when it was qualified.[43]

Notwithstanding, the Committee on the Territories of the House of Representatives adjourned on June 4, 1946, and H.R. 3643 died with the Seventy-ninth Congress.

G. House Action 1947-1948.

On January 3, 1947, Delegate Joseph R. Farrington, from Hawaii, introduced a bill, H.R. 49, to admit Hawaii as a State.[44] On the same day seven other identical bills, H.R. 50, 51, 52, 53, 54, 55, and 56 were introduced in the House of Representatives.[45] On January 7, Representative Miller, of California, introduced H.R. 579; on January 20, Representative McDonough, of California, introduced H.R. 1125; and on February 6,

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[42] New York Times, (June 22, 1946), p. 18.

[43] U.S. House Committee on the Territories, Hearing on H.R. 3643, June 4, 1946, 79 Cong., 1 sess., (1946), p. 3.

[44] U.S. Cong. Rec., 80 Cong., 1 sess., XCIII, (1947), 42.

[45] Ibid., pp. 42-43.

Representative Poulson, of California, introduced H.R. 1758.[46] These three bills, identical in nature, provided for Statehood.

The House Committee on Public Lands met at Washington, D.C. from March 7 to March 19, inclusive, to hold hearings on H.R. 49, and the ten other identical bills granting Statehood to Hawaii.[47]

Secretary Julius A. Krug, of the Department of the Interior, who had just returned from Hawaii, testifying before the Committee restated his advocacy for immediate Statehood.[48] On March 12, Delegate Farrington submitted an address which Secretary Krug had given before the Hawaiian Legislature on February 28, 1947, in which, Mr. Krug stated that President Truman supported the statehood proposal, by saying:

> The President of the United States assured me a few days before I left on this trip that he was firmly behind Hawaiian statehood and would do everything in his power to obtain it.[49]

The committee heard a report from Secretary of War Robert P. Patterson, in which, Secretary Patterson stated, "the War Department expresses no opinion as to the general purposes of the bill."[50] In other words the Secretary did not object to the bill. A report submitted by the Navy Department and signed by Acting Secretary of the Navy John L. Sullivan

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46 Ibid., pp. 156, 488, 876.

47 U.S. House Committee on Public Lands, Hearings on H.R. 49, March 7-19, 1947, 80 Cong., 1 sess., (1947), p. i.

48 Ibid., pp. 36, 39.

49 Ibid., p. 139.

50 Ibid., p. 15.

stated that "the Navy Department has no objection to the enactment of H.R. 49."[51] On March 20, 1947, the Committee on Public Lands voted unanimously to report favorably to the House of Representatives on H.R. 49.[52]

On March 27, 1947, Richard J. Welch, Chairman of the Committee on Public Lands, submitted House Report 194 which summarized its hearings by stating:

> If any doubt concerning the readiness of Hawaii to assume the responsibilities of statehood existed in the minds of members of the present committee prior to the recent hearings, they were dispelled by the detailed and decisive testimony of high-ranking officials and experts, both civilian and military.[53]

In its final conclusion the committee recommended that:

> On the basis of the voluminous testimony, exhibits, and factual evidence consistently submitted to this and former congressional committees, the Committee on Public Lands is unanimously convinced that the Territory of Hawaii has met every necessary requirement to be admitted as a State of the Union. It therefore unanimously recommends immediate approval of H.R. 49 by the House of Representatives.[54]

Thus, by this recommendation a Congressional committee had for the second time within two years unanimously reported and recommended immediate statehood for Hawaii.

The House Rules Committee in executive session ordered favorably reported H. Res. 212 which provided for a four-hour general debate on H.R. 49.[55] On June 30, Representative Allen,

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[51] Ibid., p. 73.

[52] U.S. Cong. Rec., (Daily Digest), 80 Cong., 1 sess., XCIII, (1947), D36.

[53] U.S. House of Representatives, House Report 194, 80 Cong., 1 sess., (1947), p. 11.

[54] Ibid., p. 21.

[55] U.S. Cong. Rec., 80 Cong., 1 sess., XCIII, (1947), 5397.

of Illinois, called up H. Res. 212 and it was agreed to on the same day.[56]

Representative Welch, of California, then proposed that the House resolve itself into the Committee of the Whole House on the State of the Union for consideration of H.R. 49. The motion agreed to, the House resolved itself into the Committee of the Whole House on the State of the Union for consideration of H.R. 49.[57] By unanimous consent, the first reading of the bill was dispensed with and consideration of the bill was immediately taken on the floor.

Representative Welch told the House that the bill, H.R. 49, was introduced by Delegate Farrington, who made such a forceful and factual presentation of his bill before the Committee on Public Lands, of which he is a member, that it received the Committee's unanimous approval. He went on further and stated that the Committee reported H.R. 49 to the House with a recommendation that it receive immediate approval.[58]

In higher praise of the bill, Representative Welch reported that there was an overwhelming support for statehood which had come to the Committee's attention from a variety of national organizations and associations. Over ninety per cent of the Nation's newspapers endorsed Statehood in editorials. In addition to this both major political parties have

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[56] Ibid., pp. 7912-7914.

[57] Ibid., p. 7916.

[58] Idem.

supported the statehood movement in their platforms.[59]

Representative Welch then stated that reports were requested from the War and Navy Departments, in addition to the Department of the Interior, on this bill. Secretary of War Robert P. Patterson, reported that the bill had his approval. The Navy Department, reporting through Acting Secretary, John L. Sullivan, gave its approval, plus the information that no acts of sabotage had been committed against the United States by any resident of Hawaii throughout the War. Julius A. Krug, Secretary of the Interior, submitted a favorable report on the bill, and in addition appeared before the Committee on Public Lands and strongly recommended its enactment into law.[60] Representative Welch ended by re-emphasizing his personal convictions, as well as the unanimous recommendation of the Committee on Public Lands, that H.R. 49 become a law.[61]

Delegate Farrington then took the floor and after expressing his gratitude to the Committee on Public Lands, he presented the main outline of his bill:

> In its main outlines, the bill follows the same pattern as the measures by which 29 other Territories, having served their period of pupilage, were admitted to the Union as States.
>
> It authorizes the duly qualified voters of the Territory of Hawaii to choose delegates to a convention to form a State constitution. The bill provides certain fundamental conditions that shall be met in this constitution. It defines the procedure by which the

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59 Idem.

60 Idem.

61 Ibid., p. 7917.

> constitution must be submitted, first to the people of Hawaii for their approval, and then to the President of the United States for his approval, after which the new State is proclaimed.
>
> The delegates to the convention would be chosen on a nonpartisan basis. The number of delegates would be 63. Of these, 42 would be chosen from separate districts. The remaining 21 would be chosen at large in the four principal counties of the Territory in accordance with the practice by which members of the upper house of the legislature have always been chosen.
>
> These provisions of the bill follow the recommendations of a bipartisan committee appointed by the Governor of the Territory.
>
> The same bipartisan committee recommended the provisions of the bill requiring the incorporation in the State constitution of the customary safeguards of religious freedom, maintenance of a new system of public schools, and assumption by the new State of the debts of the Territory.
>
> The bill would give the people of Hawaii, now numbering in excess of 519,000 persons, two Members in the House of Representatives and two in the United States Senate.[62]

After citing the major provisions of the bill, Delegate Farrington went on to state that the three congressional committees which had visted and investigated the Islands in the past twelve years had found that the people of Hawaii met all the requirements for Statehood.[63]

Delegate Farrington ended by saying, "the granting of statehood to Hawaii will be noted to freemen everywhere that, wherever the American Flag flies, democracy shall prevail."[64]

Representative Larcade, of Louisiana, took the floor and said:

> Three very complete and thorough investigations of Hawaii's readiness for statehood have been made in the past 12 years by Congress. It is my firm belief and conviction that these investigations show without a doubt that the Territory of Hawaii fully meets, and in most

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62 Idem.

63 Ibid., p. 7918.

64 Idem.

> instances, far surpasses the requirements for statehood heretofore exacted of Territories.[65]

Representative Larcade concluded his statements by saying:

> . . . Statehood for Hawaii has been approved by the majority of the people of the United States, as indicated by the Gallup poll. Statehood for Hawaii has been unanimously endorsed editorially by all the leading newspapers of the United States, by all of the officials of the Army and Navy, by former Secretary of the Interior Ickes, by present Secretary of the Interior Krug, and by both political parties of the United States. Both the Democratic and Republican parties made statehood for Hawaii a part of their platform. Last, but not least, statehood has been endorsed by the present President of the United States, Harry S. Truman.[66]

Representative Coudert, of New York, the main objector to H.R. 49 stressed the point that the population of the islands is sixty-odd per cent of oriental origin, that the overwhelming area of land is owned by a tiny percentage of the people, and that the total registration for the election of 1944 was 84,000 people, of whom only 71,000 voted. He then stated that the sponsors of the bill were willing to give these 71,000 people two United States Senators, one for each 35,000 people, while New York gets one for each 2,500,000.[67] While figures might be representative of the truth, Representative Coudert loses sight of the fact that the electors of Hawaii would be electing United States Senators, who would represent the United States as a whole, and not the State from which he is elected.

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[65] Ibid., p. 7919.

[66] Ibid., pp. 7919-7920.

[67] Ibid., p. 7922.

Representative Mansfield, of Montana, taking the floor refuted Representative Coudert's objection to the population of Hawaii as a detriment to statehood by citing that Nevada has fewer eligible voters at the present time than does Hawaii.[68]

The discussions came to a temporary standstill when it was pointed out that a quorum was lacking. Representative Arends, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee having had under consideration H.R. 49 had come to no resolution thereon.[69] After a slight delay the discussions were again resumed when the House resolved itself into the Committee of the Whole House on the State of the Union for consideration of H.R. 49.[70]

Representative Engle, of California, took the floor and voiced his sentiments in favor of Statehood. Stressing the economic factor, he said:

> . . . The statistics show that Hawaii has normally bought much more from the mainland than the mainland has bought from her, and all evidence points to mutually prosperous trade relations in the future--especially if all barriers to trade can be removed.
>
> We want to provide immediate statehood for Hawaii in order to remove a very serious inequity which may operate as a handicap to a continuation of our good relations. I refer to the violation of one of our most cherished American traditions--the principle that there must be no taxation without representation. It was brought out in our committee investigations that during the first 40 years after annexation Hawaii paid into the Federal Treasury $150,000,000 more than it received from it. In still

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[68] Ibid., pp. 7922-7923.

[69] Ibid., p. 7923.

[70] Ibid., p. 7927.

> more recent years the payments of internal revenue into the Federal Treasury have been greater than those of many of the mainland States. Yet the American citizens who pay these taxes still have no voice in deciding upon Federal taxes or Federal expenditures. We must bring and end to this discrimination at once.[71]

Representative Judd, of California, took the floor next and speaking in favor of Statehood said:

> . . . The United States of America stands for democracy against totalitarianism and for the principle of federation in government under which local self-government has been preserved against the encroachments of centralized power. I cannot imagine a better opportunity to demonstrate the value of these two great principles than by bringing Hawaii immediately into this Union of States. No step could be more timely when we are resisting the advance of the totalitarian system throughout the world.[72]

Representative Angell, of California, a former member of the subcommittee of the Territories Committee of the Seventy-ninth Congress that had visted the Islands, and also a sponsor of a Statehood bill in the Eightieth Congress, emphasized the strategic importance of Hawaii, by saying:

> While the advantages of statehood to Hawaii are great--permitting its people to elect their Governor, send voting representatives to the Congress, and vote in Presidential elections--the advantages to the United States are no less great, militarily and economically.
>
> The strategic importance to the United States of Hawaii's geographic location is surely obvious by now. Hawaii has been called the crossroads of the Pacific, lying, as it does, closer to North America than to any other large land area. America's interest in the Pacific has grown enormously as a result of the war, and it would be of distinct advantage to the United States to have in the Senate and House representatives from Hawaii who know the history and problems of the Pacific area.[73]

Representative Poulson, of California, a sponsor of

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[71] Ibid., p. 7928.

[72] Ibid., p. 7929.

[73] Ibid., p. 7931.

Statehood bills, and a member of the Committee on Public Lands, pointed out the inequality of the political rights of the Hawaiian people when he said:

> Forty-nine years after annexation these American citizens still have no voice in the election of the President or Vice President of the United States and no vote in the National Congress. Their Governor is appointed by the President instead of being elected by the people. Indeed their position is not unlike that of the people of the Thirteen Colonies prior to 1776.
>
> Yet, despite these disabilities, the people of Hawaii waited patiently and patriotically until the war was over to renew their demand for equal status. That demand is now reinforced by the voices of many thousands of mainland people who went to Hawaii during and since the war and who, by so doing, have disenfranchised themselves as far as their voice in the United States Government is concerned.[74]

Delegate Bartlett, from Alaska, speaking in behalf of Statehood for Hawaii said:

> As one who has spent a lifetime in a territory, I should like to say to you that the quality of citizenship is sadly diluted for those Americans who are obliged to live under territorial government. Powers of home rule which ought to be theirs as a matter of right are long and even continually denied and essential powers of government are retained in Washington. Always in the last analysis we must depend upon decisions made at the distant Capital by those who may or may not be well equipped to make those decisions, on matters of vital concern to us. That is not in the American tradition.[75]

Representative Miller, of California, added a new slant to the discussion for Statehood by saying:

> . . . It has been a surprise to many people to find that Hawaii is neither a dependency nor a backward colonial area.
>
> Instead of being a dependency, it actually contributes more to the Federal Government than it receives; and it buys from us more than we buy from it.

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[74] Ibid., pp. 7931-7932.

[75] Ibid., p. 7932.

> Instead of being a backward colonial area, it is a typical, prosperous American community, with standards of public health and education which are among the highest in the country.[76]

Delegate Farrington, from Hawaii, commenting on Representative Coudert's previous statement concerning Senatorial representation, said:

> My recollection is that there was only one Territory whose population at the time of admission exceeded that of the Territory of Hawaii, and that was Oklahoma. I think the best answer to the point raised in that respect by the gentleman from New York is that today in the House there are 13 States that are represented by 2 or fewer than 2 Representatives. If objection is to be raised to Hawaii from the standpoint of population, then it reasonably follows that their representation in the Senate should be reduced. After all, we are not responsible for the method of representation.[77]

Final discussion was brought to an end when the Committee rose, and the bill, H.R. 49, with an amendment was brought before the House for question on the passage of the bill. The question was taken and the House passed the Farrington bill by a majority of 196 to 133.[78] Thus, on June 30, 1947, the first decisive step was taken for admission of Hawaii as a State. The question now lay with the Senate.

H. Senate Action on H.R. 49.

On January 8, 1947, Senator Knowland introduced a bill, S. 114, which was identical in nature with that of H.R. 49.[79] The bill was referred to the Committee on Interior and Insular

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[76] Idem.

[77] Ibid., p. 7936.

[78] Ibid., p. 7941.

[79] Ibid., p. 166.

Affairs in July.[80]

The committee sent Senator Guy Cordon, of Oregon, as Chairman of a one-man subcommittee to further investigate conditions on the Islands. He was authorized to engage Circuit Court Judge Carl E. Wimberly to assist him in the undertaking.[81]

The subcommittee held its hearings at Oahu, Kauai, Molokai, Lanai, Maui, and Hawaii from January 5 to January 20, 1948.[82]

At the termination of the investigation Senator Cordon reaffirmed the findings and conclusions of previous committees and recommended favorable action on H.R. 49 by the Senate:

> Any other recommendation would be inconsistent with the facts and evidence disclosed during the investigation, the desires of Hawaii's people, and the conclusion reached by the last two congressional investigating committees.[83]

In conclusion the report reads as follows:

> Hawaii has met the requirements for statehood. It is the chairman's opinion that the Territory has served a satisfactory pupilage in the limited self-government permitted by the organic act. It is able and ready to accept the social, political, and economic responsibilities of State government as well as the advantages.
>
> As a State, it could more effectively manage its own affairs and contribute to the welfare of the Nation. As a Nation, the United States, by granting statehood to Hawaii at this juncture in history, could demonstrate to the world that it means what it says and practices what it urges when advocating true democracy for all peoples.[84]

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[80] Hawaii Statehood Commission, op. cit., p. 34.

[81] Idem.

[82] U.S. Senate Committee on Public Lands, Hearings on H.R. 49 and S. 114, January 5-20, 1948, 80 Cong., 2 sess., (1948), p. 1.

[83] Hawaii Statehood News, (Washington, March 27, 1948).

[84] Idem.

On April 2, 1948, the Committee on Interior and Insular Affairs in executive session considered H.R. 49, andthe Chairman announced after the meeting that the subcommittee would hold hearings on the bill beginning April 15.[85] The primary purpose of such hearings, he siad, "would be to obtain views of United States citizens before final action is taken."[86]

On April 15, 1948, the following witnesses appeared before the Subcommittee on Territories and Insular Affairs and testified in support of H.R. 49: Oscar L. Chapman, Department of the Interior; Lawrence C. Clayton, Federal Reserve Board; Stanley Cook, Congress of Parents and Teachers; Marjorie Temple, American Association of University Women; Clifford Dancer, National Field Secretary, American Veterans Committee; Delegate Joseph R. Farrington, of Hawaii; Seth Richardson, former Attorney General; and Robert L. Shivers, FBI Agent formerly in Hawaii. Significantly enough, no witnesses appeared in opposition to the Statehood bill.[87]

The Senate Committee on Public Lands, on May 8, 1948, deferred action on H.R. 49 by a vote of 7 to 5 until members of the Senate Committee who desired to study the matter on the ground could go to Hawaii.[88]

On May 10, 1948, Senator Knowland submitted to the Senate

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[85] U.S. Cong. Rec., (Daily Digest), 80 Cong., 2 sess., XCIV, (1948), D226.

[86] Idem.

[87] Ibid., p. D259.

[88] New York Times, (May 9, 1948), p. 48.

Sen. Res. 232 which resolved:

> That the Committee on Interior and Insular Affairs is hereby discharged from the further consideration of the bill (H.R. 49) to enable the people of Hawaii to form a constitution and State government and to be admitted into the Union on an equal footing with the original States.[89]

On May 20, 1948, S. Res. 232 was put to the question and after a limited debate failed to pass by a vote of 51 to 20.[90] The debate, however, revealed that two issues were utmost in the minds of the Senate Committee's members--"the existence or non-existence of the menace of communism in the Islands, and the possibility that the proposed State of Hawaii might send an "alien" to the United States Senate."[91]

This action ended further consideration of the bill by the Eightieth Congress.

I. Statehood Bills Introduced in 1949.

On January 3, 1949, Delegate Joseph R. Farrington, from Hawaii, introduced a bill, H.R. 49, to admit Hawaii as a State, and on the same day a similar bill was introduced by Representative Angell, of Oregon.[92] On January 5, Senator Knowland, for himself and Senator Cordon, introduced in the Senate S. 156, and Representative McDonough, of California, introduced H.R. 866; on January 6, Representative Hale, of Maine,

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[89] U.S. Cong. Rec., 80 Cong., 2 sess., XCIV, (1948), 5467-5468.

[90] Ibid., pp. 6160, 6176

[91] R. Emerson, (and others), America's Pacific Dependencies, (New York, 1949), p. 74.

[92] U.S. Cong. Rec., 81 Cong., 1 sess., XCV, (1949), 14.

introduced H.R. 944; on January 25, Representative Larcade, of Louisiana, introduced H.R. 1839; on January 31, Representative Simpson, of Illinois, introduced H.R. 2009; on February 3, Representative Mansfield, of Montana, introduced H.R. 2301; on May 5, Senator Kefauver, of Tennessee, introduced S. 1782.[93] These bills identical in nature, provided for Statehood. Of these, only H.R. 49 subsequently received action.

J. Congressional Action 1949.

On March 3, 1949 the Subcommittee on Territorial and Insular Possessions ordered H.R. 49 reported to the full Committee, as amended.[94] On March 8 the Committee on Public Lands ordered H.R. 49, the Farrington bill, reported to the House.[95] Representative Redden, from the Committee on Public Lands, submitted House Report 254, on March 10, in which the Committee favorably reported H.R. 49 with amendments, and recommended that the bill be enacted.[96] H.R. 49 was referred to the Committee of the Whole House on the State of the Union.[97]

On June 23, 1949, the Hawaiian drive for Statehood hit a snag when Senator Hugh Butler submitted, in the Senate, a copy of a report of his investigation in Hawaii, with respect to H.R. 49 (80th Congress), pursuant to the authority granted by

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[93] U.S. Cong. Rec., 81 Cong., 1 sess., XCV, (1949), 14, 41, 80, 95, 539, 737, 819, 5632.

[94] U.S. Cong. Rec., (Daily Digest), 81 Cong., 1 sess., XCV, (1949), D131.

[95] Ibid., D149.

[96] U.S. House of Representatives, House Report 254, 81 Cong., 1 sess., (1949), p. 1.

[97] Idem.

the Committee on Interior and Insular Affairs on May 8, 1948.[98]

After submitting the report Senator Butler said:

> My visit to Hawaii, supported by many interviews on the islands, leaves me with the deep conviction that international revolutionary communism at present has a firm grip on the economic, political, and social life of the Territory of Hawaii. Statehood should not be considered seriously, in my opinion, until the people of the islands demonstrate by positive steps a determination to put down the menace of lawless communism.
>
> . . . By the well-known infiltration tactics of world communism, a relative handful of Moscow adherents in the islands, operating chiefly through the International Longshoremen's and Warehousemen's Union, has persistently sabotaged the economic life of the Territory. This premeditated campaign of sabotage, through strikes, slowdowns, arbitrary work stoppages, and violent radical agitation, is inspired, managed, directed, and financed largely through the international headquarters of the ILWU in San Francisco.
>
> Harry Bridges, president of the ILWU, is the unseen Communist dictator of the Territory of Hawaii. He operates through John Wayne Hall, regional director of the ILWU in Honolulu, who is an identified Communist.
>
> Both the ILWU and Harry Bridges, personally, are publicly identified in the records of the House Committee on Un-American Activities as long-time Communist operatives.[99]

Under subheading "Communism in Hawaii" Senator Butler's report reads:

> The Communist Party in the Hawaiian Islands is a subdivision of the Communist Party of the U.S.A., district No. 13, which has its headquarters in San Francisco, California.
>
> The highest body of the Communist Party in Hawaii is the General Convention, composed of delegates from the various party cells throughout the Territory. When the convention is not in session, the actual directing body is the Territorial executive committee. The members of this executive committee are named by the Communist Party branch in the Territory.
>
> There are 11 branches of the Communist Party in Hawaii, 9 of which are on the island of Oahu, and 1 each on the islands of Hawaii and Kauai.

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[98] U.S. Cong. Rec., 81 Cong., 1 sess., XCV, (1949), 8171.

[99] Idem.

. . . Until 1947 the Communist Party in Hawaii functioned as an underground organization.

At a meeting of the leaders of Communist Party, district No. 13, in San Francisco, California, on September 26, 1947, Mrs. Charles Kazuyuki Fujimoto reported that various Communist Party members in the trade-union movement in Hawaii were working with leaders of the ILWU, and with certain factional representatives of the Democratic Party in Hawaii. Mrs. Fujimoto stated the Democratic Party in Hawaii was selected by the local Communist executive committee to be the political organization to which the Communist Party would infiltrate and operate.

By March 1948 the ILWU had undertaken a militant campaign to infiltrate and control the Democratic Party from the precinct level up through the Territorial convention, which was scheduled for May 1948.

This infiltration of the Democratic Party in Hawaii was under the direct leadership of Harry Lehua Kamoku, a recognized Communist and a prominent ILWU leader.

On March 9, 1948, Law Ah Chew, chairman of the Oahu County Democratic Committee, announced that all Democratic precinct clubs on Oahu would become inactive as of midnight, March 31, 1948, and that new officers and delegates to the Territorial convention of the Democratic Party would be elected on April 1, 1948. This was the big Communist coup.

This action of Chew in dissolving all Democratic precinct clubs was planned to place the advantage in the precinct elections in the hands of the communist-controlled ILWU element. In spite of considerable opposition to Chew's order, Democratic precinct elections were held generally on April 1, 1948. They resulted in a clean sweep for the Communist-controlled, ILWU group. That group thereupon took over the Democratic Party organization in the Territory, lock, stock, and barrel. The former Democratic Party became the Communist apparatus in the Territory of Hawaii.[100]

Senator Butler's report then cited the Communist objectives in Hawaii:

Statehood for Hawaii is a primary objective of Communist policy in the Territory. The ILWU and the Communist Party say frankly that they could control a clear majority of the delegates who would write the new State constitution.

It is my opinion that the immediate objectives of the ILWU-Communist Party conspirators in Hawaii are:

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[100] Ibid., pp. 8171-8172.

(1) Statehood, with a State constitution to be dictated by the tools of Moscow in Honolulu;
(2) Removal of Governor Ingram M. Stainback, to be replaced by a Governor named by the Communist high command in Hawaii;
(3) A general strike to paralyze all business activities in the islands.[101]

The Butler report in summary recommended:

It is my firm conviction following my visit to the islands and a long study of the ramifications of Communist penetration there, that the admission of the Territory of Hawaii to the Union at this time would not be in the best interests of either the Territory of Hawaii or the United States.
In summary, this report recommends:

(1) That statehood for Hawaii be deferred indefinitely until communism in the Territory may be brought under effective control.
(2) That the Territorial government of Hawaii be encouraged to take positive steps within the scope of its authority to suppress unlawful communistic activities.
(3) That the executive branch of the Federal Government through the Department of Justice, take immediate steps to prosecute lawless communism in the Territory, and to protect from force and violence those who honestly seek to support and strengthen orderly constitutional government.
(4) That Congress take cognizance of the very serious economic problems which confront Hawaii as a result of the activities of the Communist-dominated ILWU and immediately enact remedial legislation.[102]

The Butler report aroused in the minds of congressmen the question as to whether the existence or non-existence of the menace of communism in the Islands was detrimental or beneficial to Statehood. The opponents argued that the Communist issue had to be settled first. They wanted to be sure that the left-wingers could not control the elections for local, territorial and Congressional posts, and some asserted that

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101 Ibid., p. 8175.

102 Idem.

the United States could not afford to establish a new State in the mid-Pacific until the issue was settled. The backers of Statehood say that the time is more opportune than ever before for taking the step to Statehood. They claim that the public has been familiarized with the Communist infiltration, and that they are on their guard.[103]

On July 20, 1949, Representative Mansfield, of Montana, on the floor of the House introduced, in retaliation to Senator Butler's report of June 23, a letter dated July 5, 1949 addressed to Senator Hugh Butler from former Senator Edward R. Burke, also of Nebraska, and now counsel of the Hawaii Statehood Commission. Counsel Burke's letter expressed the following statements:

> For my part, it is your stated conclusion with which I take sharp issue. In my judgment you make a strong case, not for the indefinite postponement of statehood, but rather for favorable action at this session of Congress.
>
> Of the people of Hawaii, you say:
>
> "An overwhelming majority are hard-working, law-abiding citizens, devoted to the fundamental principles of responsible self-government in the American tradition. . . . The Territory of Hawaii stands high in the scale of education, achievement, culture, business acumen, and fine civic spirit."
>
> Again you state:
>
> "An overwhelming majority of the people of the Territory desire to see Hawaiian communism put down."
>
> In view of these unequivocal statements of yours, which are fully substantiated by every investigator who has visited the islands, how can you possibly reach the conclusion that statehood should be definitely postponed because of the danger that the Communist Party would "control a clear majority of the delegates who write the new State constitution." Who will choose the delegates who will sit in that convention and write the new constitution? The answer is obvious. The electors--of whom

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103 New York Times, (June 26, 1949), sec. I, p. 38.

the overwhelming majority, you correctly testify, are "law-abiding citizens, devoted to the fundamental principles of self-government in the American tradition." The delegates will be chosen by electors--of the overwhelming majority, to use your own language "desire to see Hawaiian communism put down."

There is a further consideration. When the new State constitution has been written it must be submitted for approval. To whom? Why, in the first instance, to those same intelligent citizens who, in overwhelming majority, are thoroughly devoted to American ideals. If by any chance, which is unthinkable, subversive influence should prevail in dictating any part of the new constitution, you must know what would happen. Such a constitution would be rejected by that great majority of voters who hate communism.

There is still a further safeguard. When a constitution has been written by the delegates chosen in a free and honest election by those loyal citizens of whom you speak so highly, when that constitution has been discussed and debated,in every home and hamlet throughout the island, and has met with approval by a majority of those same intelligent and loyal Americans, before it has any effect it must be submitted to the President of the United States and approved by him.

In view of all this, is it not specious reasoning to argue that statehood should be postponed because of the danger that Hawaii might become a State under a constitution dictated by Communists? The fact is that the selection of delegates, the deliberations of the convention, the submission of the proposed constitution to the electorate for approval, all of this will create the most favorable atmosphere for that great majority of loyal and patriotic citizens of Hawaii to present a united front against any subversive group that may be in existence.

You were in Honolulu on election day. Do you not think it should be stated that not a single follower of the Communist Party line was elected to any office of importance in the entire Territory? On that day the voters gave their answer to the fear of Communist power that disturbs you.[104]

On July 22, 1949, according to the New York Times, Representative Peterson, of Florida, Chairman of the House Public Lands Committee, stated that he would not press for House

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104 U.S. Cong. Rec., 81 Cong., 1 sess., XCV, no. 130, (1949), A4871.

action this year on bills to give Statehood to Hawaii.[105] He added, however, that "we will press for action early in the next session, instead, when there will be more time and our chances will be much better."[106]

From August 15 to August 17, inclusive, Representatives Marshall, of Minnesota, Peterson, of Florida, and Smith, of Wisconsin, urged that the Rules Committee of the House bring up the bill providing Statehood for Hawaii so it could be voted on the floor.[107]

Senator Harry P. Cain, of Washington, said that Hawaii's campaign for Statehood was lost in the present Congress, but, "if it hadn't been for your strike, you might have made it," according to the New York Times.[108]

K. The Prospective Hawaiian State Constitutional Convention.

On October 19, 1949, Hawaiian Delegate, Joseph R. Farrington introduced in the House excerpts from a speech delivered by Samuel Wilder King, Chairman of the Hawaii Statehood Commission, at Honolulu, on the prospective State Constitutional Convention of the Territory of Hawaii. These excerpts were used as an answer to the communism bugbear which Senator Hugh Butler flailed in his report on June 23. The following are excerpts from the address:

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105 New York Times, (July 23, 1949), p. 3.

106 Idem.

107 U.S. Cong. Rec., 81 Cong., 1 sess., XCV, no. 148, 149, 150, (1949), 11692, 11799, 11919.

108 New York Times, (September 6, 1949), p. 25.

In all, 15 States came into the Union without the formality of an enabling act; namely Arkansas, California, Florida, Idaho, Iowa, Kansas, Kentucky, Maine, Michigan, Oregon, Tennessee, Vermont, Texas, West Virginia, and Wyoming.

Several of these States never were actually organized as territories, but nine others, including Florida, Iowa, Michigan, Oregon, and Tennessee, were incorporated territories, and failing action by Congress went ahead and drafted a Constitution, and upon its approval qualified for admission as a State.

Such a course was seriously questioned by the proponents of statehood for Hawaii over 10 years ago.

. . . During our present drive for statehood the project has been revived. The plan was endorsed by both political parties and incorporated in their platform for the 1948 elections.

The legislature at its regular session of 1949 passed, an Act 334, to provide for a constitutional convention, the adoption of a State constitution, and the forwarding of the same to the Congress of the United States, and appropriating money therefor.

. . . Both the enabling bill and Act 334 provide for the election of 63 delegates from throughout the Territory, to comprise the constitutional convention. For the first time in our political history the apportionment of representation is done more nearly in proportion to population.

. . . Act 334 was approved Friday, May 20, 1949. It provided for a proclamation by the Governor ordering a primary election, the proclamation to issue not earlier than 30 days nor later than 180 days after the effective date of the act.

Thirty days after Friday, May 20, 1949, was Sunday, June 19, 1949, and 180 days after Friday, May 20, 1949 will be Wednesday, November 16, 1949.

The primary election is to be held not earlier than 60 days nor later than 90 days after the proclamation. Assuming that the proclamation is issued on the last possible day, 60 days thereafter will be Sunday, January 15, 1950, and 90 days will be Tuesday, February 14, 1950.

Following the primary election, a final election is to be held not earlier than 30 days nor later than 40 days thereafter. Assuming the primary election is held on the last possible day, 30 days thereafter will be Thursday, March 16, 1950 and 40 days will be Sunday, March 26, 1950.

The elected delegates are to meet on the second Tuesday following the final election (excluding the day of election in case such day should be Tuesday). Assuming the final election is held on the last possible day, the second Tuesday thereafter will be April 4, 1950.

The elections prescribed by Act 334 are non-partisan; that is candidates for delegates to the convention should

> run as individuals without political label. This does not mean, however, that the political parties are barred from taking an interest in the election and making every effort to encourage outstanding citizens from their respective party members to seek election to the convention.[109]

Although Congress did not authorize this convention the Territory is working to draft a constitution. The Hawaiian electorate took its first concrete step on February 12, 1950, when it went to the polls in a primary election to elect the sixty-three seats as delegates to the convention.[110] Eighteen candidates, including Samuel Wilder King, former Delegate to Congress, were elected outright as delegates to the convention which is scheduled for April 4.[111] Statehood backers attached considerable significance to the turnout of voters as the Congressmen in the United States who hold the fate of the Hawaiian Statehood bill were sure to watch the election results to guage the measure of interest in Statehood in the Territory.

On April 4, 1950 Hawaii opened its "forty-ninth State" constitutional convention and the sixty-three delegates were called to order by Secretary of Hawaii, Oren L. Long.[112] Samuel Wilder King was elected temporary president of the convention. During the day delegates signed a Territorial

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[109] U.S. Cong. Rec., 81 Cong., 1 sess., XCV, no. 196, (1949), A6797-6798.

[110] Denver Post, (March 3, 1950), p. 13.

[111] New York Times, (February 13, 1950), p. 13.

[112] New York Times, (April 5, 1950), p. 26.

oath of loyalty, required by legislative action that "I am not now nor have I been at any time within five years next preceding taking this oath a Communist or a member of the Communist Party."[113]

The people of Hawaii plan to present their constitution to Congress as did other States of the Union.

L. Congressional Action 1950.

On January 12, 1950, Delegate Farrington brought to the attention of the House a report which had been submitted to the Chairman of the House Committee on Public Lands, under date of January 10, 1950, by a subcommittee which had recently toured the Central Pacific and the Far East. This report states:

> . . . Special Committee on Pacific Territories and Island Possession strongly urges that steps be taken to bring to a vote immediately H.R. 49.
>
> En route to Samoa, the Trust Territory, Guam, and the Far East the committee stopped for two days at Honolulu. The officials charged with the government of Samoa, the Trust Territory, and Guam have drawn heavily upon the experience and the personnel of Hawaii in meeting many of their most important problems. . . . In traveling through these islands the committee found many places the results of the very important influence being exerted by Hawaii. People of the Pacific look to Hawaii in many respects much as the French do to Paris, the British to London, and Americans to Washington and New York. Its unquestionably one of the principal cultural centers of the Pacific and recognized as such by those who have been charged with the responsibility for the administration of our Pacific possessions.
>
> Prompt enactment of H.R. 49 will strengthen the position of this country among the people of the Pacific islands and the Far East.
>
> The prompt admission of Hawaii to the Union as a State will be notice to the people of the Pacific and to the world that this country intends in no sense to retreat from its position of leadership in the Pacific, won at a

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113 Idem.

> great cost in World War II, and on the contrary proposes that every legitimate step be taken to preserve and strengthen the objectives achieved in that struggle.
>
> The committee, therefore, recommends:
>
> That the period of statehood long held out to the people of Hawaii be promptly fulfilled. It believes that this action at this time is in the national interest.[114]

On May 16, 1949, Representative Peterson introduced in the House of Representatives H. Res. 218 which provided for the bringing up of H.R. 49 for consideration on the floor. On January 23, 1950 the resolution was agreed to by the House. On March 3, 1950 Representative Peterson moved that the House resolve itself into the Commitee of the Whole House on the State of the Union for consideration of H.R. 49. The motion agreed to, the House resolved itself into the Committee of the Whole House for consideration of H.R. 49. By unanimous consent, the first reading of the bill was dispensed with and consideration of the bill was immediately taken on the floor.[115]

Representative Peterson speaking in behalf of Statehood said:

> They paid more into the Federal Treasury in 1949 than 11 other States. They paid $90,824,693. This exceeds the amount paid by 11 States: Arizona, Montana, Nevada, New Hampshire, New Mexico, North Dakota, South Dakota, Utah, Vermont, and Wyoming.[116]

Delegate Farrington taking the floor said:

> The bill before us is almost identical with the bill passed on June 30, 1947, by a vote of 196 to 133, The only changes that have been made in it are minor, and

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[114] U.S. Cong. Rec., 81 Cong., 2 sess., XCVI, no. 8, (1950), A210-211.

[115] U.S. Cong. Rec., 81 Cong., 2 sess., XCVI, no. 44, (1950), 2821.

[116] Ibid., p. 2822.

> have been made necessary by the passing of time.
> . . . In addition to that, the people of the country support the admission of Hawaii to the Union as a State. A poll of public opinion taken in recent years was concluded on February 22, and it showed the people 4 to 1 in favor of statehood for Hawaii.[117]

Representative Passman, of Louisiana, referring to himself as a Member who speaks seldom for or against proposed legislation, took the floor and backed statehood for Hawaii, by saying:

> Unless I have been misinformed--and I do not believe that I have been--there is no sound reason or logic why Hawaii should not be granted statehood. It would appear to me the plain truth is that, through neglect, the Congress of the United States is guilty of imposing taxation without representation on half a million American citizens, the people of Hawaii.[118]

The Committee of the Whole House on the State of the Union came to no resolution and the House adjourned until Monday, March 6.[119]

On March 6, the House reconvened, and Representative Peterson again requested that the House resolve itself into the Committee of the Whole House on the State of the Union for further consideration of H.R. 49. The motion was agreed to and the House resolved itself into the Committee of the Whole House on the State of the Union for further consideration of the bill H.R. 49.[120]

Representative O'Hara, of Illinois, although advocating

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[117] Idem.

[118] Ibid., p. 2823.

[119] Ibid., p. 2825

[120] U.S. Cong. Rec., 81 Cong., 2 sess., XCVI, No. 46, (1950), 2906.

Statehood for Hawaii, pointed out the fact that by accepting a non-contiguous Territory into the Union the United States was laying the groundwork for a new pattern:

> For the first time we are accepting into the family of sister States those Territories that are outside of continental United States and not contiguous thereto. Where this will end, to what extent conceivably the pattern may be carried in the realization of the dream of our generation of a permanent peace through a world union of states, only the future can tell.[121]

Representative Engle, of California, also a sponsor of Hawaiian Statehood bills, said:

> It has been recognized historically that when Congress actively recognizes a Territory as a part of the United States and incorporates it into the Union as such that in itself is a prerequisite to any step in the direction of statehood.[122]

Representative Angell, of Oregon, who had served as a member of the subcommittee on the Territories Committee of the Seventy-ninth Congress that visited the Hawaiian Islands, and who also sponsored a statehood bill during the Eightieth Congress, said:

> Furthermore, it was our feeling and it is my feeling that the Red question, the question of communism, so-called, presents no more serious problem therein the islands than it does here on the mainland. I doubt, in fact, in some respects that it is as much a problem there as it is here. Coming from the Pacific Coast, as I do, you know we have the problem rather intensified there. We are attempting to solve it. We are making some headway with it. The Nation is attempting to solve it. We are making some headway with it. We perhaps are not entitled to too much patting on the back with respect to it. But in the islands they are doing a fairly good job.[123]

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121 Ibid., p. 2910.

122 Ibid., p. 2913.

123 Ibid., p. 2917

Representative Delaney, of New York, the main objector to H.R. 49 stressed the point that if Hawaii and Alaska were the only possession to be admitted then the Congress could close the book, and there wouldn't be an issue, but he said:

> . . . If we admit Hawaii and Alaska, we must also admit upon application Puerto Rico and the Virgin Islands. As soon as the Virgin Islands and Perto Rico are admitted to the Union you will find a long trail of other islands asking that they be admitted as States in this Union.[124]

Representative Cox, of Georgia, another objector to the bill stressed the communistic factor:

> . . . We are creating a State that we know is Communist controlled and, Mr. Majority Leader, you know that is so. When you admit Hawaii you will have accepted into the sisterhood of States a community that Harry Bridges dominates as if it were his child . . .[125]

Representative Larcade, of Louisiana, when he had the floor answered Representative Delaney's object (that the United States would have to admit Puerto Rico, the Virgin Islands, and other islands into the Union, if Hawaii and Alaska were admitted) by citing that the question had been sufficiently discussed in the past to establish the fact that these possessions were in an entirely different cateogry.[126] He further stated:

> These questions, if they are presented, will have to be resolved when they are presented to the Congress. With respect to the establishment of policy regarding the admission of Territories to statehood in the United States, I want to say that I believe that policy has been firmly established by precedent in the admission

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124 Ibid., 2927.

125 Ibid., 2916.

126 Ibid., 2928.

of other Territories when they were granted statehood.[127]

Final discussion was brought to an end when the Committee rose, and the bill, H.R. 49, with amendments was brought before the House for question on the passage of the bill. The question was postponed until March 7.[128] On March 7 the question was taken and the House passed the Farrington bill by a majority of 262 to 110.[129]

For the second time in a little over two years, the House of Representatives had passed a Statehood bill for Hawaii.

The next move will be up to the Senate Committee on Interior and Insular Affairs. On March 7 Senator O'Mahoney, of Wyoming, Chairman of the Committee, according to the New York Times, said that he would put the question of holding hearings on H.R. 49 before the Committee, but he did not say when.[130] On March 8 he reiterated his former statement, but added that the Committee would eventually hold hearings on the proposed bill, H.R. 49.[131] He further stated that no definite date could be set because of the pressure of other legislation before the Committee.[132] While he refused to predict its outcome, he said, "you can be sure the committee

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127 Idem.

128 Ibid., p. 2932.

129 U.S. Cong. Rec., 81 Cong., 2 sess., XCVI, no. 47, (1950), 2992.

130 New York Times, (March 8, 1950), p. 20.

131 New York Times, (March 9, 1950), p. 26.

132 Idem.

will diligently perform its duty with regard to the bills."[133]

M. Causes for Failure of H.R. 49.

There has been seven congressional investigations made on the question of Statehood for Hawaii, and there have been no less than thirty-six Statehood bills introduced to date in Congress. The investigators, in the majority of the investigations, have turned in favorable reports and have recommended that legislation be enacted granting Statehood. The Farrington Bill, H.R. 49, to admit Hawaii as a State has passed the House of Representatives twice--on June 30, 1947 and March 7, 1950.

Why has the Senate failed to pass legislation granting admission of Hawaii as a State? Why isn't Hawaii a State?

The main reasons given for opposing Hawaiian Statehood are: the Islands are non-contiguous to the continental United State; the Islands would send two Senators and two Representatives to Congress which would increase the disproportionate voting power of the small States; that the large percentage of non-Caucasian population would vote as a bloc and gain control of the new State, as well as send Senators to Congress; and the question of the existence of Communism as a dominant influence on the Islands.

The objections are discussed in order. First the non-contiguity of Hawaii. With modern means of transportation and communication the factor of distance has been annihilated. Honolulu, the capital of Hawaii, is closer to the mainland

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133 Idem.

today in time than was New York to the Capital, at Washington, D.C., in the early days of the Union.[134] The average flight from the mainland is eight hours.[135] Is this a valid reason for denying Hawaii Statehood?

Certain members have expressed their objections over the increased representation which would occur by Hawaii becoming a State. These objectors--the large states--state that Hawaii with a voting electorate of approximately 80,000 would have one Senator for approximately 40,000 voters, while a large State like New York only gets one Senator who represents approximately 2,500,000. Today in the House of Representatives there are thirteen States which are represented by two or less than two representatives. In addition, the State of Nevada with a smaller population than that of Hawaii is represented in the Senate by two Senators. Accordingly then Hawaii's representation should be cut down in the Senate. But Hawaii is not responsible for the method of representation; only the people of the United States can decide this by a constitutional amendment. This, likewise, is hardly a valid reason for denying Statehood to Hawaii. By denying Statehood to Hawaii the problem would not be solved for the Senators who are in opposition.

The objection to Hawaii's non-Caucasians was solved by their heroic actions of the Japanese-Americans during World War II. The F.B.I. has reported that the Japanese in Hawaii

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[134] Supra., p. 2.

[135] Collier's, "The 49th State," (April 8, 1950), p. 74.

during World War II did not commit one act of sabotage. Past investigations of the Islands have revealed that there had been slight evidences of bloc voting by the non-Caucasians. However, it is not likely to assume serious proportions, because like other peoples they are divided amongst themselves, politically, economically, and socially.

A new slant has been added to take the place of the racial question, or is it just a cover over? The objectors to Statehood now carry their banners denouncing the communistic threat to Hawaii. They claim that Hawaii is overrun by Communists; that they control the key political posts; that they dominate the International Longshoremen's and Warehousemen's Union, which in 1949 paralyzed Hawaii's vital two-way shipping by a six-month strike. The six-month strike offered the Communists the best opportunity to take control of Hawaii, but they were unable to do so. Hawaii, without Mainland support, stood up under the hardships inflicted by the strike, and at the same time keeping the Communists in place, is convincing enough to prove that the Communists have not made the progress that some opponents of Statehood would have us believe. By this action the average Hawaiian has proved to be a loyal, law-abiding American citizen who still appreciates the principles of a working democracy. No doubt there are Communists at work in the Islands, but they are also at work on the Mainland.

These were the main reasons why Statehood has failed to date.

What does the future hold for the Hawaiian Statehood bill?

The question is now up to the Senate. Will it act on Statehood bill, H.R. 49? If it follows the same procedure as it did in the Eightieth Congress, the bill will be doomed until another Congress convenes. While this study is being written the Senate Committee on Interior and Insular Affairs are holding hearings on H.R. 49.

It is the contention of the writer that the Statehood bill will fail to receive the necessary Senate consideration during the second session of the Eighty-first Congress. The Senate has always been reluctant to admit new States, and with the reasons for failure mentioned supra, it will only make it more reluctant.

Hawaii's best chance for attaining Statehood is through the formulation of a State Constitution which it can present to Congress for approval. On April 4, 1950 Hawaii opened its "forty-ninth State Constitutional Convention" under authority of Act 334 passed by the Hawaiian Legislature in 1949. This convention will formulate a State Constitution and after it is ratified by the Hawaiian electorate, it will be presented to Congress. Fifteen previous States came into the Union by presenting State Constitutions, instead of the formality of an enabling act.

Hawaii has a majority of the members of the House of Representatives behind it on the Statehood question. The Senate

has never debated on the Hawaiian Statehood bill. Nevertheless, in a recent poll taken of Congressmen on their views as to whether Hawaii should be a State, a majority of Senators were behind it. With this in mind, now would be the time to submit the State Constitution for approval. Let this State Constitution be the telling point.

CHAPTER VI

THE MOVEMENT FOR STATEHOOD--ALASKA

The statehood movement subsequent to the Organic Act of 1912, which organized Alaska as a Territory, has moved slowly in comparison to Hawaii's efforts for statehood. From 1916 to 1950, inclusive, Alaska through representatives in Congress sponsored statehood bills only fifteen times. This, however, does not imply that Alaska did not fight as valiant a struggle as Hawaii.

A. Statehood Movement 1912 to 1945.

On March 20, 1916, Delegate James Wickersham, of Alaska, introduced the first statehood bill, H.R. 15978, to permit Alaska to become a State of the Union.[1] The bill was referred to the Committee on the Territories, but no action was taken by that body.

From 1916 to the spring of 1943 there were no bills or memorials introduced in Congress requesting statehood for Alaska.

Senators Langer and McCanan, on April 2, 1943, introduced in the Senate S. 951, a bill to provide for the admission of Alaska into the Union.[2] The bill was referred to the Committee on Territories and Insular Affairs, but no consideration was given to the bill by that body. On December 2, Delegate Diamond, of Alaska, introduced a similar bill H.R. 3768, but it

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[1] U.S. Cong. Rec., 64 Cong., 1 sess., LIII, (1916), 5197.

[2] U.S. Cong. Rec., 78 Cong., 1 sess., LXXXIX, (1943), 2835.

likewise failed to meet with favor by the Committee on Territories.[3]

According to the New York Times, April 8, 1944, three governmental departments requested that legislation pertaining to statehood for Alaska be delayed until after the War.[4] These reports were made public by Delegate Diamond, as follows:

> The Justice Department suggested changes in the statehood bill as it pertained to the Federal judiciary.
>
> The Navy objected to turning over of public and unappropriated land to the State, saying it would operate to make more costly the establishment of military and naval reservations and possibly affect the huge naval oil reserve in the Territory.
>
> The War Department said it had no objections to the terms of the bill.
>
> The Interior Department declared that the economy of Alaska had not yet been firmly established. It objected to retention by the proposed State of all public property and all vacant and unappropriated lands, saying that this involved tremendous natural resources acquired by the United States and held for the benefit of all its people.[5]

The period from 1912 to 1945, was characterized perhaps by a lack of the burning desire for statehood to the degree necessary to achieve the objective.

B. Investigation of 1945.

Senator Langer, of North Dakota, sponsored another bill, S. 241, for Alaskan Statehood, on January 11, 1945 and eighteen days later Representative Ervin, of North Carolina also introduced such a bill, H.R. 1807, in the House.[6] Both of these died in their respective Committees.

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[3] Ibid., p. 10261

[4] New York Times, (April 8, 1944), p. 14.

[5] Idem.

[6] U.S. Cong. Rec., 79 Cong., 1 sess., XCI, (1945), 192, 590.

On February 27, 1945, Representative Mike Mansfield, of Montana, introduced a memorial (House Joint Resolution 4) of the Montana Legislature requesting that proper action be taken for admission of Alaska as a State and urged Congressional approval.[7] A similar resolution memorializing Congress to act for Alaskan Statehood was submitted in the Senate on March 21 by the Legislature of Alaska.[8]

Pursuant to H. Res. 236 which resolved on May 28, 1945:

> That the Committee on the Territories, acting as a whole or by a sub-committee or sub-committees, is authorized and directed to conduct a study and investigation of the various questions and problems relating to the Territories of Alaska . . .,[9]

thirteen members of the Committee on the Territories, including the Delegate from Alaska, visited Alaska and held hearings at Ketchikan, Juneau, Anchorage, and Fairbanks.[10]

On February 13, 1946 the Committee on the Territories submitted its report in accordance with H. Res. 236 and concluded:[11]

> The committee is not in a position to make definite recommendations at this time on all the several matters which have been brought to its attention. Many of these proposals deserve careful thought and study. It is the spirit and desire of the committee to give careful attention and consideration to all proposals which have

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[7] Ibid., p. A878.

[8] Ibid., p. 2519.

[9] Ibid., p. 5218.

[10] U.S. House of Representatives, Hearings pursuant to H. Res. 236, August 4-17, 1945, 79 Cong., 1 sess., (1945), p. i.

[11] U.S. House of Representatives, House Report 1583, 79 Cong., 2 sess., (1946), p. iii.

> been presented to it, whether now in the form of specific legislative proposals or whether at the stage of discussion. We hope to work with the citizens of Alaska in a continuing effort to recommend and enact legislation which is in the best interests of the Territory and which will aid to open up and develop this great section of our country.[12]

The committee did not make a single specific recommendation on the question of Statehood according to Representative Angell, of Oregon, "by reason of the fact that the citizens of Alaska at that time were contemplating holding a plebiscite to determine whether or not the majority of the residents desired statehood."[13]

Delegate E. L. Bartlett, from Alaska, introduced a Statehood bill, on July 21, 1945, but no action was taken on it.[14]

Only one Statehood bill was introduced during 1946, and like the other bills previously introduced, it received no action.

President Truman in his message to Congress on the State of the Union, January 21, 1946, spoke in behalf of the dependent peoples by saying:

> The major governments of the world face few problems as perplexing as those relating to dependent peoples. This government is committed to the democratic principle that it is for the dependent peoples themselves to decide what their status should be.
>
> I urge . . . that the Congress promptly accede to the wishes of the people of Hawaii that the Territory be admitted to statehood in our Union, and that similar action be taken with respect to Alaska as soon as it is

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[12] Ibid., p. 31.

[13] U.S. House of Representatives, Hearings on H.R. 206 and H.R. 1808, April 16-24, 1947, 80 Cong., 1 sess., (1947), p. 51.

[14] U.S. Cong. Rec., 79 Cong., 1 sess., XCI, (1945), 7935.

> certain that this is the desire of the people of that great territory.[15]

At the general election held in October, 1946 the Alaskan people voted in favor of Statehood by a majority of approximately 3,000 votes.[16]

C. Congressional Action 1947.

On January 3, 1947 Delegate Bartlett and Senator Langer introduced bills providing for the admission of Alaska into the Union.[17] Representative Angell, of Oregon, introduced H.R. 1808, a similar Statehood bill during February.[18]

Hearings were held during April by the Subcommittee on Territorial and Insular Possessions, of the Committee on Public Lands, on these bills.[19] Although a majority of the witnesses favored Statehood further action was terminated until 1948 when the Subcommittee started readings on H.R. 206.

The Alaskan Legislature in March memorialized Congress to enact legislation permitting Alaska to become a State:

> Whereas at a Territorial-wide referendum held on October 8, 1946, the people of Alaska voted approximately three to two in favor of statehood for Alaska.

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[15] New York Times, (January 22, 1946), p. 18.

[16] New York Times, (October 11, 1946), p. 14.

[17] U.S. Cong. Rec., 80 Cong., 1 sess., XCIII, (1947), pp. 45, 125.

[18] Ibid., p. 964.

[19] U.S. House of Representatives, Hearing on H.R. 206 and H.R. 1808, April 16-24, 1947, 80 Cong., 1 sess., (1947), pp. 1-451.

> The 18th Legislature of Alaska urges that Congress enact Alaska statehood bill, H.R. 206, now before it. Or such other appropriate bill as may be advisable for the admission of Alaska into the Union.[20]

In keeping with the authority of H. Res. 93:

> That the Committee on Public Lands . . . may make investigations into any matter within its jurisdiction. For the purpose of making such investigations the committee, or any subcommittee thereof, is authorized to sit and act during the present Congress at such times and places within or outside the United States, whether the House is in session, has recessed, or had adjourned, to hold such hearings, and to require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as it deems necessary. . . .,[21]

the Subcommittee on Territorial and Insular Possessions met at Anchorage, Alaska, on August 30, and continued its hearings at Seward, Fairbanks, Juneau, Petersburg, Wrangell, and Ketchikan, until September 12.[22] This hearing and the previous one held in Washington in April served to impress the Committee on Public Lands of the importance of the resources of Alaska to the United States. These hearings also served to impress the committee that only by granting Statehood could these resources be developed to the fullest interest of the United States.[23]

D. Congressional Action-1948.

Committee action was again resumed on H.R. 206 when the

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[20] U.S. Cong. Rec., 80 Cong., 1 sess., XCIII, (1947), 1933.

[21] Ibid., pp. 3671, 3673, 5058.

[22] U.S. House of Representatives, Hearings pursuant to H. Res. 93, August 30-September 12, 1947, 80 Cong., 1 sess., (1947), p. iii.

[23] U.S. House of Representatives, H. Report 1731, 80 Cong., 2 sess., (1948), p. 4.

Subcommittee on Territorial and Insular Possessions started readings for amendments on February 20, 1948. Final readings took place on February 25, when the subcommittee adjourned.[24]

Delegate Bartlett introduced H.R. 5626, on February 27, and H.R. 5666, on March 2, to provide for the admission of Alaska into the Union.[25]

On March 4, the Subcommittee on Territorial and Insular Possessions met and voted to report favorably to the full committee H.R. 5666.[26] The Committee on Public Lands considered the subcommittee's report and ordered favorably reported H.R. 5666, to the House.[27]

Chairman Welch, from the Committee on Public Lands, submitted H. Rept. 1731, which stated the committee's findings:

> The people of Alaska have asked for statehood. At a plebiscite held in 1946, the vote was approximately 3 to 2 in favor of statehood.
>
> If statehood were granted to Alaska, it would benefit not merely the people of Alaska. Actually, statehood would be as much, if not more, in the interests of the people of the United States. World War II has emphasized Alaska's strategic location, and has reminded us of Gen. Billy Mitchell's statement that: "He who holds Alaska holds the world."
>
> Alaska's importance to the United States does not rest alone on military considerations. Its vast resources are far from fully developed. . . . It is a vast storehouse of undeveloped resources which our people will need.

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[24] U.S. Cong. Rec., (Daily Digest), 80 Cong., 2 sess., XCIV, (1948), pp. D103, D110, D114.

[25] U.S. Cong. Rec., 80 Cong., 2 sess., XCIV, (1948), pp. 1913, 2014.

[26] U.S. Cong. Rec., (Daily Digest), 80 Cong., 2 sess., XCIV, (1948), p. D143.

[27] Ibid., p. D239.

Admitting Alaska to statehood will have great significance from an international standpoint, as indicating that the United States puts into practice what it preaches about self-determination. It will be a clear demonstration of the fulfillment, with respect to Alaska, of the obligation assumed by the United States under the United Nations Charter as an administering power of a non-self-governing territory, "to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement."

Alaska has served a long period of tutelage in a Territorial status, longer than all but four of the States. . . .

A rapid increase in the number of permanent inhabitants of Alaska will follow upon statehood. . . .

Statehood will mean that Alaska will have a State constitution drafted in terms of the needs of Alaska, just as the State constitutions are adopted to the needs of the particular States, rather than an organic act outmoded in most of its provision, and not tailor-made for Alaska when first enacted. . . .

Under statehood, Alaska will automatically become entitled to the benefits of the Federal Highway Aid Act, so that an adequate network of roads may be constructed and maintained, linking the centers of trade with outlying districts and acting as an incentive to larger communities. . . .

As a State, Alaska will be entitled to two Senators and one Representative with the right to vote on legislation, in contrast to the present arrangement, under which Alaska sends a voteless Delegate to Congress. . . .

Alaska as a State would be permitted to borrow for State purposes, pledging the faith of the people of Alaska; this practice is a common one among the States now, and is a well recognized means of raising money for public improvements and governmental expenses, although under the Organic Act it is forbidden to the Territory. . . . History has shown that upon becoming States, the Territories were able to meet their financial responsibilities, chiefly by overhauling their taxing systems. There is no reason to suppose that Alaska will differ from other Territories in this respect.

The opponents of statehood now also cite the smallness of Alaska's population. It is true that the population is small, in relation to Alaska's vast area. However, 12 States--Arkansas, Florida, Missouri, Nevada, Oregon, Wyoming, Minnesota, Iowa, Colorado, Montana, North Dakota, and Nebraska--had smaller populations than Alaska at the time of their admission. Moreover,

> historically there has been a rapid increase in population through settlement, upon admission of a Territory to Statehood.
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> Reference was also made to the fact that Alaska, as a noncontiguous area, is too far removed from the United States to have the same interests. But the major cities of Alaska are by now so linked by air and radio to the United States that they are for practical purposes closer to the States than New York or Philadelphia were to Washington in the early days of the United States; thus the opposition to statehood based upon Alaska's noncontiguity has little merit.[28]

The committee's conclusion read:

> The tradition of self-determination and self-government is a strong American tradition. The people of Alaska, who are citizens of the United States, have asked to be admitted to the Union. The committee is of the opinion that the admission of Alaska will be in the best interests of the United States as a whole.[29]

For the first time a committee had reported favorably on Alaskan Statehood, and recommended that the House pass this Enabling Act.

All hopes for Statehood, however, ceased in the Eightieth Congress when, according to the Alaska Almanac, on May 8, in a meeting with Delegate Bartlett, Speaker of the House Joseph Martin refused to bring the bill (H.R. 5666) to the floor of the House.[30] Speaker Martin's refusal was based upon his belief that the Hawaiian Statehood bill (H.R. 49), which had been passed by the House in June 1947, would not be acted upon by the Senate, and therefore, it was his assumption, that although the House might pass the bill, the Senate would likely

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[28] U.S. House of Representatives, H. Rept. 1731, April 14, 1948, 80 Cong., 2 sess., (1948), pp. 2-7.

[29] Ibid., p. 7.

[30] W. Tewekesbury, "Alaska Almanac," (1950), p. 138.

disapprove it.[31]

Although further consideration of the bill by the Eightieth Congress was brought to an end, the advocates of Statehood regarded the delay as no more than a temporary halt.

The Statehood movement has had the unanimous approval and support of both the major political parties in their national platforms of 1944 and 1948. President Truman has reiterated time after time his belief that Alaska should be admitted as a State. The movement has also had the unanimous support of the Department of the Interior. It is now up to the Eighty-first Congress to take action.

E. Statehood Bills Introduced in 1949.

On January 3, 1949, Delegate E. L. Bartlett, from Alaska, introduced a bill, H.R. 331, to admit Alaska as a State, and on the same day a similar bill was introduced by Representative Angell, of Oregon.[32] On February 3 Representative Mansfield, of Montana, introduced H.R. 2300; and on June 10 Senators Kefauver, Chavez, Douglas, Downey, Gillette, Graham, Hunt, Magnuson, Murray, Neely, Pepper, Sparkman, Thomas of Utah, Aiken, Baldwin, Capehart, Langer, Morse, Smith of Maine, and Tobey introduced S. 2036.[33] These bills identical in nature provided for Statehood. Of these only H.R. 331 subsequently received action.

F. Congressional Action 1949.

On March 4, 1949 the Subcommittee on Territorial and

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[31] Idem.

[32] U.S. Cong. Rec., 81 Cong., 1 sess., XCV, (1949), 14, 20.

[33] Ibid., pp. 819, 7538.

Insular Possessions ordered H.R. 331 reported to the full Committee, as amended.[34] On March 8 the Committee on Public Lands ordered H.R. 331, the Bartlett bill, reported to the House.[35] Representative Redden, from the Committee on Public Lands, submitted House Report 255, on March 10, in which the Committee favorably reported H.R. 331 with amendments, and recommended that the bill be enacted.[36] H.R. 331 was referred to the Committee of the Whole House on the State of the Union.[37]

On July 22, 1949, according to the New York Times, Representative Peterson, of Florida, Chairman of the House Public Lands Committee, stated that he would not press for House action this year on bills to give Statehood to Alaska.[38] He added, however, that "we will press for action early in the next session, instead, when there will be more time and our chances will be much better."[39]

From August 15 to August 17, inclusive, Representatives Marshall of Minnesota, Peterson of Florida, and Smith of Wisconsin, urged that the Rules Committee of the House bring

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[34] U.S. Cong. Rec., 81 Cong., 1 sess., XCV, no. 32, (1949), D135.

[35] U.S. Cong. Rec., 81 Cong., 1 sess., XCV, no. 35, (1949), D149.

[36] U.S. House of Representatives, House Report 255, 81 Cong., 1 sess., XCV, (1949), p. 1.

[37] Idem.

[38] New York Times, (July 23, 1949), p. 3.

[39] Idem.

up the bill providing Statehood for Alaska so it could be voted upon on the floor.[40]

G. Congressional Action 1950.

On January 23, 1950 H. Res. 217 which provided for consideration of H.R. 331 was agreed to by the House.[41] On March 3, 1950 Representative Peterson moved that the House resolve itself into the Committee of the Whole House on the State of the Union for consideration of H.R. 331.[42] The motion agreed to, the House resolved itself into the Committee of the Whole House on the State of the Union for consideration of H.R. 331. By unanimous consent, the first reading of the bill was dispensed with and consideration of the bill was immediately taken on the floor.[43]

Repeatedly, members of the larger States complained that Alaska would have two Senators and a Representative for fewer people than they had in their own House Districts. Representative Johnson, of California, speaking in opposition to Statehood due to the population differences, said:

> . . . The ratio of the population of Alaska to the total population is 1 to 1,582. . . . Over half the States when they came into the Union had less than 25 percent of the divergence in population ratio that we have in Alaska today.
>
> . . . In my State last year we cast over 4,000,000 votes. In Alaska they cast 22,309. Two Senators from

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[40] U.S. Cong. Rec., 81 Cong., 1 sess., XCV, no. 148, 149, 150, (1949), 11692, 11799, 11919.

[41] U.S. Cong. Rec., 81 Cong., 2 sess., XCVI, no. 15, (1950) 800-801.

[42] U.S. Cong. Rec., 81 Cong., 2 sess., XCVI, no. 44, (1950) 2784.

[43] Idem.

> that State could nullify the votes of two Senators from our State, who were sent here by over 4,000,000 voters. In a treaty fight, which might be vital to the security of the United States, two Senators from this new State, very small in population, could nullify the votes of Senators representing 10,000,000 voters in California and 15,000,000 in New York, or 25,000,000 altogether.[44]

Representative Delaney, of New York, defended Representative Johnson's argument, by stating:

> . . . Coming from the great State of New York, I cannot consent to watering down the voting representation of the people of that State. Alaska has approximately 90,000 people. When we speak of admission of Alaska we have a double package. If we admit Alaska, we must also admit the Hawaiian Islands. There will be four additional United States Senators, not two, but four, additional United States Senators.
>
> . . . We in New York State have approximately 16,000,000 people. Alaska has 90,000, which means that in the United States Senate, the people in Alaska will have nearly 200 times as much representation as the people who come from my district. . . . The Alaskans will have four times the representation in this House as the people who reside in my district.[45]

Delegate Farrington, from Hawaii, speaking in behalf of Statehood for Alaska refuted this age old argument:

> The gentlemen from the large States say to you that if you admit Hawaii and Alaska into the Union we will each have 2 Members in the United States Senate. Now, Alaska and Hawaii did not ask for 2 Members in the United States Senate. That is determined by the form of government under which we live. . . . Those gentlemen, particularly the gentleman from New York and the gentleman from California, have not told you that New York has 10 percent of the membership of this House, some 45 Members, and that California has some 23.
>
> . . . Let me point out to you also that in this country today there are 13 States with 3 or less Representatives in the House--7 of the Mountain States, 2 Middle Western States, North and South Dakota, and 4 Eastern

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[44] Ibid., p. 2786.

[45] Ibid., p. 2789.

States--Vermont, New Hampshire, Rhode Island, and Delaware.[46]

Delegate Bartlett speaking in opposition to the population argument, said:

> The argument of population lack ought not to be used against Alaska now. If ours was the first Territory numerically inferior, then it would be different. Instead, in that respect we occupy not a unique position but one that is, in fact, massive with tradition and in conformity with the experiences of our past.[47]

Representative Price in answer to the gentleman from New York, said:

> I think that if we subscribe wholeheartedly to the arguments advanced by the gentleman from New York we would disregard precedent and history. If our predecessors in this body had subscribed to such arguments, the western boundary of this great country of our would not have extended beyond the Mississippi River.[48]

Representative Crawford, of Michigan, stressed the strategic importance of Alaska and Hawaii to the National Defense:

> These are key points, key areas, in our cold war against communism. As Territories they are weak. As States they would be strong. Japan struck at both Territories in World War II. Hawaii and Alaska are prime targets under the American flag. Statehood would vastly strengthen America's position in the economic conflict now being waged by Russia throughout the Pacific. If we have any chance of survival on earth, the National Defense Committee of this body ought to know that here in Alaska and Hawaii is your vital area.[49]

Representative Angell, of Oregon, also speaking on the importance of Alaska to the National Defense, said:

> In the very next war we engage in, the Territories

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[46] Ibid., p. 2797.

[47] Ibid., p. 2803.

[48] Ibid., p. 2790.

[49] Ibid., p. 2788.

> of Alaska and Hawaii will be two of the most strategic places in the world for the defense of continental United States. I want to tell my good friends who come from the populous areas in these United States, great States like New York, if they want their territory defended, they should not be penny-wise and pound-foolish in national defense. They should look beyond their noses and realize that these great strategic areas in the Pacific are the very keystone to the defense of our Nation in the next world war.[50]

Representative Wolverton, of New Jersey, taking the opposite stand, said:

> An argument has been made for Statehood for Alaska on the theory that it is a very strategic area from a military standpoint. I agree that it is but it does not require statehood to strengthen our security in that respect. This security has and will continue to be a national obligation. . . . There is nothing that statehood could provide any more than has been done in the past with Alaska a Territory of the United States.[51]

Representative Mansfield, of Montana, retaliated by saying:

> I think the best thing we could possibly do in our own national security would be to give Alaska statehood and full representation in the House and Senate, to the end that its defenses can be brought up to date and the security of this Nation become more secure as a result.[52]

Again Representative Crawford stressed the importance of Alaska's position in relation to the national security:

> Let us fortify Alaska against any possible aggression. Alaska may well hold the key to our future security and we should thus make of this Territory an arsenal and a bulwark of democracy. This can truly be accomplished through statehood, and I fear only through statehood.[53]

Other old arguments were raised in protest to Statehood but lost their momentum since they had long been threadbare.

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[50] Ibid., p. 2793.

[51] Ibid., pp. 2796-2797.

[52] Ibid., p. 2799.

[53] Ibid., p. 2805.

Final discussion was brought to an end when the Committee rose, and the bill, H.R. 331, with amendments was brought before the House for question on the passage of the bill. The question was taken and the House passed the Bartlett bill by a majority of 186 to 146.[54]

Thus, for the first time the House of Representatives passed a Statehood bill for Alaska.

The next move will be up to the Senate Committee on Interior and Insular Affairs. On March 7 Senator O'Mahoney, of Wyoming, Chairman of the Committee, according to the New York Times, said that he would put the question of holding hearings on H.R. 331 before the Committee, but he did not say when.[55] On March 8 he reiterated his former statement, but added that the Committee could not set a definite date because of the pressure of other legislation before the Committee.[56] While he refused to predict its outcome, he said, "you can be sure the committee will diligently perform its duty with regard to the bills."[57]

H. Causes for Failure of Statehood Bills for Alaska.

There have been two congressional investigations made in order to study and investigate the various questions and problems relating to Alaska--one was held in Alaska, the other in Washington. Although these investigators did not come out

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[54] Ibid., p. 2820.

[55] New York Times, (March 8, 1950), p. 20.

[56] New York Times, (March 9, 1950), p. 26.

[57] Idem.

in favor of Statehood for Alaska, the hearings served to impress the investigators with the importance of Alaska and its resources to the United States, and to convince them that only by granting Statehood could the resources be developed to the fullest in the interest of the United States.

The Public Lands Committee, of the House of Representatives, twice recommended that the House should enact legislation granting Statehood to Alaska--once in 1948 and again in 1949.

The Bartlett Bill, H.R. 331, to admit Alaska as a State passed the House of Representatives on March 3, 1950.

Why has the Senate failed to pass legislation granting Statehood to Alaska? Why isn't Alaska a State?

The main reasons given for opposing Alaskan Statehood are: Alaska is non-contiguous to the continental United States; Alaska would send two Senators and one Representative to Congress which would increase the disproportionate voting power of the small States; that Alaska is sparsely populated; that the strategic importance of Alaska is no reason why Alaska should become a State; and lastly, that its peoples cannot support the cost of Statehood.

The objections are discussed in order. First the non-contiguity of Alaska. With modern means of transportation and communication Alaska is closer to the continental United States than New York was in the early days of this country's history. The airplane of today, flying at 250 to 300 miles an hour, covers the distance from any point in Alaska to

Washington, D.C., in a mere fraction of the time it was required to go from Louisiana or California to the closest State by the then existing means of transportation at the time they were admitted into the Union. Therefore, with these modern means of transportation and communication the factor of distance has been annihilated. Is this a valid reason for denying Alaska Statehood?

Certain members have expressed their objections over the increased representation which would occur by Alaska becoming a State. These objectors--representing the large States --state that Alaska with a voting electorate of approximately 24,000 would have one Senator for approximately 12,000 voters, while a large State like New York only gets one Senator who represents approximately 2,500,000. Today in the House of Representatives there are thirteen States which are represented by two or less than two representatives. The State of Nevada with a slightly higher population than Alaska is represented in the Senate by two Senators. Accordingly then Nevada's and Alaska's representation should be cut down in the Senate. But Alaska is not responsible for the method of representation; only the people of the United States can decide this by a constitutional amendment. This, likewise, is hardly a valid reason for denying Statehood to Alaska. By denying Statehood to Alaska, the problem would not be solved for the Senators who are in opposition.

The opponents of Alaskan Statehood cite the smallness of its population. It is true that the population is small,

in relation to Alaska's vast area, but twelve States had smaller populations than Alaska at the time of their admission into the Union. If Congress throughout our history had followed these arguments that, small populations are a detriment to Statehood, then the boundary of the United States would still be at the Mississippi River. The population question is unsound as a valid reason for denying Statehood to Alaska.

Alaska has been virtually defenseless since World War II. With the present communistic threats emanating from Russia during our present cold war, and considering the proximity of Russian Siberia to Alaska, it is of the utmost importance that the defenses of Alaska be strengthened to make it the strongest bulwark of our northern frontier. Governor Gruening, of Alaska, recently stated that it would be possible for Russia with two parachute divisions to take Alaska. Once the enemy has landed in Alaska it would be extremely hard to drive them out.

Opponents of Statehood claim that the defense of Alaska is a national obligation, that there is nothing that Statehood could provide that hasn't been done in the past with Alaska as a Territory. Although it is a national obligation to defend Alaska, it is also a national obligation to ensure the dependent peoples under the United States the greatest amount of self-government, and this can only come through Statehood. Alaska can only be developed and adequately defended through representation in Congress with a voting power. Economic development and defense go hand in hand--it is impossible to defend a vacuum. By granting Statehood to Alaska the population

needs will be increased, the economy will expand, and the new State would have a forceful vote in either House of Congress. The defense of Alaska is a national issue: will it remain an undeveloped and undefended outpost imperiling our national security, or, shall it become the strongest bastion of our northern frontier? Only the granting of Statehood will answer these questions.

Opponents of Statehood argue that Alaska cannot support the cost of Statehood. One of the best answers to off set this argument is found in the report of the House Committee on Public Lands, dated April 14, 1948:

> Alaska as a state would be permitted to borrow for state purposes, pledging the faith of the people of Alaska; this practice is a common one among the states now, and is a well recognized means of raising money for public improvements and governmental expenses, although under the Organic Act it is forbidden to the Territory. The committee recognizes that Alaska has to some extent been "coasting" on its territorial status in the matter of raising revenues, but it also believes that Alaska is willing and able to raise necessary revenues to support statehood. A tendency to rely upon appropriations by the federal government, because of the guardian and ward relationship of the federal government and the territories, is characteristic of the territories in the past. History has shown that upon becoming states, the territories were able to meet their financial responsibilities, chiefly by overhauling their taxing systems. There is no reason to suppose that Alaska will differ from other territories in this respect.[58]

These are the main reasons why Statehood has failed to date.

What does the future hold for the Alaskan Statehood bill?

The question is now up to the Senate. Will it act on Statehood bill, H.R. 331? If it follows the same procedure as it did in the Eightieth Congress, the bill will be doomed

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[58] Supra., pp. 144-146.

until another Congress convenes. While this study is being written the Senate Committee on Interior and Insular Affairs are holding hearings on H.R. 331.

It is the contention of the writer that the Statehood bill will fail to receive the necessary Senate consideration during the second session of the Eighty-first Congress. The Senate has always been reluctant to admit new States, and with the reasons for failure mentioned supra, it will only be more reluctant.

Alaska's best chance for attaining Statehood is through the formulation of a State Constitution which it can present to Congress for approval. Fifteen previous States came into the Union by presenting State constitutions, instead of the formality of an enabling act.

Alaska now has a majority of the members of the House of Representatives behind it on the Statehood question. The Senate has never debated on the Alaskan Statehood bill. Nevertheless, in a recent poll taken of Congressmen on their views as to whether Alaska should be admitted as a State, a large number of Senators were in favor of it. With this in mind, now would be the time for Alaska to formulate a State constitution and submit it for congressional approval. Let this State constitution be the telling point.

CHAPTER VII

CONCLUSION

Since 1903, the Hawaiian Legislature, either by petition or resoltuion, has brought to the attention of Congress the desire for admission into the Union. This action has been repeated at every session of the Legislature with the exception of three or four. Beginning with H.R. 15865 introduced in the Sixty-fifth Congress, first session, on February 11, 1919, and continuing through March 7, 1950, of the Eighty-first Congress no less than thirty-six bills have been introduced in Congress for Statehood.

Investigations which led to a serious consideration of Hawaii's aspiration to attain Statehood began in 1935. Since then, seven congressional committees conducted investigations on the subject of Statehood for Hawaii--four have been held in the Territory and two in Washington, D.C.

The first investigation of Statehood took place in Hawaii in 1935 during the Seventy-fourth Congress. The Committee in its report found "the Territory of Hawaii to be a modern unit of the American Commonwealth, with a political, social and economic structure of the highest type," but recommended that further study be made before Statehood could be granted.[1]

In 1937 a joint committee of the Senate and House visited the major Islands of Hawaii and after a thorough examination reported that "Hawaii has fulfilled every requirement for statehood heretofore exacted of Territories," but because

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[1] Supra., p. 95.

of the disturbed conditions of international affairs recommended that Statehood be deferred.[2]

During the war years, Hawaii, with the rest of the Nation, diverted its energies toward the war and under martial law was forced to withhold its desires for Statehood.

In January 1946 Congressional hearings were resumed in Hawaii. The House Subcommittee on Territories under the Chairmanship of Henry D. Larcade, Jr., of Louisiana, after examining over one hundred witnesses, statements, memoranda, and statistical materials submitted a report which brought up to date the voluminous text of the investigation made in 1937. The Committee in its report recommended that "the Committee on Territories give immediate consideration to legislation to admit Hawaii to statehood."[3]

The Seventy-ninth Congress adjourned without further action being taken on Statehood, but in the Eightieth Congress Statehood legislation was again introduced. The House Public Lands Committee met in Washington, D.C., from March 7 to March 19, 1947, inclusive, to hold hearings on H.R. 49, and ten other identical bills granting Statehood to Hawaii.[4] Testifying before the Committee were Julius A. Krug, Secretary of the Department of the Interior; Secretary of War Robert P. Patterson; a report submitted by the Navy Department; and many members of the Eightieth Congress. All of these individuals

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[2] Ibid., p. 98.

[3] Ibid., pp. 101-103.

[4] Ibid., p. 105.

testified and supported H.R. 49, there were none opposing.[5] On March 27 the House Public Lands Committee unanimously approved H.R. 49, and concluded its report (House Report 194) by recommending "immediate approval of H.R. 49 by the House of Representatives."[6] Thus, by this recommendation a Congressional committee had for the second time within two years unanimously reported and recommended Statehood for Hawaii.

On June 30, 1947, by a vote of 196 to 133, the House of Representatives gave its approval to Statehood for Hawaii, and referred the bill, H.R. 49, to the Senate.

The Senate Committee on Interior and Insular Affairs sent Senator Guy Cordon, of Oregon, as Chairman of the Senate Subcommittee on Territories and Insular Affairs, to further investigate Statehood on the Islands.[7] The subcommittee held hearings on the six major Islands from January 5 to January 20, 1948. At the termination of the investigation Senator Cordon reaffirmed the findings and conclusions of previous committees and recommended favorable action on H.R. 49 by the Senate.[8] After this report recommending immediate favorable action on H.R. 49, the full committee voted to hold public hearings in Washington to determine the national sentiment on Statehood for Hawaii before taking further action. Eight witnesses appeared before the Committee on April 15 and testified

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[5] Idem.

[6] Ibid., p. 106.

[7] Ibid., p. 115.

[8] Idem.

in favor of H.R. 49, none in opposition.[9] Following this hearing the Senate Committee on Public Lands, on May 8, 1948, deferred action on H.R. 49 by a vote of 7 to 5 until members of the Senate Committee who desired to study the matter on the ground could go to Hawaii.[10]

Senator Knowland, of California, by a parliamentary move on May 10, 1948 introduced a resolution to discharge the committee from further consideration of the bill.[11] After a limited debate the resolution failed to pass by a vote of 51 to 20.[12] This action ended further consideration of the bill by the Eightieth Congress.

The seventh investigation of Statehood took place in Hawaii in 1948. The Senate Subcommittee on Interior and Insular Affairs under the Chairmanship of Hugh Butler, of Nebraska, held an on-the-spot investigation of Communist activities in the Territory, from October to November. Butler's report recommended that Statehood for Hawaii should be deferred indefinitely until communism in the Territory is brought under effective control.[13]

The Butler report plus the maritime strike in Hawaii put to an end any action which the Senate might have taken on the Statehood bill in the first session of the Eighty-first Congress.

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[9] Ibid., p. 116.

[10] Idem.

[11] Ibid., pp. 116-117.

[12] Idem.

[13] Ibid., p. 118.

On March 3, 1950 the House of Representatives, Eighty-first Congress, second session, considered H.R. 49, the Hawaiian Statehood bill. Discussion of the bill continued on March 6, and March 7 the bill was passed by a vote of 262 to 110. For the second time in a little over two years the House of Representatives had passed a Statehood bill for Hawaii.

The Senate Committee on Interior and Insular Affairs are now holding hearings on the Hawaiian Statehood bill.

The Alaskan Statehood movement subsequent to the Organic Act of 1912 has moved slowly in comparison to Hawaii's efforts for Statehood. From 1916 to 1950, inclusive, Alaska through representatives in Congress sponsored Statehood bills only fifteen times.

The first investigation of Alaska took place in 1945 by the Subcommittee of the Territories Committee. The purpose of the trip was to obtain on the ground first-hand information by the committee members of the conditions existing in the Territory and to discuss the problems facing it with Alaskan residents. The committee reported that it was "not in a position to make definite recommendations at this time on all the several matters which have been brought to its attention."[14] The committee did not make a single specific recommendation on the question of Statehood because the citizens of Alaska were contemplating a plebiscite to determine if the people desired

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[14] Ibid., p. 140.

Statehood.

At the general election held in October, 1946 the Alaskan people voted in favor of Statehood by a majority of approximately 3,000 votes.

In 1947 the Subcommittee on Territorial and Insular Possessions of the Committee on Public Lands held hearings on Statehood bills, H.R. 206 and H.R. 1808--one in Alaska, the other in Washington, D.C. Although a majority of the witnesses favored Statehood further action was terminated until 1948 when the Subcommittee started readings on H.R. 206.

On March 2 Delegate Bartlett, from Alaska, introduced H.R. 5666 to provide for the admission of Alaska into the Union. The Committee on Public Lands ordered favorably reported H.R. 5666 to the House and on April 17 stated the committee's findings in House Report 1731. The report stated that "the committee is of the opinion that the admission of Alaska will be in the best interest of the United States as a whole."[15]

All hopes of attaining Statehood in the Eightieth Congress ceased when Speaker of the House Joseph Martin refused to bring the bill (H.R. 5666) to the floor of the House.[16] His refusal was based on the belief that even though the Hawaiian Statehood bill (H.R. 49) had passed the House, it would not pass the Senate, therefore, even if the House would approve it, the Senate would disapprove it.

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[15] Ibid., p. 146.

[16] Idem.

On January 3, 1949 Delegate Bartlett, from Alaska, introduced H.R. 331, a bill, to admit Alaska as a State. On March 10 the Committee on Public Lands favorably reported the bill and recommended that the House enact H.R. 331.[17] H.R. 331 was referred to the Committee of the Whole House on the State of the Union.

On July 22, 1949 Representative Peterson, Chairman of the House Public Lands Committee stated that he would not press for House action this year on H.R. 331. He said that "we will press for action early in the next session, instead, when there will be more time and our chances will be much better."[18]

During the month of August Representatives Marshall, Peterson, and Smith urged that the Rules Committee of the House bring up the bill, (H.R. 331), so it could be voted upon on the floor.

On March 3, 1950 the House of Representatives, Eighty-first Congress, second session, considered H.R. 331, the Alaskan Statehood bill. After a lengthy discussion, which brought to light the reasons why the Senate would not pass it, the House passed the Bartless Statehood Bill, H.R. 331, by a majority of 186 to 146.[19] Thus, for the first time the House of Representatives passed a Statehood bill for Alaska.

The next move is up to the Senate Committee on Interior

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[17] Ibid., p. 148.

[18] Idem.

[19] Ibid., p. 153.

and Insular Affairs. At the time of this writing the Senate Committee is holding hearings on the Alaskan Statehood bill.

Although Hawaii and Alaska are both seeking Statehood there are a number of marked differences between conditions existing in the two Territories. The important ones are:

Hawaii and Alaska have presented different reasons for requesting Statehood. Hawaii emphasizes her qualifications, such as, her advanced political, social and economic development, while Alaska cites misrule under an antiquated Organic Act.

Hawaii is well populated, compact, and economically well developed, while Alaska is a sparsely populated, extended area, and economically less well off. Hawaii has approximately six times the population of Alaska, while Alaska has approximately 89 times the land area of Hawaii. Hawaiian industry is predominantly locally controlled, while Alaskan industry is run by absentee ownership. The Organic Act of Hawaii allows a much larger measure of self-rule than does the one for Alaska. Fifty-seven percent of the public land in Hawaii is privately owned, while in Alaska only two percent is privately owned. Alaska's political and economic conditions are more apt to change with Statehood than those of Hawaii which is well developed and advanced in these fields.

The two Territories are similar in that: they both have been favored by national party platforms; both have larger populations and more wealth than many present States had when

they were admitted to the Union; both are represented in Congress by a Delegate; both at the present time with the communistic threats emanating from Russia are strategically important as bastions of our western frontier.[20]

Why has the Senate failed to pass the necessary legislation granting Statehood to Hawaii and Alaska? Why aren't they States?

The reasons why these Territories have failed to attain Statehood are: both are non-contiguous to the continental United States; both would send two Senators to Congress; Hawaii would send two Representatives to the House, while Alaska would send one: these latter two reasons the opponents of Statehood claim would increase the disproportionate voting power of the small States; that Alaska is sparsely populated; that the large percentage of non-Caucasian population in Hawaii would vote as a bloc and gain control of the new State, as well as send Senators to Congress; that the Islands are a hotbed of Communists; and lastly, the strategic importance of both Territories is no reason why they should become States.

All of these old arguments against Statehood have long been worn threadbare.

The latest one of communism is no more valid against Hawaii than it is against any present State. If Hawaii is a hotbed of Communists, why didn't they take over the Islands during the six-month maritime strike? It was their golden opportunity.

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[20] I am deeply indebted to the Congressional Digest, "Should Statehood be Granted to Hawaii & Alaska?" (November 1947), pp. 257-288 for the paragraphs on the differences and similarities of Hawaii and Alaska.

That the Hawaiian people stood up under such a heavy blow and at the same time held off the Reds are convincing facts that Communism on the Islands hasn't made the progress that some opponents of Statehood would have us believe.[21]

Opposition to Statehood for Alaska also comes from another quarter, the salmon-packing industry. Governor Gruening, of Alaska, charges that the industry is "spearheading opposition because it fears operation of a state government might mean higher taxes."[22]

Alaskan Delegate E. L. Bartlett, in a special article written for the New York Journal American, stated that there had been a delaying action for political reasons as to whether the bills should be acted on together.[23]

These bills have also been denied Statehood because of partisan politics centering around the petty fear that one party or the other may lose or gain a single vote in the House of Representatives. Alaskan Delegate Bartlett stated that "even for those who like to deal in political terms, the matter of party preferences in Alaska and Hawaii is not fixed and immutable. There is too little understanding of that."[24]

It is the contention of this writer that the Hawaiian and Alaskan Statehood bills will not receive favorable action by

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[21] Collier's, "The 49th State," (April 8, 1950), p. 74.

[22] Rocky Mountain News, (April 30, 1950), p. 30.

[23] New York Journal American, (August 1949).

[24] Idem.

the Senate during the second session of the Eighty-first Congress. Although both national parties have advocated Statehood, party politics still play a major part in keeping Statehood from the Territories. Alaska primarily Democratic would be the logical Territory to admit as the Forty-ninth State, instead of Hawaii which is Republican. The great fear that one party might gain a one vote lead in the House of Representatives is too much for the petty politician to put aside. He would rather place the blame on other causes for failure of Statehood to hide the fact that the Statehood issue is a political one. Most Territories were admitted to the Union as a result of party politics.

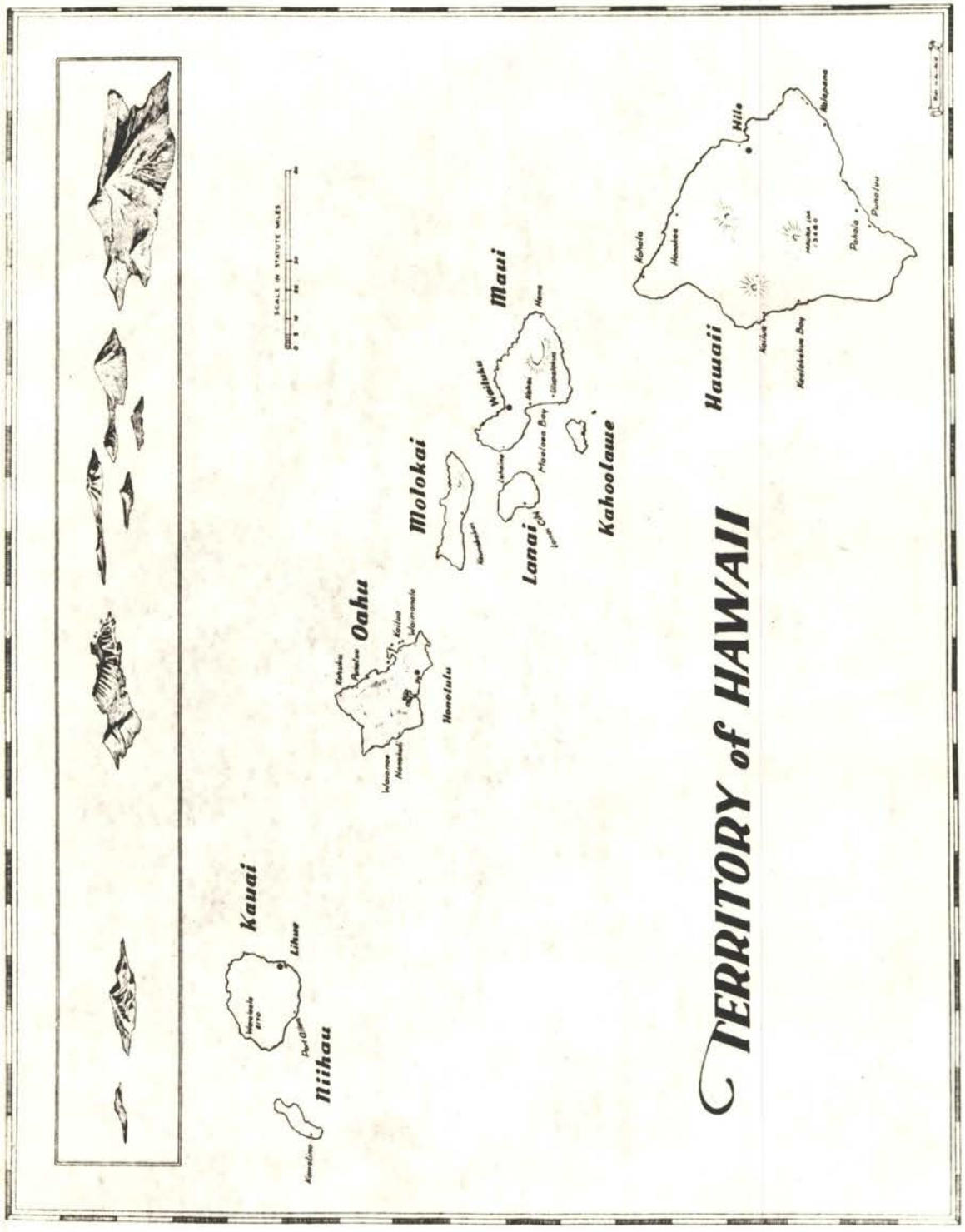
At the present time the Senate Committee on Interior and Insular Affairs is holding hearings on the two Statehood bills. Whether they will receive favorable action will be determined to a large degree on the final report of the House Committee on Un-American Activities which went to Hawaii to investigate communism in the Islands.

Hawaii, one jump ahead of Alaska, has already called a State Constitutional Convention to formulate a State constitution to be submitted to Congress for approval. Fifteen of the present States were admitted into the Union in this manner. A recent poll taken of how the Senators and Representatives felt toward Statehood for the two Territories showed that a large number of the members are for Statehood for the Territories. With this knowledge in mind, now would be the proper

time for both Territories to submit State Constitutions. Whereas, previous action has started with a House or Senate Committee for recommendations and approval, now the action would be brought direct to Congress. It would force Congress to act. There is still time left in the second session of the Eighty-first Congress for Hawaii to submit her State constitution and become a State. Alaska will have to wait awhile until the Territorial Legislature enacts legislation authorizing the calling of an election to vote for delegates to send to a State constitutional convention. There is every reason to believe that with a large number of Senators and Representatives favoring Statehood for the Territories, approval would be in order for these State Constitutions.

Hawaii and Alaska have been knocking at the door of Statehood for a long time. Let's open it.

APPENDIX A. MAP OF TERRITORY OF HAWAII



APPENDIX AI. THE ANNEXATION OF HAWAII[1]

Joint Resolution To provide for annexing, the Hawaiian Islands to the United States.

Whereas the Government of the Republic of Hawaii having, in due form, signified its consent, in the manner provided by its constitution, to cede absolutely and without reserve to the United States of America all rights of sovereignty of whatsoever kind in and over the Hawaiian Islands and their dependencies, and also to cede and transfer to the United States the absolute fee and ownership of all public, Government, or Crown lands, public buildings or edifices, ports, harbors, military equipment, and all other public property of every kind and description belonging to the Government of the Hawaiian Islands, together with every right and appurtenance thereunto appertaining: Therefore,

Resolved, That said cession is accepted, ratified, and confirmed, and that the said Hawaiian Islands and their dependencies be, and they are hereby, annexed as a part of the territory of the United States and are subject to the sovereign dominion thereof, and that all and singular the property and rights hereinbefore mentioned are vested in the United States of America.

The existing laws of the United States relative to public lands shall not apply to such lands in the Hawaiian Islands; but the Congress of the United States shall enact special laws for their management and disposition: Provided, That all revenue from or proceeds of the same, except as regards such part

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[1]H. S. Commager, Documents of American History, New York: F. S. Crofts & Co., 1944, pp. 186-187.

thereof as may be used or occupied for the civil, military, or naval purposes of the United States, or may be assigned for the use of the local government, shall be used solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes.

Until Congress shall provide for the government of such islands all the civil, judicial, and military powers exercised by the officers of the existing government in said islands shall be vested in such person or persons and shall be exercised in such manner as the President of the United States shall direct; and the President shall have power to remove said officers and fill the vacancies so occasioned.

The existing treaties of the Hawaiian Islands with foreign nations shall forthwith cease and determine, being replaced by such treaties as may exist, or as may be hereafter concluded, between the United States and such foreign nations. The municipal legislation of the Hawaiian Islands, not enacted for the fulfillment of the treaties so extinguished and not inconsistent with this joint resolution nor contrary to the Constitution of the United States nor to any existing treaty of the United States, shall remain in force until the Congress of the United States shall otherwise determine.

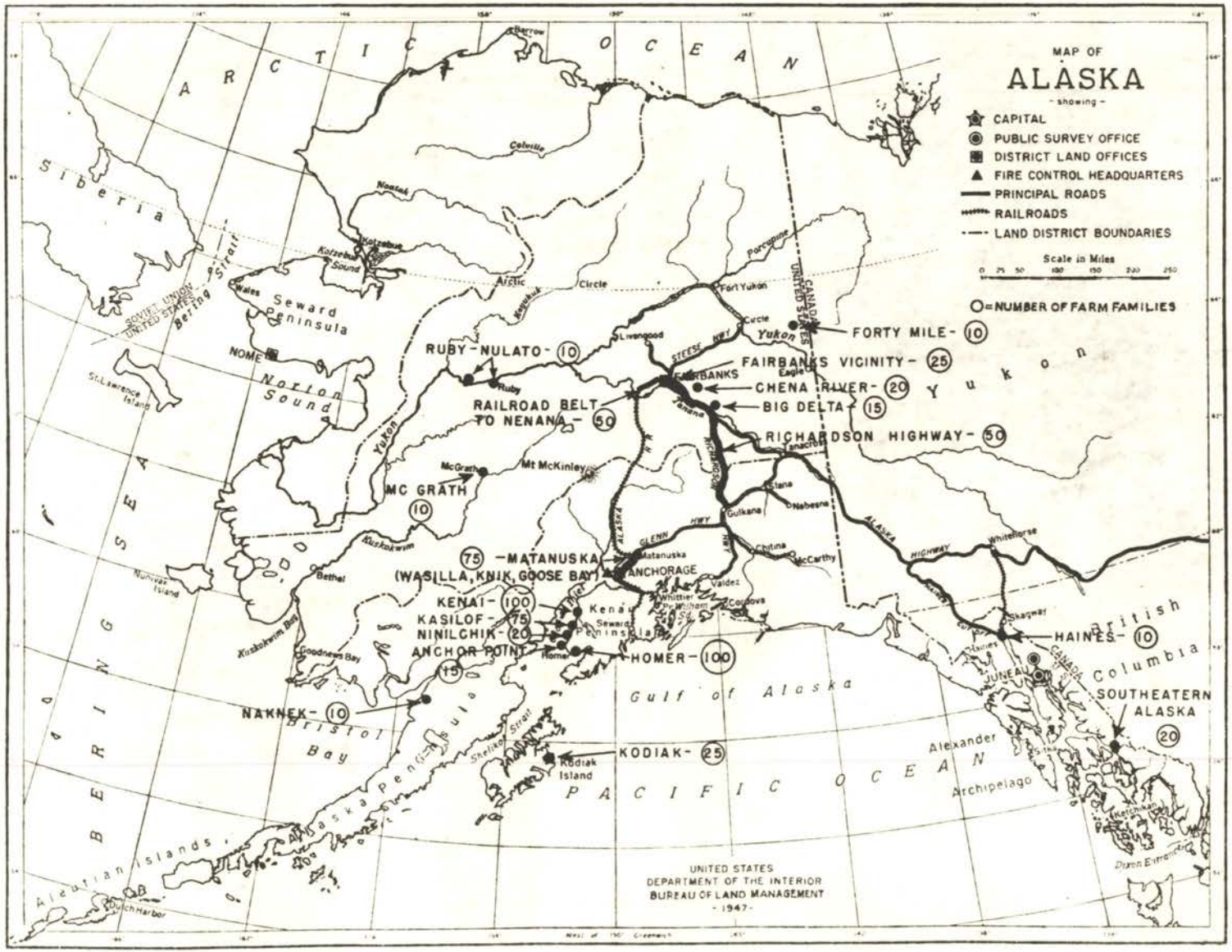
Until legislation shall be enacted extending the United States customs laws and regulations to the Hawaiian Islands the existing customs relations of the Hawaiian Islands with the United States and other countries shall remain unchanged.

The public debt of the Republic of Hawaii, lawfully

existing at the date of the passage of this joint resolution, including the amounts due to depositors in the Hawaiian Postal Savings Bank, is hereby assumed by the Government of the United States; but the liability of the United States in this regard shall in no case exceed four million dollars. So long, however, as the existing Government and the present commercial relations of the Hawaiian Islands are continued as hereinbefore provided said Government shall continue to pay the interest on said debt.

There shall be no further immigration of Chinese into the Hawaiian Islands, except upon such conditions as are now or may hereafter be allowed by the laws of the United States; and no Chinese, by reason of anything herein contained, shall be allowed to enter the United States from the Hawaiian Islands.

The President shall appoint five commissioners, at least two of whom shall be residents of the Hawaiian Islands, who shall, as soon as reasonably practicable, recommend to Congress such legislation concerning the Hawaiian Islands as they shall deem necessary or proper. . . .


MAP OF
ALASKA
- showing -
CAPITAL
PUBLIC SURVEY OFFICE
DISTRICT LAND OFFICES
FIRE CONTROL HEADQUARTERS
PRINCIPAL ROADS
RAILROADS
LAND DISTRICT BOUNDARIES
Scale in Miles
0 25 50 100 150 200 250
O=NUMBER OF FARM FAMILIES
FORTY MILE- (10)
FAIRBANKS VICINITY- (25)
CHENA RIVER- (20)
BIG DELTA- (15)
RICHARDSON HIGHWAY- (50)
RUBY-NULATO- (10)
RAILROAD BELT TO NENANA- (50)
MC GRATH (10)
(75) -MATANUSKA (WASILLA, KNIK, GOOSE BAY)
ANCHORAGE
KENAI- (100)
KASILOF- (75)
NINILCHIK- (20)
ANCHOR POINT (15)
HOMER- (100)
NAKNEK- (10)
KODIAK- (25)
HAINES- (10)
SOUTHEASTERN ALASKA (20)
ARCTIC OCEAN
Siberia
Barrow
Colville
Nunlak
Kotzebue
Kotzebue Sound
Wales
Seward Peninsula
Bering Strait
SOVIET UNION
UNITED STATES
NOME
St. Lawrence Island
Norton Sound
Arctic Circle
Fort Yukon
Porcupine
Yukon
Livengood
Steese Hwy
Circle
Eagle
Fairbanks
Ruby
Tanana
Richardson Hwy
McGrath
Mt McKinley
Gulkana
Nabesna
Glenn Hwy
Matanuska
Palmer
Chitina
McCarthy
Alaska Highway
Whitehorse
Valdez
Whittier
Cordova
Kenai
Seward
Homer
Kuskokwim
Kuskokwim Bay
Bethel
Nunivak Island
Goodnews Bay
Bristol Bay
Shelikof Strait
Kodiak Island
Alaska Peninsula
Aleutian Islands
Dutch Harbor
BERING SEA
Gulf of Alaska
PACIFIC OCEAN
Alexander Archipelago
Skagway
Haines
Juneau
Ketchikan
Dixon Entrance
British Columbia
CANADA
UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
- 1947 -

APPENDIX BI. THE PURCHASE OF ALASKA[1]

Convention for the Cession of the Russian Possessions in North America to the United States Concluded March 30, 1867. Ratifications exchanged at Washington, June 20, 1867. Proclaimed June 20, 1867.

. . . Art. I. . . . His Majesty the Emperor of all the Russias agrees to cede to the United States, by this Convention, immediately upon the exchange of the ratifications thereof, all the territory and dominion now possessed by his said Majesty on the continent of America and in the adjacent islands, the same being contained within the geographical limits herein set forth, to wit: The eastern limit is the line of demarcation between the Russian and the British possessions in North America, as established by the convention between Russia and Great Britain, of February 28--16, 1825, and described in Articles III. and IV. of said convention, in the following terms: . . .

"'IV. With reference to the line of demarcation laid down in the preceding article, it is understood--

"'1st. That the island called Prince of Wales Island shall belong wholly to Russia,' . . .

"'2d. That whenever the summit of the mountains which extend in a direction parallel to the coast from the 56th degree of north latitude to the point of intersection of the 141st degree of west longitude shall prove to be at the distance of more than ten marine leagues from the ocean, the limit between the British possessions and the line of coast which is to belong to Russia as above mentioned, (that is to say, the limit to the possessions ceded by this convention,) shall

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[1] H. S. Commager, Documents of American History, New York: F. S. Crofts & Co., 1944, pp. 42-43.

be formed by a line parallel to the winding of the coast, and which shall never exceed the distance of ten marine leagues therefrom.'"

Art. II. . . . In the cession of territory and dominion made by the preceding article are included the right of property in all public lots and squares, vacant lands, and all public buildings, fortifications, barracks, and other edifices which are not private individual property. It is, however, understood and agreed, that the churches which have been built in the ceded territory by the Russian Government, shall remain the property of such members of the Greek Oriental Church resident in the territory as may choose to worship therein. . . .

Art. III. . . . The Inhabitants of the ceded territory, according to their choice, reserving their natural allegiance, may return to Russia within three years; but, if they should prefer to remain in the ceded territory, they, with the exception of uncivilized native tribes, shall be admitted to the enjoyment of all the rights, advantages, and immunities of citizens of the United States, and shall be maintained and protected in the free enjoyment of their liberty, property, and religion. The uncivilized tribes will be subject to such laws and regulations as the United States may from time to time adopt in regard to aboriginal tribes of that country. . . .

Art. VI. In consideration of the cession aforesaid, the United States agree to pay at the Treasury in Washington . . . seven million two hundred thousand dollars in gold. . . .

APPENDIX C. THE NORTHWEST ORDINANCE JULY 13, 1787[1]

An Ordinance for the government of the Territory of the United States northwest of the River Ohio.

Be it ordained by the United States in Congress assembled, That the said territory, for the purposes of temporary government, be one district, subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.

Be it ordained by the authority aforesaid, That the estates, both of resident and non-resident proprietors in the said territory, dying intestate, shall descend to, and be distributed among their children, and the descendants of a deceased child, in equal parts; the descendants of a deceased child or grandchild to take the share of their deceased parent in equal parts among them: And where there shall be no children or descendants, then in equal parts to the next of kin in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate shall have, in equal parts among them, their deceased parents' share; and there shall in no case be a distinction between kindred of the whole and half-blood; saving, in all cases, to the widow of the intestate her third part of the real estate for life, and one-third part of the personal estate; and this law relative to descents and dower, shall remain in full force until altered by the legislature of the district. And until the governor and judges

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[1] H. S. Commager, Documents of American History, New York: F. S. Crofts & Co., 1944, pp. 128-132.

shall adopt laws as hereinafter mentioned, estates in the said territory may be devised or bequeathed by wills in writing, signed and sealed by him or her in whom the estate may be (being of full age), and attested by three witnesses; and real estates may be conveyed by lease and release, or bargain and sale, signed sealed and delivered by the person, being of full age, in whom the estate may be, and attested by two witnesses, provided such wills be duly proved, and such conveyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrates, courts, and registers shall be appointed for that purpose; and personal property may be transferred by delivery; saving, however to the French and Canadian inhabitants, and other settlers of the Kaskaskies, St. Vincents and the neighboring villages who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them, relative to the descent and conveyance, of property.

Be it ordained by the authority aforesaid, That there shall be appointed from time to time by Congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by Congress; he shall reside in the district, and have a freehold estate therein in 1,000 acres of land, while in the exercise of his office.

There shall be appointed from time to time by Congress, a secretary, whose commission shall continue in force for four years unless sooner revoked; he shall reside in the district, and have a freehold estate therein in 500 acres of land, while

in the exercise of his office. It shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department, and transmit authentic copies of such acts and proceedings, every six months, to the Secretary of Congress: There shall also be appointed a court to consist of three judges, any two of whom to form a court, who shall have a common law jurisdiction, and reside in the district, and have each therein a freehold estate in 500 acres of land while in the exercise of their offices; and their commissions shall continue in force during good behavior.

The governor and judges, or a majority of them, shall adopt and publish in the district such laws of the original States, criminal and civil, as may be necessary and best suited to the circumstances of the district, and report them to Congress from time to time: which laws shall be in force in the district until the organization of the General Assembly therein, unless disapproved of by Congress; but afterwards the Legislature shall have authority to alter them as they shall think fit.

The governor, for the time being, shall be commander-in-chief of the militia, appoint and commission all officers in the same below the rank of general officers; all general officers shall be appointed and commissioned by Congress.

Previous to the organization of the general assembly, the governor shall appoint such magistrates and other civil officers in each county or township, as he shall find

necessary for the preservation of the peace and good order in the same: After the general assembly shall be organized, the powers and duties of the magistrates and other civil officers shall be regulated and defined by the said assembly; but all magistrates and other civil officers not herein otherwise directed, shall, during the continuance of this temporary government, be appointed by the governor.

For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper divisions thereof; and he shall proceed from time to time as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished, into counties and townships, subject however to such alterations as may thereafter be made by the legislature.

So soon as there shall be five thousand free male inhabitants of full age in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect representatives from their counties or townships to represent them in the general assembly: Provided, That, for every five hundred free male inhabitants, there shall be one representative, and so on progressively with the number of free male inhabitants shall the right of representation increase, until the number of representatives shall amount to twenty-five; after which, the number and proportion of representatives shall be regulated by the legislature: Provided,

That no person be eligible or qualified to act as a representative unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years; and, in either case, shall likewise hold in his own right, in fee simple, two hundred acres of land within the same: Provided, also, That a freehold in fifty acres of land in the district, having been a citizen of one of the states, and being resident in the district, or the like freehold and two years residence in the district, shall be necessary to qualify a man as an elector of a representative.

The representatives thus elected, shall serve for the term of two years; and, in case of the death of a representative, or removal from office, the governor shall issue a writ to the county or township for which he was a member, to elect another in his stead, to serve for the residue of the term.

The general assembly or legislature shall consist of the governor, legislative council, and a house of representatives. The Legislative Council shall consist of five members, to continue in office five years, unless sooner removed by Congress; any three of whom to be a quorum: and the members of the Council shall be nominated and appointed in the following manner, to wit; As soon as representatives shall be elected, the Governor shall appoint a time and place for them to meet together; and, when met, they shall nominate ten persons, residents in the district, and each possessed of a freehold

in five hundred acres of land, and return their names to Congress; five of whom Congress shall appoint and commission to serve as aforesaid; and, whenever a vacancy shall happen in the council, by death or removal from office, the house of representatives shall nominate two persons, qualified as aforesaid, for each vacancy, and return their names to Congress; one of whom Congress shall appoint and commission for the residue of the term. And every five years, four months at least before the expiration of the time of service of the members of council, the said house shall nominate ten persons, qualified as aforesaid, and return their names to Congress; five of whom Congress shall appoint and commission to serve as members of the council five years, unless sooner removed. And the governor, legislative council, and house of representatives, shall have authority to make laws in all cases, for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills, having passed by a majority in the house, and by a majority in the council, shall be referred to the Governor for his assent; but no bill, or legislative act whatever, shall be of any force without his assent. The governor shall have power to convene, prorogue, and dissolve the general assembly, when, in his opinion, it shall be expedient.

The governor, judges, legislative council, secretary, and such other officers as Congress shall appoint in the district, shall take an oath or affirmation of fidelity and of office; the governor before the president of congress, and all other

officers before the Governor. As soon as a legislature shall be formed in the district, the council and house assembled in one room, shall have authority, by joint ballot, to elect a delegate to Congress, who shall have a seat in Congress, with a right of debating but not of voting during this temporary government.

And, for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws and constitutions are erected; to fix and establish those principles as the basis of all laws, constitutions, and governments, which forever hereafter shall be formed in the said territory: to provide also for the establishment of States, and permanent government therein, and for their admission to a share in the federal councils on an equal footing with the original States, at as early periods as may be consistent with the general interest:

It is hereby ordained and declared by the authority aforesaid, That the following articles shall be considered as articles of compact between the original States and the people and States in the said territory and forever remain unalterable, unless by common consent, to wit:

Art. 1. No person, demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship or religious sentiments, in the said territory.

Art. 2. The inhabitants of the said territory shall always be entitled to the benefits of the writ of habeas corpus, and of the trial by jury; of a proportionate representation of

the people in the legislature; and of judicial proceedings according to the course of the common law. All persons shall be bailable, unless for capital offences, where the proof shall be evident or the presumption great. All fines shall be moderate; and no cruel or unusual punishments shall be inflicted. No man shall be deprived of his liberty or property, but by the judgment of his peers or the law of the land; and, should the public exigencies make it necessary, for the common preservation, to take any person's property, or to demand his particular services, full compensation shall be made for the same. And, in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made, or have force in the said territory, that shall, in any manner whatever, interfere with or affect private contracts or engagements, bona fide, and without fraud, previously formed.

Art. 3. Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and, in their property, rights, and liberty, they shall never be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity, shall from time to time be made for preventing wrongs being done to them, and for preserving peace and friendship with them.

Art. 4. The said territory, and the States which may be

formed therein, shall forever remain a part of this Confederacy of the United States of America, subject to the articles of Confederation, and to such alterations therein as shall be constitutionally made; and to all the acts and ordinances of the United States in Congress assembled, conformable thereto. The inhabitants and settlers in the said territory shall be subject to pay a part of the federal debts contracted or to be contracted, and a proportional part of the expenses of government, to be apportioned on them by Congress according to the same common rule and measure by which apportionments thereof shall be made on the other States; and the taxes for paying their proportion shall be laid and levied by the authority and direction of the legislatures of the district or districts, or new States, as in the original States, within the time agreed upon by the United States in Congress assembled. The legislatures of those districts or new States, shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulations Congress may find necessary for securing the title in such soil to the bona fide purchasers. No tax shall be imposed on lands the property of the United States; and, in no case, shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways and forever free, as well to the inhabitants of the said territory as to the citizens of the United States, and those of any other States that may be admitted into the confederacy, without any

tax, impost, or duty therefor.

Art. 5. There shall be formed in the said territory, not less than three nor more than five States; and the boundaries of the States, as soon as Virginia shall alter her act of cession, and consent to the same, shall become fixed and established as follows, to wit: The western State in the said territory, shall be bounded by the Mississippi, the Ohio, and Wabash Rivers; a direct line drawn from the Wabash and Post Vincents, due North, to the territorial line between the United States and Canada; and, by the said territorial line, to the Lake of the Woods and Mississippi. The middle State shall be bounded by the said direct line, the Wabash from Post Vincents to the Ohio, by the Ohio, by a direct line, drawn due north from the mouth of the Great Miami, to the said territorial line, and by the said territorial line. The eastern State shall be bounded by the last mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: Provided, however, and it is further understood and declared, that the boundaries of these three States shall be subject so far to be altered, that, if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of lake Michigan. And, whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted, by its delegates, into the Congress of the United States, on an equal footing with the original States in all

respects whatever, and shall be at liberty to form a permanent constitution and State government: Provided, the constitution and government so to be formed, shall be republican, and in conformity to the principles contained in these articles; and, so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than sixty thousand.

Art. 6. There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes whereof the party shall have been duly convicted: Provided, always, That any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service as aforesaid.

Be it ordained by the authority aforesaid, That the resolutions of the 23rd of April 1784, relative to the subject of this ordinance, be, and the same are hereby repealed and declared null and void.

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