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**PROPOSED AMENDMENTS TO THE ORGANIC
ACT OF THE TERRITORY OF HAWAII**

HEARINGS

BEFORE THE

COMMITTEE ON THE TERRITORIES

HOUSE OF REPRESENTATIVES

SIXTY-SEVENTH CONGRESS

FIRST SESSION

ON

H. R. 7257

**REHABILITATION AND COLONIZATION OF HAWAIIANS AND
OTHER PROPOSED AMENDMENTS TO THE ORGANIC
ACT OF THE TERRITORY OF HAWAII**

JUNE 9 AND 10, 1921



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COMMITTEE ON THE TERRITORIES.

HOUSE OF REPRESENTATIVES.

SIXTY-SEVENTH CONGRESS.

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PROPOSED AMENDMENTS TO THE ORGANIC ACT OF THE TERRITORY OF HAWAII.

COMMITTEE ON THE TERRITORIES,
HOUSE OF REPRESENTATIVES,
Thursday, June 9, 1921.

The committee met at 10 o'clock a. m., Hon. Charles F. Curry (chairman) presiding.

The following persons were present: Charles A. Rice, chairman of the Hawaii Legislative Commission; Senator John H. Wise; Senator H. W. Rice; Attorney General Harry Irwin, legal adviser of the commission; W. W. Goodale; John R. Desha; and Senator Charles Chillingsworth, president of the Territorial senate.

The CHAIRMAN. The committee will come to order. We have met this morning for the purpose of considering H. R. 6207, which is known as the Hawaiian rehabilitation bill. The title of the bill is: "To amend an act entitled 'An act to provide a government for the Territory of Hawaii,' approved April 30, 1900, as amended, to establish an Hawaiian homes commission, and for other purposes."

This bill was considered by this committee at the last session of Congress and by a unanimous vote was favorably reported and passed the House by a unanimous vote. It was favorably reported by the Senate committee, but was not acted upon by the Senate.

The bill as presented at this session contains a few amendments to the bill that were considered by the House at the last session of Congress. At the last session we had full and complete hearings on this bill. I do not suppose it is necessary, as those hearings are in print, to go as thoroughly into the merits of the bill as we did at the last session. There is a commission from Hawaii present to explain the amendments to the bill and to explain any features of the bill that the committee may wish to go into. The commission was appointed by the Legislature of Hawaii, and if there is no objection I will call upon the chairman of the commission to make a statement.

STATEMENT OF MR. CHARLES A. RICE.

Mr. CHARLES A. RICE. I would like to present this bill as the bill that was passed by the legislature (H. R. 6207), with concurrent resolution by the legislature, and I have a typewritten copy of the bill containing the amendments to the old bill, the amendments being underlined. I will ask the attorney general to explain the amendments to the committee.

The CHAIRMAN. The number of the bill considered at the last session was H. R. 13500. The bill you present at the present time is the one that was approved by the Legislature of Hawaii.

Mr. CHARLES A. RICE. Yes, sir.

The CHAIRMAN. This is the bill that the legislature wishes to be approved by Congress.

Mr. CHARLES A. RICE. Yes.

The CHAIRMAN. The typewritten copy of the resolution and bill referred to by Mr. Rice will be incorporated in the record, and the amendments, which are underlined, will be printed in italics.

(Said resolution and bill follows:)

CONCURRENT RESOLUTION.

Whereas the Legislature of Hawaii, during its 1919 session, passed a number of concurrent resolutions recommending to the Congress of the United States that certain amendments be made to the Hawaiian organic act, and further recommending the enactment of legislation having as its purpose the rehabilitation of the Hawaiian race; and

Whereas in compliance with the requests contained in said concurrent resolutions, House resolution No. 13500 was introduced in the Sixty-sixth Congress and passed by the House of Representatives, but was still pending before the Committee on the Territories of the Senate on the date of the adjournment of said Congress; and

Whereas certain objections were urged against the rehabilitation features of said House resolution No. 13500 at the hearing held by said Committee on the Territories of the Senate; and

Whereas this 1921 Legislature of the Territory of Hawaii has previously gone on record as favoring the passage of said House resolution No. 13500, and is still of the opinion and belief that the proposed amendments to the organic act and the principles of rehabilitation substantially as set forth in said House resolution should be speedily enacted into law; and

Whereas certain amendments have been prepared for the purpose of meeting the objections that have been made to the rehabilitation features of said bill: Now, therefore, be it

Resolved by the Senate of the Legislature of Hawaii, the House of Representatives concurring, That the Congress of the United States be and hereby is respectfully requested to amend the Hawaiian organic act and to provide for the rehabilitation of the Hawaiian people by the enactment of a law substantially as set forth in the bill which is hereto attached and made a part hereof; and be it further

Resolved, That certified copies of this resolution be forwarded to the President of the United States, the President of the Senate, and the Speaker of the House of Representatives of the Congress of the United States, the chairman of the Committees on Territories of the Senate and of the House of Representatives of said Congress, and to the Delegate to Congress from Hawaii.

A BILL To amend an act entitled "An Act to provide a government for the Territory of Hawaii," approved April 30, 1900, as amended, to establish a Hawaiian Homes Commission, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

TITLE I. DEFINITIONS.

SECTION 1. This act may be cited as the "Hawaiian Homes Commission Act, 1920."

SEC. 2. When used in this act the term "Hawaiian organic act" means the act entitled "An act to provide a government for the Territory of Hawaii," approved April 30, 1900, as amended.

TITLE II. HAWAIIAN HOMES COMMISSION.

SEC. 201. (a) When used in this title—

- (1) The term "commission" means the Hawaiian Homes Commission;
- (2) The term "public land" has the same meaning as defined in paragraph (3) of subdivision (a) of section 73 of the Hawaiian organic act;
- (3) The term "fund" means the Hawaiian home loan fund.
- (4) The term "Territory" means the Territory of Hawaii.
- (5) The term "Hawaiian home lands" means all lands given the status of Hawaiian home lands under the provisions of section 204 of this title;

(6) The term "tract" means any tract of Hawaiian home lands leased as authorized by section 207 of this title, or any portion of such tract; and

(7) The term "native Hawaiian" means any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778.

(h) Any term defined or described in section 347 or 351 of the revised laws of Hawaii of 1915, except a term defined in subdivision (a) of this section, shall, whenever used in this title, have the same meaning as given by such definition or description.

SEC. 202. (a) There is hereby established a commission to be known as the "Hawaiian Homes Commission" and to be composed of five members, as follows:

(1) The governor of the Territory, and

(2) Four citizens of the Territory to be appointed by the governor, by and with the advice and consent of the senate of the legislature of the Territory. At least three of the appointed members of the commission shall be native Hawaiians.

(b) Any vacancy in the office of an appointed member shall be filled in the same manner and under the same limitations as the original appointment.

(c) The governor of the Territory shall be the chairman of the commission. The commission shall designate one of its members to serve as the executive officer and secretary of the commission. The executive officer and secretary shall receive such annual salary, not to exceed \$6,000, as the commission may determine. The members of the commission, except the executive officer and secretary, shall receive an annual salary of \$500. Of the original appointed members of the commission, one shall be appointed for a term of one year, one for two years, one for three years, and one for four years. Their successors shall hold office for terms of four years, except that any member appointed to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. A member may after due notice and public hearing be removed by the governor for neglect of duty or malfeasance in office, but for no other cause.

SEC. 203. All public lands of the description and acreage, as follows, excluding (a) all lands within any forest reservation, (b) all cultivated sugar-cane lands, and (c) all public lands held under a certificate of occupation, homestead lease, right of purchase lease, or special homestead agreement, are hereby designated and hereinafter referred to as "available lands":

(1) On the Island of Hawaii: Kamaoa-Puueo (11,000 acres, more or less), in the district of Kau; Puukapu (12,000 acres, more or less), Kawaihae Island (10,000 acres, more or less), and Pauahi (750 acres, more or less), in the district of South Kohala; Kamoku-Kapulena (5,000 acres, more or less), Waimanu (200 acres, more or less), and Nienu (7,350 acres, more or less), in the district of Hamakua; 53,000 acres to be selected by the commission from the lands of Humuula Mauka in the district of North Hilo; Panaewa, Waiakea (2,000 acres, more or less), Waiakea-kai, or Keaukaha (2,000 acres, more or less), and 2,000 acres of agricultural lands to be selected by the commission from the lands of Pihonua, in the district of South Hilo; and 2,000 acres to be selected by the commission from the lands of Kaohe-Makuu in the district of Puna;

(2) On the Island of Maui: Kahikinui (25,000 acres, more or less), in the district of Kahikinui; and the public lands (8,000 acres, more or less) in the district of Kula;

(3) On the Island of Molokai: Palaau (11,400 acres, more or less), Kapaakea (2,000 acres, more or less), Kalamaula (6,000 acres, more or less), Hoolehua (3,500 acres, more or less), Kamiloloa I and II (3,600 acres, more or less), and Makakupai (2,000 acres, more or less), and Kalaupapa (5,000 acres, more or less);

(4) On the Island of Oahu: Nanakuli (3,000 acres, more or less), and Lualualei (2,000 acres, more or less), in the district of Waianae; and Waimanalo (4,000 acres, more or less), in the district of Koolaupoko, excepting therefrom the military reservation and the beach lands; and

(5) On the Island of Kauai: Upper land of Waimea, above the cultivated sugar-cane lands, in the district of Waimea (15,000 acres, more or less); and Moloaa (2,500 acres, more or less), and Anahola and Kamalomaloo (5,000 acres, more or less).

SEC. 204. Upon the passage of this act all available lands shall immediately assume the status of Hawaiian home lands and be under the control of the commission to be used and disposed of in accordance with the provisions of this title, except that—

(1) For a period of five years after the first meeting of the Hawaiian Homes Commission only those lands situate on the Island of Hawaii and described by name in paragraph 1 of section 203 of this title as the lands of Waimanu in the district of Hamakua, Keaukaha and Panawa (Waiakea) in the district of South Hilo and those lands situate on the Island of Molokai which are particularly named in paragraph 3 of section 203 of this title shall be available for use and disposition by said commission under the provisions of this title and none of the remaining available lands named in said section 203 shall, after the expiration of the said five-year period, be leased, used, or otherwise disposed of by the commission

under the provisions of this title, except with the written approval of the Secretary of the Interior of the United States.

(2) In case any available land is under lease at the time of the passage of this act such land shall not assume the status of Hawaiian home lands until the lease expires or the commissioner of public lands withdraws the lands from the operation of the lease. If the land is covered by a lease containing a withdrawal clause as provided in subdivision (d) of section 73 of the Hawaiian organic act, the commissioner of public lands shall withdraw such lands from the operation of the lease whenever the commission *with the approval of the Secretary of the Interior* gives notice to him that the commission is of the opinion that the lands are required by it for leasing as authorized by the provisions of section 207, or for a community pasture as provided in section 211 of this title. Such withdrawal shall be held to be for a public purpose within the meaning of that term as used in subdivision (d) of section 73 of the Hawaiian organic act.

(3) In case any land is to be selected by the commission out of a larger area of available lands, such land shall not assume the status of Hawaiian home lands until the commission *with the approval of the Secretary of the Interior*, makes the selection and gives notice thereof to the commissioner of public lands. The commission shall give such notice within two years after the expiration of the *five-year period referred to in paragraph 1 of this section*. Any such notice given thereafter shall be deemed invalid and of no effect.

Sec. 205. Available lands shall be sold or leased only (1) in the manner and for the purposes set out in this title, or (2) as may be necessary to complete any valid agreement of sale or lease in effect at the time of the passage of this act, except that such limitations shall not apply to the unselected portions of lands from which the commission has made a selection and given notice thereof, or failed so to select and give notice within the time limit, as provided in paragraph (3) of section 204 of this title.

Sec. 207. (a) The commission is authorized to lease to native Hawaiians the right to the use and occupancy of a tract of Hawaiian home lands within the following acreage limits:

- (1) Not less than 20 nor more than 80 acres of agricultural lands, or
- (2) Not less than 100 nor more than 500 acres of first-class pastoral lands, or
- (3) Not less than 250 nor more than 1,000 acres of second-class pastoral lands.

(b) The title to lands so leased shall remain in the United States. Applications for tracts shall be made to and granted by the commission under such regulations, not in conflict with any provision of this title, as the commission may prescribe. The commission shall, whenever tracts are available, enter into such a lease with any applicant who, in the opinion of the commission, is qualified to perform the conditions of such lease.

Sec. 208. Each lease made under the authority granted the commission by the provisions of section 207 of this title and the tract in respect to which the lease is made shall be deemed subject to the following conditions, whether or not stipulated in the lease:

- (1) The lessee shall be a native Hawaiian;
- (2) The lessee shall pay a rental of \$1 a year for the tract, and the lease shall be for a term of 99 years;
- (3) The lessee shall occupy and commence to use or cultivate the tract as his home or farm within one year after the lease is made;
- (4) The lessee shall thereafter, for at least such part of each year as the commission shall by regulation prescribe, so occupy and use or cultivate the tract on his own behalf;
- (5) The lessee shall not in any manner transfer to, or mortgage, pledge, or otherwise hold for the benefit of, any other person, except a native Hawaiian and then only upon the approval of the commission, or agree so to transfer, mortgage, pledge, or otherwise, hold, his interest in the tract. Such interest shall not, except in pursuance of such a transfer, mortgage or pledge to or holding for or agreement with a native Hawaiian, be subject to attachment, levy, or sale upon court process. The lessee shall not sublet his interest in the tract or improvements thereon. Upon the death of the lessee his interest in the tract and improvements thereon shall vest under the limitations provided for homesteads in section 403 of the Revised Laws of Hawaii of 1915;
- (6) Beginning with the sixth year of the term of any lease and made under the authority of section 207 of this title, the lessee shall pay all taxes assessed upon the tract and improvements thereon within 60 days after they become delinquent. If the lessee fails so to pay, the commission shall thereupon pay the taxes and have a lien therefor as provided in section 216 of this title;

(7) The lessee shall perform such other conditions, not in conflict with any provision of this title, as the commission may stipulate in the lease.

Sec. 209. All successors, whether by agreement or process of law, to the interest of the lessee in any tract shall be deemed to receive such interest subject to the conditions which would rest upon the lessee if he then were the party holding the interest in the tract. *Provided*, That a successor receiving such interest by inheritance shall not, during the two years next following his inheritance, be deemed to have violated any of the conditions enumerated in section 208 of this title, even though he is not a native Hawaiian and does not on his own behalf occupy and use or cultivate the tract as a home or farm for such part of the year as the commission requires in accordance with the regulations prescribed by it under paragraph (4) of section 208 of this title.

Sec. 210. Whenever the commission has reason to believe that any condition enumerated in section 208 or any provision of section 209 of this title has been violated, the commission shall give due notice and afford opportunity for a hearing to the lessee of the tract in respect to which the alleged violation relates or to the successor of the lessee's interest therein, as the case demands. If upon such hearing the commission finds that the lessee or his successor has violated any condition in respect to the leasing of such tract, the commission may declare his interest in the tract and all improvements thereon to be forfeited and the lease in respect thereto canceled, and shall thereupon order the tract to be vacated within a reasonable time. The right to the use and occupancy of the Hawaiian Home lands contained in such tract shall thereupon revert in the commission and the commission may take possession of the tract and the improvements thereon.

Sec. 211. The commission shall, when practicable, provide from the Hawaiian home lands a community pasture, adjacent to each district in which agricultural lands are leased as authorized by the provisions of section 207 of this title.

Sec. 212. The commission may return any Hawaiian home lands not leased as authorized by the provisions of section 207 of this title to the control of the commissioner of public lands. Any Hawaiian home lands so returned shall, until the commission gives notice as hereinafter in this section provided, resume and maintain the status of public lands in accordance with the provisions of the Hawaiian organic act and the revised laws of Hawaii of 1915, except that such lands may be disposed of under general lease only. Each such lease, whether or not stipulated therein, shall be deemed subject to the right and duty of the commission of public lands to terminate the lease and return the lands to the commission whenever the commission *with the approval of the Secretary of the Interior* gives notice to him that the commission is of the opinion that the lands are required by it for leasing as authorized by the provisions of section 207 of this title or for a community pasture.

Sec. 213. There is hereby established in the treasury of the Territory a revolving fund to be known as the "Hawaiian home loan fund." The entire receipts derived from any leasing of public lands under the provisions of section 212 of this title and 30 per centum of the Territorial receipts derived from the leasing of cultivated sugar-cane lands under any other provision of law, or from water licenses, shall be covered into the fund until the total amount of the moneys paid therein equals \$1,000,000.

Sec. 214. The commission is hereby authorized to make loans from the fund to the lessee of any tract or the successor to his interest therein. Such loans may be made for the following purposes:

- (1) The erection of dwellings on any tract and the undertaking of other permanent improvements thereon;
- (2) The purchase of live stock and farm equipment; and
- (3) Otherwise assisting in the development of tracts.

Sec. 215. Each contract of loan with the lessee or the successor to his interest in the tract shall be held subject to the following conditions, whether or not stipulated in the contract of loan:

(1) The amount of loans to any one borrower outstanding at any one time shall not exceed \$3,000.

(2) The loans shall be repaid upon an amortization plan by means of a fixed number of annual installments sufficient to cover (a) interest on the unpaid principal at the rate of 5 per centum per annum, and (b) such amount of the principal as will extinguish the debt within an agreed period, not exceeding 30 years. The moneys received by the commission from any installment paid upon such loan shall be covered into the fund. The payment of any installment due shall, with the concurrence therein of at least *three* of the five members of the commission, be postponed in whole or in part by the commission for such reasons as it deems good and sufficient and until such later date as it deems advisable. Such postponed payments shall continue to bear interest at the rate of 5 per centum per annum on the unpaid principal and interest.

(3) In case the borrower's interest in his tract or his successor's interest therein is transferred to or mortgaged, pledged, or otherwise held for the benefit of any native Hawaiian, or agreed so to be transferred, mortgaged, pledged, or otherwise held, as permitted by paragraph (5) of section 208 of this title, the commission may at its option declare all annual installments upon the loan immediately due and payable or permit the successor to the borrower's interest in the tract to assume the contract of loan. In case of the borrower's death, the commission shall permit the successor to the borrower's interest in the tract to assume the contract of loan.

(4) No part of the moneys loaned shall be devoted to any purpose other than those for which the loan is made.

(5) The borrower or the successor to his interest in the tract shall comply with such other conditions, not in conflict with any provision of this title, as the commission may stipulate in the contract of loan.

(6) The borrower or the successor to his interest in the tract shall comply with the conditions enumerated in section 208 and with the provisions of section 209 of this title in respect to the lease of the tract.

SEC. 216. The commission may require the borrower to insure, in such amount as the commission may by regulation prescribe, all live stock and dwellings and other permanent improvements upon his tract, purchased or constructed out of any moneys loaned from the fund; or in lieu thereof the commission may directly take out such insurance and add the cost thereof to the amount of the annual installments payable under the amortization plan. Whenever the commission has reason to believe that the borrower has violated any condition enumerated in paragraphs (2), (4), (5), or (6) of section 215 of this title, the commission shall give due notice and afford opportunity for a hearing to the borrower or the successor to his interest in the tract, as the case demands. If upon such hearing the commission finds that the borrower had violated the condition, the commission may declare all annual installments immediately due and payable, notwithstanding any provision in the contract of loan to the contrary. The commission shall have a lien upon the borrower's or lessee's interest in his tract, dwellings, and other permanent improvements thereon, and his live stock to the amount of all annual installment due and unpaid and of all taxes upon such tract and improvements paid by the commission. Such liens shall have priority over any other obligation for which the tract, dwellings, other improvements, or live stock may be security. The commission may, at such time as it deems advisable, enforce any such lien by declaring the borrower's interest in his tract or his successor's interest therein, as the case may be, together with the dwellings and other permanent improvements thereon and the live stock, to be forfeited, and the lease in respect to such tract canceled, and shall thereupon order the tract to be vacated and the live stock surrendered within a reasonable time. The right to the use and occupancy of the Hawaiian home lands contained in such tract shall thereupon revert in the commission, and the commission may take possession of the tract and the improvements thereon: *Provided*, That the commission shall pay to the borrower any difference in his favor between (1) the fair value of the live stock and any improvements in respect to the tract made by the borrower or any predecessor to his interest in the tract, and (2) the amount of the lien.

SEC. 217. In case the lessee or borrower or the successor to his interest in the tract, as the case may be, fails to comply with any order issued by the commission under the provisions of section 210 or 216 of this title, the commission may (1) bring action of ejectment or other appropriate proceeding, or (2) invoke the aid of the circuit court of the Territory for the judicial circuit in which the tract designated in the commission's order is situated. Such court may thereupon order the lessee or his successor to comply with the order of the commission. Any failure to obey the order of the court may be punished by it as contempt thereof. Any tract forfeited under the provisions 210 or 216 of this title may be again leased by the commission as authorized by the provisions of section 207 of this title, except that the value, in the opinion of the commission, of all improvements made in respect to such tract by the original lessee or any successor to his interest therein shall constitute a loan by the commission to the new lessee. Such loan shall be subject to the provisions of this section and sections 216, except paragraph (1), and 216, to the same extent as loans made by the commission from the Hawaiian loan fund.

SEC. 218. No lessee of any tract or any successor to his interest therein shall be eligible to receive in respect to such tract any loan made under the provisions of the act of the legislature of the Territory entitled "The Farm Loan Act of Hawaii," approved April 30, 1919.

SEC. 219. The commission is authorized to employ agricultural experts at such compensation and in such number as it deems necessary. The annual expenditures for such compensation shall not exceed \$6,000. It shall be the duty of such agricul-

tural experts to instruct and advise the lessee of any tract or the successor to the lessee's interest therein as to the best methods of diversified farming and stock raising and such other matters as will tend successfully to accomplish the purposes of this title.

SEC. 220. The commission is hereby authorized directly to undertake and carry on general water and other development projects in respect to Hawaiian home lands. The legislature of the Territory is authorized to appropriate out of the treasury of the Territory such sums as it deems necessary to provide the commission with funds sufficient to execute such projects. The legislature is further authorized to issue bonds to the extent required to yield the amount of any sum so appropriated. The commission shall pay from the Hawaiian home loan fund into the treasury of the Territory:

(1) Upon the date when any interest payment becomes due upon any bond so issued, the amount of the interest then due, and

(2) Commencing with the first such date more than one year subsequent to the issuance of any bond and at each interest date thereafter, an amount such that the aggregate of all such amounts which become payable during the term of the bond, compounded annually at the rate of interest specified therein, shall equal the par value of the bond at the expiration of its term.

SEC. 221. (a) When used in this section—

(1) The term "water license" means any license issued by the commissioner of public lands, granting to any person the right to the use of government-owned water; and

(2) The term "surplus water" means so much of any government-owned water, covered by a water license, or so much of any privately owned water, as is in excess of the quantity required for the use of the licensee or owner, respectively.

(b) All water licenses issued after the passage of this act shall be deemed subject to the condition, whether or not stipulated in the license, that the licensee shall, upon the demand of the commission, grant to it the right to use, free of all charge, any water which the commission deems necessary adequately to supply the live stock or the domestic needs of individuals upon any tract.

(c) In order adequately to supply live stock or the domestic needs of individuals upon any tract, the commission is authorized (1) to use free of all charge government-owned water not covered by any water license or covered by a water license issued after the passage of this act, or covered by a water license issued previous to the passage of this act but containing a reservation of such water for the benefit of the public, and (2) to contract with any person for the right to use, or to acquire, under eminent domain proceedings similar, as near as may be, to the proceedings provided in respect to land by sections 667 to 678, inclusive, of the revised laws of Hawaii of 1915, the right to use any privately owned surplus water, or any government-owned surplus water covered by a water license issued previous to the passage of this act but not containing a reservation of such water for the benefit of the public. Any such requirement shall be held to be for a public use and purpose. The commission may institute the eminent domain proceedings in its own name.

(d) The commission is authorized, for the additional purpose of adequately irrigating any tract, to use, free of all charge, government-owned water upon the island of Molokai and government-owned surplus water tributary to the Waimea River upon the island of Kauai, not covered by a water license or covered by a water license issued after the passage of this act. Any water license issued after the passage of this act and covering any such government-owned water, shall be deemed subject to the condition, whether or not stipulated therein, that the licensee shall, upon the demand of the commission, grant to it the right to use, free of all charge, any of the water upon the island of Molokai, and any of the surplus water tributary to the Waimea River upon the island of Kauai, which is covered by the license and which the commission deems necessary for the additional purpose of adequately irrigating any tract.

(e) All rights conferred on the commission by this section, to use, contract for, or acquire the use of water, shall be deemed to include the right to use, contract for, or acquire the use of any ditch or pipe line, constructed for the distribution and control of such water and necessary to such use by the commission.

SEC. 222. The commission may make such regulations and, with the approval in writing of the governor of the Territory, may make such expenditures, including salaries, and appoint and remove such employees and agents as are necessary to the efficient execution of the functions vested in the commission by this title. All expenditures of the commission shall be allowed and paid, and all moneys necessary for loans made by the commission in accordance with the provisions of this title advanced, from the Hawaiian home loan fund upon the presentation of itemized vouchers therefor, approved by the chairman of the commission. The commission

shall make a biennial report to the legislature of the Territory upon the first day of each regular session thereof and such special reports as the legislature may from time to time require. The executive officer and secretary shall give bond in the sum of \$25,000 for the faithful performance of his duties. The sureties upon the bond and the conditions thereof shall be approved annually by the commission.

SEC. 223. The Congress of the United States reserves the right to alter, amend, or repeal the provisions of this title.

TITLE III. AMENDMENTS TO HAWAIIAN ORGANIC ACT.

SEC. 301. Section 26 of the Hawaiian organic act is hereby amended to read as follows:

"SEC. 26. That the members of the legislature shall receive for their services, in addition to mileage at the rate of 20 cents a mile each way, the sum of \$1,000 for each regular session, payable in three equal installments on and after the first, thirtieth and fiftieth days of the session, and the sum of \$500 for each special session: *Provided*, That they shall receive no compensation for any extra session held under the provisions of section 54 of this act."

SEC. 302. Section 55 of the Hawaiian organic act is hereby amended by deleting therefrom that portion thereof which reads:

"*Provided*, That no corporation, domestic or foreign, shall acquire and hold real estate in Hawaii in excess of one thousand acres and all real estate acquired or held by such corporation or association contrary hereto shall be forfeited and escheat to the United States, but existing vested rights in real estate shall not be impaired," and by amending so much of section 55 as reads, "and the total indebtedness of the Territory shall not at any time be extended beyond 7 per centum of such assessed value of property in the Territory," to read as follows: "and the total indebtedness of the Territory shall not at any time be extended beyond 10 per centum of such assessed value of property in the Territory."

SEC. 303. Section 66 of the Hawaiian organic act is hereby amended to read as follows:

"SEC. 66. That the executive power of the government of the Territory of Hawaii shall be vested in a governor, who shall be appointed by the President, by and with the advice and consent of the Senate of the United States, and shall hold office for four years and until his successor shall be appointed and qualified, unless sooner removed by the President. He shall be not less than thirty-five years of age; shall be a citizen of the Territory of Hawaii; shall have resided therein for at least three years next preceding his appointment; shall be commander in chief of the militia thereof; and may grant pardons or reprieves for offenses against the laws of the said Territory and reprieves for offenses against the laws of the United States, until the decision of the President is made known thereon."

SEC. 304. The first, second, and third paragraphs of section 73 of the Hawaiian organic act are hereby amended to read as follows:

"SEC. 73. (a) That when used in this section—

"(1) The term 'commissioner' means the commissioner of public lands of the Territory of Hawaii;

"(2) The term 'land board' means the board of public lands, as provided in subdivision (1) of this section;

"(3) The term 'public lands' includes all lands in the Territory of Hawaii classed as government or Crown lands previous to August 15, 1895, or acquired by the government upon or subsequent to such date by purchase, exchange, escheat, or the exercise of the right of eminent domain, or in any other manner, except (1) lands designated in section 203 of the Hawaiian homes commission act, 1920, (2) lands set apart or reserved by Executive order by the President, (3) lands set aside or withdrawn by the governor under the provisions of subdivision (g) of this section, (4) sites of public buildings, lands used for roads, street landings, nurseries, parks, tracts reserved for forest growth or conservation of water supply, or other public purposes, and (5) lands to which the United States has relinquished the absolute fee and ownership, unless subsequently placed under the control of the commissioner and given the status of public lands in accordance with the provisions of this act, the Hawaiian homes commission act, 1920, or the revised laws of Hawaii of 1915; and

"(4) The term 'person' includes individual, partnership, corporation, and association.

"(b) Any term defined or described in section 347 or 351 of the revised laws of Hawaii of 1915, except a term defined in subdivision (a) of this section, shall, whenever used in this section, if not inconsistent with the context or any provision of this section, have the same meaning as given it by such definition or description.

"(c) The laws of Hawaii relating to public lands, the settlement of boundaries, and the issuance of patents on land commission awards, except as changed by this act, shall continue in force until Congress shall otherwise provide. Subject to the approval of the President, all sales, grants, leases, and other dispositions of the public domain, and agreements concerning the same, and all franchises granted by the Hawaiian government in conformity with the laws of Hawaii, between the 7th day of July, 1898, and the 28th day of September, 1899, are hereby ratified and confirmed. In said laws 'land patent' shall be substituted for 'royal patent'; 'commissioner of public lands,' for 'minister of the interior,' 'agent of public lands,' and 'commissioners of public lands,' or their equivalents; and the words 'that I am a citizen of the United States,' or 'that I have declared my intention to become a citizen of the United States, as required by law,' for the words 'that I am a citizen by birth (or naturalization) of the Republic of Hawaii,' or 'that I have received letters of denization under the Republic of Hawaii,' or 'that I have received a certificate of special right of citizenship from the Republic of Hawaii.'

"(d) No lease of agricultural land or of undeveloped arid public land which is capable of being converted into agricultural land by the development, for irrigation purposes, of either the underlying or adjacent waters, or both, shall be granted, sold, or renewed by the government of the Territory of Hawaii for a longer period than 15 years. Each such lease shall be sold at public auction to the highest bidder after due notice as provided in subdivision (h) of this section and the laws of the Territory of Hawaii. Each such notice shall state all the terms and conditions of the sale. The land or any part thereof so leased may at any time during the term of the lease be withdrawn from the operation thereof for homestead or public purposes, in which case the rent reserved shall be reduced in proportion to the value of the part so withdrawn. Every such lease shall contain a provision to that effect: *Provided*, That the commissioner may, with the approval of the governor and at least two-thirds of the members of the land board, omit such withdrawal provision from the lease of any irrigated lands suitable for the cultivation of sugar cane, whenever he deems it advantageous to the Territory of Hawaii. Land so leased shall not be subject to such right of withdrawal.

"(e) All funds arising from the sale or lease or other disposal of public lands shall be appropriated by the laws of the government of the Territory of Hawaii and applied to such uses and purposes for the benefit of the inhabitants of the Territory of Hawaii as are consistent with the joint resolution of annexation, approved July 7, 1898.

"(f) No person shall be entitled to receive any certificate of occupation, right of purchase lease, cash freehold agreement, or special homestead agreement who, or whose husband or wife, has previously taken or held more than ten acres of land under any such certificate, lease, or agreement made or issued after May 27, 1910, or under any homestead lease or patent based thereon; or who, or whose husband or wife, or both of them, owns other land in the Territory, the combined area of which and the land in question exceeds eighty acres; or who is an alien, unless he has declared his intention to become a citizen of the United States as provided by law. No person who has so declared his intention and taken or held under any such certificate, lease, or agreement, shall continue so to hold or become entitled to a homestead lease or patent of the land, unless he becomes a citizen within five years after so taking.

"(g) No public land for which any such certificate, lease, is issued after May 27, 1910, or any part thereof or interest therein or control thereof, shall, without the written consent of the commissioner and governor, thereafter, whether before or after a homestead lease or patent has been issued thereon, be or be contracted to be in any way, directly or indirectly, by process of law or otherwise, conveyed, mortgaged, leased, or otherwise transferred to, or acquired or held by or for the benefit of, any alien or corporation; or, before or after the issuance of a homestead lease or before the issuance of a patent, to or by or for the benefit of any other person; or, after the issuance of a patent, to or by or for the benefit of any person who owns, or holds, or controls, directly or indirectly, other land to the use thereof, the combined area of which and the land in question exceeds eighty acres. The prohibitions of this paragraph shall not apply to transfers or acquisitions by inheritance or between tenants in common."

SEC. 305. The fourth and fifth paragraphs of section 73 of the Hawaiian organic act are hereby amended by inserting "(h)" at the beginning of the fourth paragraph and "(i)" at the beginning of the fifth paragraph.

SEC. 306. The sixth paragraph of section 73 of the Hawaiian organic act is hereby amended to read as follows:

"(j) The commissioner, with the approval of the governor, may give to any person (1) who is a citizen of the United States or who has legally declared his intention to become a citizen of the United States and hereafter becomes such, and (2) who has, or whose predecessors in interest have, improved any parcel of public lands and resided

thereon continuously for the 10 years next preceding the application to purchase, a preference right to purchase so much of such parcel and such adjoining land as may reasonably be required for a home, at a fair price, to be determined by three disinterested citizens to be appointed by the governor. In the determination of such purchase price, the commissioner may, if he deems it just and reasonable, disregard the value of the improvements on such parcel and adjoining land. If such parcel of public lands is reserved for public purposes either for the use of the United States or the Territory of Hawaii, the commissioner may with the approval of the governor grant to such person a preference right to purchase public lands which are of similar character, value, and area, and which are situated in the same land district. The privilege granted by this paragraph shall not extend to any original lessee or to an assignee of an entire lease of public lands."

SEC. 307. The seventh paragraph of section 73 of the Hawaiian organic act is hereby amended by inserting "(k)" at the beginning thereof.

SEC. 308. The eighth paragraph of section 73 of the Hawaiian organic act is hereby amended to read as follows:

"(1) No sale of lands for other than homestead purposes, except as herein provided, and no exchange by which the Territory shall convey lands exceeding either 40 acres in area or \$5,000 in value shall be made. No lease of agricultural lands exceeding 40 acres in area, or of pastoral or waste lands exceeding 200 acres in area, shall be made without the approval of two-thirds of the board of public lands, which is hereby constituted, the members of which are to be appointed by the governor as provided in section 80 of this act; and until the legislature shall otherwise provide said board shall consist of six members and its members be appointed for a term of four years: *Provided, however, That the commissioner shall, with the approval of said board, sell to any citizen of the United States or to any person who has legally declared his intention to become a citizen, for residence purposes lots and tracts, not exceeding three acres in area, and that sales of Government lands may be made upon the approval of said board whenever necessary to locate thereon railroad rights of way, railroad tracks, sidetracks, depot grounds, pipe lines, irrigation ditches, pumping stations, reservoirs, factories and mills and appurtenances thereto, including houses for employees, mercantile establishments, hotels, churches, and private schools; and all such sales shall be limited to the amount actually necessary for the economical conduct of such business or undertaking: Provided further, That no exchange of Government lands shall hereafter be made without the approval of two-thirds of the members of said board, and no such exchange shall be made except to acquire lands directly for public uses."*

SEC. 309. The ninth paragraph of section 73 of the Hawaiian organic act is hereby amended by inserting "(m)" at the beginning thereof.

SEC. 310. The tenth paragraph of section 73 of the Hawaiian organic act is hereby amended to read as follows:

"(n) It shall be the duty of the commissioner to cause to be surveyed and opened for homestead entry a reasonable amount of desirable agricultural lands and also of pastoral lands in the various parts of the Territory for homestead purposes on or before January 1, 1911, and he shall annually thereafter cause to be surveyed for homestead purposes such amount of agricultural lands and pastoral lands in various parts of the Territory as there may be demand for by persons having the qualifications of homesteaders. In laying out any homestead the commissioner shall include in the homestead lands sufficient to support thereon an ordinary family, but not exceeding 80 acres of agricultural lands and 250 acres of first-class pastoral lands, or 500 acres of second-class pastoral lands; or in case of a homestead including pastoral lands only, not exceeding 500 acres of first-class pastoral lands or 1,000 acres of second-class pastoral lands. All necessary expenses for surveying and opening any such lands for homesteads shall be paid for out of any funds of the Territorial treasury derived from the sale or lease of the public lands, which funds are hereby made available for such purposes.

"(o) The commissioner, with the approval of the governor, may by contract or agreement authorize any person who has the right of possession, under a general lease from the Territory, of agricultural or pastoral lands included in any homestead, to continue in possession of such lands after the expiration of the lease until such time as the homesteader takes actual possession thereof under any form of homestead agreement. The commissioner may fix in the contract or agreement such other terms and conditions as he deems advisable."

SEC. 311. The eleventh and twelfth paragraphs of section 73 of the Hawaiian organic act are hereby amended by inserting "(p)" at the beginning of the eleventh paragraph and "(q)" at the beginning of the twelfth paragraph.

SEC. 312. The fourth paragraph of section 80 of the Hawaiian organic act is hereby amended to read as follows:

"All officers appointed under the provisions of this section shall be citizens of the Territory of Hawaii and shall have resided therein for at least three years next preceding their appointment."

SEC. 313. Section 80 of the Hawaiian organic act is hereby amended to read as follows:

"SEC. 80. (a) That there shall be established in the said Territory a district court, to consist of two judges, who shall reside therein and be called district judges, and who shall each receive an annual salary of \$7,500. The said court while in session shall be presided over by only one of said judges. The two judges shall from time to time, either by order or rules of the court, prescribe at what time and in what class of cases each of them shall preside. The said two judges shall have the same powers in all matters coming before said court.

"(b) The President of the United States, by and with the advice and consent of the Senate of the United States, shall appoint two district judges, a district attorney, and a marshal of the United States for the said district, all of whom shall be citizens of the Territory of Hawaii and shall have resided therein for at least three years next preceding their appointment. Said judges, attorney, and marshal shall hold office for six years unless sooner removed by the President.

"(c) The said court shall have, in addition to the ordinary jurisdiction of district courts of the United States, jurisdiction of all cases cognizable in a circuit court of the United States and shall proceed therein in the same manner as a circuit court; and the said judges, district attorney, and marshal shall have and exercise in the Territory of Hawaii all the powers conferred by the laws of the United States upon the judges, district attorneys, and marshals of district and circuit courts of the United States.

"(d) Writs of error and appeals from the said district court shall be had and allowed to the circuit court of appeals for the ninth judicial circuit in the same manner as writs of error and appeals are allowed from circuit courts to circuit courts of appeal as provided by law, and appeals and writs of error may be taken to the Supreme Court of the United States from said district court in cases where appeals and writs of error are allowed from the district and circuit courts of the United States to the Supreme Court, and the laws of the United States relating to juries and jury trials shall be applicable to said district court. The laws of the United States relating to appeals, writs of error, removal of causes, and other matters and proceedings as between the courts of the United States and the courts of the several States shall govern in such matters and proceedings as between the courts of the United States and the courts of the Territory of Hawaii. Regular terms of said court shall be held at Honolulu on the second Monday in April and October and special terms may be held at such times and places in said district as the said judges may deem expedient. The said district judges shall appoint a clerk of said court at a salary of \$3,200 per annum and shall appoint a reporter of said court at a salary of \$3,000 per annum. The clerk of the district court, with the approval of the judges thereof, may appoint two deputy clerks at salaries of \$2,500 each per annum.

SEC. 314. Section 92 of the Hawaiian organic act is hereby amended to read as follows:

"SEC. 92. That the following officers shall receive the following annual salaries to be paid by the United States: The governor, \$10,000; the secretary of the Territory, \$5,400; the chief justice of the supreme court of the Territory, \$7,000; the associate judges of the supreme court, \$7,500 each; the judges of the circuit courts, \$6,000 each; the United States district attorney, \$5,000; the United States marshal, \$5,000. The governor shall receive annually from the United States, in addition to his salary (1) the sum of \$1,000 for stationery, postage, and incidentals, and (2) his traveling expenses while absent from the capital on official business. The governor is authorized to employ a private secretary who shall receive an annual salary of \$3,000 to be paid by the United States."

SEC. 315. The Hawaiian organic act is hereby further amended by adding at the end thereof two additional sections to read as follows:

"SEC. 105. That no person shall be employed as a mechanic or laborer upon any public work carried on in the Territory of Hawaii by the Government of the United States, whether the work is done by contract or otherwise, unless such person is a citizen of the United States or eligible to become such a citizen.

"SEC. 106. That this act may be cited as the 'Hawaiian organic act.'"

TITLE IV. MISCELLANEOUS PROVISIONS.

SEC. 401. All acts or parts of acts, either of the Congress of the United States or of the Territory of Hawaii, to the extent that they are inconsistent with the provisions of this act, are hereby repealed.

14 PROPOSED AMENDMENTS TO ORGANIC ACT OF HAWAII.

SEC. 402. If any provision of this act, or the application of such provision to certain circumstances, is held unconstitutional, the remainder of the act and the application of such provision to circumstance other than those as to which it is held unconstitutional, shall not be held invalidated thereby.

THE SENATE OF THE TERRITORY OF HAWAII,
Honolulu, T. H., April 23, 1921.

We hereby certify that the foregoing resolution was this day finally adopted in the Senate of the Territory of Hawaii.

CHAS. N. HELLINGWORTH,
President of the Senate.

ALBERT E. LLOYD,
Clerk of the Senate.

THE HOUSE OF REPRESENTATIVES OF THE TERRITORY OF HAWAII,
Honolulu, T. H., April 23, 1921.

We hereby certify that the foregoing resolution was this day adopted in the House of Representatives of the Territory of Hawaii.

H. L. HOLSTEIN,
Speaker, House of Representatives.

EDWARD WOODWARD,
Clerk, House of Representatives.

Mr. ALMON. Does the proposed bill contain all that was contained in the bill that was considered at the last session of Congress?

Mr. CHARLES A. RICE. Yes.

Mr. ALMON. And there are additions, as indicated by the under-scored lines?

Mr. CHARLES A. RICE. Yes, sir.

Mr. DOWELL. The bill, H. R. 6207, is the bill that your legislature approved and that this commission was appointed to present to Congress for the approval of Congress?

Mr. CHARLES A. RICE. Yes, sir.

Mr. KALANIANA'OLE. May I say a few words?

As the bill had not been acted upon favorably by the Senate, the governor of the Territory cabled to me asking me to come home and confer with the legislature relative to the rehabilitation bill. I went home and appeared before the legislature, after which the legislature reframed the bill, adding a few amendments, and the bill as reframed by the legislature, and the amendments thereto, is the bill I have introduced, H. R. 6207.

The CHAIRMAN. We will now hear from the attorney general.

STATEMENT OF MR. HARRY IRWIN, ATTORNEY GENERAL OF HAWAII.

Mr. IRWIN. Gentlemen, turning to the second page of the type-written bill, you will find that the paragraph numbered 7 reads as follows:

The term "native Hawaiian" means any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778.

In the bill as it passed the House last year that read: "Not less than one-thirty-second part." That particular provision was the cause of a good deal of opposition on the part of the opponents of the bill, and in order to meet that opposition, and perhaps do away with some of the opposition, the legislature decided to amend that to read, "not less than one-half part of the blood of the races inhabiting the

Hawaiian Islands previous to 1778," so as to make the proposition more distinctively a Hawaiian rehabilitation scheme. It was said by the opponents of the bill that a person of one-thirty-second Hawaiian blood was to all intents and purposes a white person; that as a matter of fact you could not tell the difference between a person having one-thirty-second part of Hawaiian blood and a white person. So in order to meet that objection this change is suggested and the provisions of the bill are confined to those with not less than one-half Hawaiian blood.

On page 5, paragraph No. 1 of section 204 contains, perhaps, the most important amendment which is suggested. Those of you who are familiar with the bill know that a large number of pieces of land have been set aside for the use of this commission for the purpose of rehabilitating the Hawaiian people. Opposition was offered to this feature on the ground that it would tie up a very large amount of public land in Hawaii.

The CHAIRMAN. You mean page 5 of the typewritten bill?

Mr. IRWIN. Yes.

The CHAIRMAN. You had better refer to the page in the printed bill.

Mr. IRWIN. That would be an insert on page 6 of the printed bill; that would be paragraph No. 1 on page 6 of the printed bill.

Mr. WEAVER. Is this the same in the printed bill as it is in the typewritten bill?

Mr. IRWIN. Yes. The purpose of that amendment is to make available for the first five-year period only a certain portion of the lands which are set aside under the previous sections of the bill. In other words, the proposition now is, frankly, an experiment. There is a certain tract of land on the island of Molokai and two tracts of land on the island of Hawaii, which are made immediately available for the purposes of the act, and those lands are available for five years. That allows a fairly adequate time in which to prove whether or not this proposition can be made a success or whether it will be a failure. If at the end of five years it has been demonstrated that the proposition has been a success, and can be made a continuing success, then, with the approval of the Secretary of the Interior, the other lands mentioned in the previous sections of the bill may be continued to be used from time to time for the general purposes of the rehabilitation scheme. That is about all I have to say about that.

Mr. WEAVER. Who determines that question?

Mr. IRWIN. The commission makes application to the Secretary of the Interior, and if he becomes convinced that the scheme is a success then he will permit further lands to be used for the general purposes of the rehabilitation scheme. The idea of referring that to the Secretary of the Interior was to take it out of local politics entirely and give it independent judgment as to whether or not this scheme had proved a success. Are there any other questions on that particular amendment?

The CHAIRMAN. We may have some later on, but not now.

Mr. IRWIN. In paragraph No. 2 of that section the words "with the approval of the Secretary of the Interior" are inserted in order to make it accord with the new section to which I have just referred.

The CHAIRMAN. Those words are also inserted in paragraph 3.

Mr. IRWIN. Those words are also inserted in paragraph 3 of the same section.

The CHAIRMAN. And in paragraph 3 you also have this further amendment, "expiration of the five-year period referred to in paragraph 1 of this section"?

Mr. IRWIN. Yes; that is, additional lands must be withdrawn within two years after the expiration of that five-year experimental period. On page 8 of the typewritten bill, which would be page 8 of the printed bill, section 207, in paragraphs Nos. 2 and 3, there is a change in the area. In the original bill as it passed the House it was provided, in paragraph 2, for not less than 200 nor more than 500 acres of first-class pastoral lands, and in paragraph 3 for not less than 500 nor more than 2,000 acres of second-class pastoral lands. It was thought advisable to cut down those areas and the legislature consented to that. On page 8 of the typewritten bill, paragraph 2 provides for not less than 100 nor more than 500 acres, and paragraph 3 for not less than 250 nor more than 1,000 acres.

The CHAIRMAN. Paragraph 2 of the bill which passed the House provided for not less than 200 nor more than 500 acres.

Mr. IRWIN. Yes.

The CHAIRMAN. And paragraph 2 of the new bill provides for not less than 100 nor more than 500 acres.

Mr. IRWIN. Yes; and paragraph 3 provides for not less than 200 nor more than 1,000 acres.

The CHAIRMAN. What was the reason for those changes?

Mr. IRWIN. It was felt that that would remove some of the objections to the bill. Some people thought that the maximum areas allowed under the old bill were too large, and as a compromise proposition it was thought it would be perfectly proper to consent to that amendment. I do not know of any other reason for those changes.

The CHAIRMAN. Is the area as provided in the bill sufficient?

Mr. IRWIN. It seemed to be so agreed upon. Mr. Kalaniana'ole was there, the members of the commission, and there was a joint session of the legislature, and it seemed to be agreed upon that that was a sufficient area.

Mr. KALANIANA'OLE. For the benefit of the new members of the committee, I think you might explain the meaning of the 1,000 acres, because 1,000 acres would seem to cover a large area.

Mr. IRWIN. Of course, none of this land is first-class agricultural land; it is second-class land of the Territory and is largely pastoral land. Some of it is capable of being developed into agricultural land but there is a large portion of it that is rather poor pastoral land, so that 1,000 acres of that would not represent an excessive amount.

The CHAIRMAN. I think it would probably be a good idea for you to explain to the committee the character of this land. It was explained in the previous hearings. Does this include sugar lands or first-class lands.

Mr. IRWIN. No.

The CHAIRMAN. These are pastoral lands?

Mr. IRWIN. Yes.

The CHAIRMAN. For the raising of cattle and for dairying purposes, for general farming, etc.

Mr. IRWIN. Yes. Through the expenditure of some money we believe that some of these tracts of land can be developed into a

better class of land. Take the lands on the Island of Molokai. With the expenditure of some money and the bringing of water on those lands they can be developed into a very much higher class of lands than they are at the present time. The water proposition, perhaps, presents some difficulties, but not insurmountable and not at too great a cost.

The CHAIRMAN. If I remember the previous hearings correctly, some statement was made as to the sources of water supply and the cost. I do not know whether you presented that to the committee.

Mr. IRWIN. I think Senator Wise has some figures on that which he will be very glad to give you. Some of the lands set apart are inferior lands—although some are of a rather better class than the rest—and at certain seasons of the year are dry and nonproductive, and it takes quite a good deal of that land to have anything fit for agriculture, the proposition being, so far as those lands are concerned, largely a grazing proposition rather than a farming proposition.

In section 212, page 12, of the typewritten bill and page 12 of the printed bill—

The CHAIRMAN (interposing). You first have page 10 of the typewritten bill.

Mr. IRWIN. There is no change in that.

The CHAIRMAN. On page 10 of the printed bill, in paragraph 7 of section 208, is this proviso:

Provided, however, That the lessee shall be exempt from all taxes for the first five years from date of lease.

Mr. IRWIN. My typewriter has evidently overlooked that or I did not underline it. I have made a slight change from the way it is in the printed bill in order to make the language a little clearer. That amendment was put in after I left my office in Honolulu and the language is not entirely clear. I redrafted that in the typewritten bill to read as follows, page 9 of the typewritten bill:

Beginning with the sixth year of the term of any lease, and made under the authority of section 207 of this title, the lessee shall pay all taxes assessed upon the tract and improvements thereon within 60 days after they become delinquent.

In other words, I have cut out the proviso which the members of the legislature put in and made it a direct statement that the taxes shall begin with the sixth year. It seems to me that is clearer language and expresses the idea a little better.

The CHAIRMAN. Well, does it?

Mr. DRIVER. I do not quite catch the distinction you make. It seems to me the proviso is as emphatic as you could make it and is as clear as it could be provided, that it will exempt for the term of five years and after five years it shall be subject to taxation.

Mr. IRWIN. It seems to me my language is a little more direct.

Mr. DREWRY. Read your suggestion again.

Mr. IRWIN (reading):

Beginning with the sixth year of the term of any lease, and made under the authority of section 207 of this title, the lessee shall pay all taxes assessed upon the tract and improvements thereon within 60 days after they become delinquent.

Mr. DRIVER. The exemption is for five years and you start the taxing period at the sixth year, so that it is the same thing.

Mr. IRWIN. It amounts to the same thing; yes.

Mr. DRIVER. You seek to make no distinction.

Mr. IRWIN. No; none at all.

Mr. DRIVER. And no particular advantage is obtained from the language you use?

Mr. IRWIN. No; the effect of it is exactly the same.

The CHAIRMAN. Do you not think the language in the bill as introduced by the delegate expresses it?

Mr. IRWIN. That is satisfactory to me. I make no point of that at all except that it seemed to me that the proviso naturally belonged in paragraph 6 rather than in paragraph 7.

Mr. DRIVER. Is there anything in your law which would avoid the assessment of this property and the collection of taxes after this exempted period?

Mr. IRWIN. No.

Mr. DRIVER. It does not require any affirmative action on the part of the legislature to make it taxable?

Mr. IRWIN. No.

Mr. DRIVER. Then this is sufficient.

The CHAIRMAN. I should think that the clause in the printed bill would be just as effective as your proposition.

Mr. IRWIN. I think so.

Mr. ALMON. The attorney general says he is satisfied with the provision in the printed bill.

Mr. IRWIN. The next is on page 12 of the typewritten bill, section 212, in which are inserted the words "with the approval of the Secretary of the Interior." That is the only change there and that is made in order to accord with the other provisions. On page 13 of the typewritten bill the word "three" has been inserted, making it read, "with the concurrence therein of at least three of the five members of the commission."

Mr. ALMON. What did the bill which passed last year provide?

Mr. IRWIN. Four instead of three.

Mr. ALMON. Explain why you made the change from four of the commission to three.

Mr. IRWIN. I think the original bill provided for the approval of four members of the commission, and it was changed to read, "with the concurrence therein of at least three of the five members of the commission."

Mr. ALMON. You think that is better?

Mr. IRWIN. I do not know just the reason for that, but the commission consists of five members altogether, and three make a majority. However, in the absence of any expression to the contrary, that would be the rule anyway.

The CHAIRMAN. The approval of the commission would not mean the approval of the entire membership of the commission.

Mr. IRWIN. No; it would be construed to be a majority.

The CHAIRMAN. And a majority vote would be the approval of the commission anyway.

Mr. IRWIN. Yes.

The CHAIRMAN. So there is in reality no change.

Mr. IRWIN. The old bill said, "with the concurrence therein of at least four of the five members of the commission," and this says, "with the concurrence therein of at least three of the five members of the commission."

The CHAIRMAN. Why did you change that?

Mr. IRWIN. I do not know the reason for that change. Perhaps Senator Wise can explain it.

Mr. WISE. It would be easier to get three than to get four in certain instances, and three is a majority of five. Why should four hold up a proposition when three is a majority?

The CHAIRMAN. Do you not anticipate that this commission will act almost as a unit?

Mr. WISE. Not if we do not get the right governor. If we get a governor that is in sympathy with the proposition we might possibly slip through with three, but if we get one opposed to the scheme we might not be able to get anything.

The CHAIRMAN. I do not think the President would appoint a man as governor of the Territory who would not be in harmony with the administration of the laws enacted by the legislature and approved by Congress. Of course, I do not care whether it is three or four members required to approve.

Mr. WISE. This was provided at a time when we were in doubt as to who would be the governor or who was going to be the governor, but now we know who the governor is and we know his views on the bill, so that I do not object to leaving it four. I do not think the commission would make any objection to three, because that is what the legislature wanted and we made it three.

Mr. IRWIN. That completes all of the amendments to the rehabilitation scheme itself, and now we come to the amendments to the organic act. On page 22 of the typewritten bill is the first one, and that is found on page 23 of the printed bill. Under existing law in Hawaii no corporation can own more than 1,000 acres of land, but it is the consensus of opinion of the legislature that that provision should be repealed, so as to remove that prohibition.

Mr. STRONG. Why?

Mr. IRWIN. Well, a rather curious situation has developed there. The different corporations, or most of them, have acquired land up to the limit of 1,000 acres; other lands being necessary for the carrying on of agricultural enterprises, subsidiary companies have been formed which have acquired this land. That practice has been going on practically ever since the annexation of the islands, and the practice has been tentatively approved by the Secretary of the Interior and by the other Government officials until recently the question has arrived at a rather acute stage. The present United States district attorney has filed in the United States court—it has not been filed but the papers have been prepared—a bill in equity for the cancellation of some of those titles.

Mr. STRONG. That would indicate that the Government was not in favor of that practice, would it not?

Mr. IRWIN. I said it seemed to be favored until recently. The bill has not been filed yet. Personally I can see no great harm that would come to the Territory of Hawaii by reason of the repeal of that section.

Mr. STRONG. Are these corporations stock corporations?

Mr. IRWIN. Yes, sir.

Mr. STRONG. What class of people own the stock?

Mr. IRWIN. It is practically held by local people; the stock is very widely distributed throughout the Territory.

Mr. STRONG. In what do they engage?

Mr. IRWIN. The raising of sugar cane, pineapples, etc. There is nothing but agriculture down there.

Mr. STRONG. Does not the ownership of that land by corporations tend to lessen the opportunity of individuals to own and cultivate lands?

Mr. IRWIN. Possibly, to some extent.

Mr. STRONG. Is that a good thing for the community or the islands?

Mr. IRWIN. Well, frankly, it is a close question.

Mr. STRONG. Then do you not think that the limitation of 1,000 acres is a good thing?

Mr. IRWIN. It is pretty small.

Mr. STRONG. Otherwise these corporations could go on until they owned practically all of the valuable lands.

Mr. IRWIN. That is not entirely accurate, for this reason, that the available land is very largely homesteaded land, and under the provisions of existing law a corporation can not buy those homesteaded lands.

Mr. STRONG. But as the laws are expiring from year to year they have an opportunity to buy more land.

Mr. IRWIN. No; they can not buy public land and they can not sell it, under the law.

Mr. STRONG. What land can they buy, then?

Mr. IRWIN. They might go and buy a few——

Mr. KALANIANA'OLE (interposing). The old homesteads; that is, those that were homesteaded prior to 1910.

Mr. STRONG. I say, is that a proper method for the best interests of the people of the islands, to permit these corporations to buy up these individual home lands? I thought we were passing legislation, or trying to pass legislation, to permit more of the people to acquire land for homes.

Mr. IRWIN. Yes.

Mr. STRONG. Then why should we legislate to permit corporations to buy those lands from the people and keep them out of homes?

Mr. IRWIN. Well, it is a close question.

The CHAIRMAN. I think you had better explain the situation in Hawaii so that Mr. Strong may understand it. First of all, these lands are sugar lands?

Mr. IRWIN. Yes.

The CHAIRMAN. And these 1,000-acre tracts are sugar plantations, and plantations may have two or three or four thousand acres. The running of a sugar plantation is an expensive proposition; they must have a lot of machinery, they must have a sugar-mill plant for the treatment of the sugar cane, and it is possible that they might need more than the 1,000 acres, and that the 1,000 acres could be used to better advantage if they had more land. The ordinary man can not do very much with 20 or 30 or 40 acres of sugar land. This 1,000 acre prohibition has, to a certain extent, been indirectly violated in the following manner: One corporation of five men may own 1,000 acres of land and then those same five men might organize another corporation and get another 1,000 acres. It would be the same men in the corporation but there would be a different president and a different secretary and a different treasurer, and in that way

they could get two, three, or four thousand acres. This amendment, I suppose, is to protect those men in their holdings.

Mr. IRWIN. That would be one effect.

The CHAIRMAN. And if these sugar plantations were divided up into small holdings, it would probably result in the destruction of the sugar-cane industry on the islands.

Mr. IRWIN. That is true.

The CHAIRMAN. Of course, the members of the committee do not understand those local conditions and you do understand them, and I think probably it would be better to get this in the record from the folks in Hawaii who understand the situation.

Mr. STRONG. I have no disposition to do anything to retard the interests of Hawaii. What I want to do is to benefit them all I can, but naturally the thought that came to my mind was that one corporation with 1,000 acres of land had plenty. Now, if they need 2,000 acres or 3,000 acres, it may be all right to allow them to hold that many, but it does not seem to me that the best interests of the people over there would be served by allowing all the land to get into the hands of one corporation, and that there ought to be some limit to the amount that a set of men could own in order to keep up competition in labor and prices and in everything else. I may be mistaken about that, and if I am I would like to have enlightenment on it.

Mr. IRWIN. I would like to have Senator H. W. Rice make a statement on that at a convenient time.

STATEMENT OF MR. H. W. RICE.

Mr. H. W. RICE. As your chairman has rightly said, the proposition of the sugar industry is a very expensive one. A mill, and the equipment that goes with it, to handle sugar cane economically would probably cost between one million and a quarter and one million and a half to start with. I can probably explain this proposition by citing the plantation with which I was connected for nine years. A part of our island has an enormous watershed, while the other part is very arid. Probably in one section we will have as much as 200 inches of rainfall in a year, while in the other section we will probably have 10 inches of rainfall in a year. The plantation that I was connected with owned a section of land that was between sea level and a 1,000-foot elevation. The majority of the land was between a 500-foot elevation and 1,000-foot elevation. It was a copartnership proposition and they were operating two separate plantations. Haiku, which was nearer the watershed, had more water than was necessary for their plantation, because they had an adequate rainfall for a large part of the year, but Paia was without water for a great deal of their land, while Haiku had all the water they wanted. In order to work the two places economically they formed a copartnership. There was a different set of stockholders in each company but they went in on an equitable basis to work out the copartnership.

Mr. STRONG. How much land was in the two companies?

Mr. H. W. RICE. There were about 24,000 acres, but that included probably ten or twelve thousand acres that were nothing but a watershed.

Mr. DOWELL. Are these corporations?

Mr. H. W. RICE. Yes.

Mr. DOWELL. Was this consolidation for the purpose of complying with the law in Hawaii relative to the ownership of real estate?

Mr. H. W. RICE. No; this was a copartnership proposition absolutely.

Mr. DOWELL. But has not that been done by other corporations there in order to be able to comply with the territorial legislation relative to the ownership of real estate?

Mr. H. W. RICE. Yes; I am coming to that, if I may continue. Then what was known as the Kihai plantation had a large area and practically no watershed whatever. After they formed the copartnership they still had a surplus of water to take in 5,000 acres more of land. This Kihai land was absolutely arid. You could not raise anything on it; they could not run cattle on it, except probably in a good season, for three months, and in a bad season for six weeks or two months, so that it was not second-class pastoral land, but they wanted to take these 5,000 acres in and enlarge the copartnership. Therefore, five corporations, of a little less than 1,000 acres were formed.

Mr. STRONG. And all belonging to the same fellows?

Mr. H. W. RICE. These five all belonging to the same fellows. They took a one-thirty-second interest in the company.

Mr. STRONG. That is what you call whipping the devil around the stump.

Mr. H. W. RICE. It is. They were able to extend the irrigation districts and railroad tracks and develop that land, so that that was really of greater benefit to Paia and Haiku. When I started in there in 1908 Paia and Haiku, combined, owed \$1,250,000 of bonded indebtedness. We extended the ditches and the railroad tracks, and in 1910 we had paid off all of the indebtedness and paid the stockholders of Paia and Haiku better interest on their investment than they ever had before.

Mr. STRONG. What did you pay?

Mr. H. W. RICE. They were then paying 1 per cent a month.

Mr. STRONG. What are they paying now?

Mr. H. W. RICE. They are paying one-half of 1 per cent per month now.

Mr. STRONG. What caused that—the reduction in the price of sugar?

Mr. H. W. RICE. Yes. We figured out, before I left, that we would lose this year probably \$280,000.

Mr. STRONG. Do you think your running capacity can be increased by this additional amount of land or by the passage of this law?

Mr. H. W. RICE. I think so. It will clear up the uncertainty of it.

Mr. STRONG. It will legalize the thing you have done in violation of law.

Mr. H. W. RICE. Absolutely.

Mr. STRONG. You want to remove any question regarding the land.

Mr. H. W. RICE. I will say that our own corporation wrote to the Secretary of the Interior and asked him for his approval of this scheme and, as I say, everything was absolutely aboveboard so far as we were concerned, and we did not try to fool the people.

Mr. STRONG. Are you connected with the corporation now?

Mr. H. W. RICE. No; I am an independent ranchman now.

Mr. STRONG. Are you connected with the corporation now?

Mr. H. W. RICE. No.

Mr. STRONG. Are you the owner of any of the stock?

Mr. H. W. RICE. No; I do not own any stock.

Mr. STRONG. Do you represent anybody but yourself?

Mr. H. W. RICE. Yes. I do not represent them, but I am interested in it. My wife owns stock.

Mr. STRONG. How many people in the islands are protesting against these corporations getting increased holdings?

Mr. H. W. RICE. So far as I know there are none.

Mr. STRONG. When I visited Porto Rico, I found that what were called the Sugar and Tobacco Trusts down there had gotten hold of practically all the best land and that the people who originally owned the land were living in the mountains on small tracts, and it seems to me the government ought not to encourage that kind of a program. If this is the best thing to do, of course, we want to do it, but I want to be very sure that we are doing the best thing for the common people of the islands, because the fellows who have the money with which to buy lands will always take care of themselves.

Mr. H. W. RICE. It is not quite fair that an individual can go out to the islands and buy 150,000 acres and that a corporation can not buy but 1,000 acres.

Mr. STRONG. No; I do not think an individual should have any more rights than a corporation.

Mr. DOWELL. But individuals do not buy that much land.

Mr. H. W. RICE. Personally, I have purchased 10,000 acres. There is nothing against it in the organic act, and that is why I say it is rather unfair.

Mr. STRONG. Of course, I have no information on this subject and am just asking these questions for information. I would suggest that if there is any one person who has a protest to make against the removal of this prohibition that we ought to hear him.

The CHAIRMAN. I am going to hear every person present from Hawaii.

Mr. ALMON. Was not that combination of interests principally due to the water supply?

Mr. H. W. RICE. Yes; it was practically wholly due to the water supply at that time.

Mr. ALMON. Could it have been operated successfully in any other way?

Mr. H. W. RICE. I do not think it could.

Mr. ALMON. These were sugar plantations?

Mr. H. W. RICE. Yes, sir.

Mr. ALMON. Well, if they could be successfully operated in that way and could not be successfully operated without that plan, was it not in the interest of the islands?

Mr. H. W. RICE. It was in the interest of the whole Territory.

Mr. ALMON. And did it not give employment to a great many inhabitants that could not have had employment in any other way?

Mr. H. W. RICE. Yes. We increased the tax valuation of the county, and of the whole Territory.

Mr. STRONG. How much?

Mr. H. W. RICE. Probably \$5,000,000.

Mr. ALMON. Were any of the inhabitants deprived of their right by reason of that combination?

Mr. H. W. RICE. Absolutely not. As a matter of fact, there was one section along this line of 800 acres of government land, and the government exchanged it with the plantation for 2,000 acres of land in the Haiku district to homestead it; it was good pineapple land and land that was good homestead land. Besides that, the largest owners in the plantation turned over to the government some 1,600 acres, outside of the land exchange for homesteading purposes, in a district which was better adopted by 100 per cent, you might say, for homesteading.

Mr. IRWIN. And that land was subsequently cut up.

Mr. H. W. RICE. Yes; it was subsequently cut up and all of it is now in homesteads, which has increased the value of that property, and, you might say, it has increased the homestead population of Maui by 200 or 300 per cent.

Mr. DRIVER. Do I understand that there is a prohibition in the law against the sale of this land that is subject to homesteading?

Mr. IRWIN. No corporation or alien can purchase it.

Mr. DRIVER. Only corporations are precluded from dealing with it.

Mr. IRWIN. Corporations or aliens.

Mr. H. W. RICE. If an individual has a holding of over 80 acres, he is prohibited from purchasing government land.

Mr. DRIVER. Then there is a limit as to the transactions of individuals with respect to this land?

Mr. H. W. RICE. With respect to government land.

Mr. IRWIN. The prohibition only started in 1910.

Mr. DRIVER. Were these lands purchased from the natives by these corporations?

Mr. H. W. RICE. From different people, from different estates, and some of them were purchased from different corporations.

Mr. DRIVER. This bill seeks to provide homes for the same people who originally owned and sold these lands, does it not?

Mr. H. W. RICE. No; I do not believe that 2 or 3 per cent of the people owned that land, and I doubt whether it is that much.

Mr. DRIVER. What proportionate part of the lands are now owned by natives of the degree mentioned in this act, 50 per cent pure.

Mr. H. W. RICE. I could not tell you. Perhaps Senator Wise could answer that question.

Mr. WISE. What is the question?

Mr. DRIVER. The question is, What proportionate part of those lands or what percentage of the lands now subject to sale are owned by Hawaiians 50 per cent pure?

Mr. WISE. You mean the land already owned by the people, outside of the government?

Mr. DRIVER. Outside of the government lands.

Mr. WISE. A very small area.

Mr. DRIVER. A very small area is now owned by the native inhabitants.

Mr. WISE. Yes.

Mr. DRIVER. They have disposed of the lands to these people or to these corporations.

Mr. CHARLES A. RICE. I want to say that those lands were mainly the lands of the chiefs. If you had read the hearings previously held you would understand that when this big division was made, those lands that were acquired by corporations generally came from the chiefs.

Mr. DRIVER. The people had no title.

Mr. CHARLES A. RICE. The common people did not have any title.

Mr. DRIVER. They acquired no title to any of those lands?

Mr. WISE. They acquired a very limited area in the division of 1848. The lands at that time were divided into three portions; 1,500,000 acres went to the chiefs and the King; 1,600,000 acres went to the government, and 1,000,000 acres went to the Crown. The common people got only 28,000 acres, and the lands acquired by the corporations and plantation owners mostly came from the chiefs, from their share.

Mr. STRONG. I imagine the King and the chiefs must have had pretty intelligent corporation counsel at that time.

Mr. DOWELL. You stated a moment ago that you were interested in two corporations. What was the capital stock of those two corporations?

Mr. H. W. RICE. \$500,000 in one and \$750,000 in the other.

Mr. DOWELL. How much land did they buy?

Mr. H. W. RICE. They owned that land.

Mr. DOWELL. How much?

Mr. H. W. RICE. They owned practically 25,000 acres.

Mr. DOWELL. To which they had legal title?

Mr. H. W. RICE. Yes.

Mr. DOWELL. That is, both together?

Mr. H. W. RICE. Both together.

Mr. DOWELL. But they owned it separately?

Mr. H. W. RICE. Yes.

Mr. DOWELL. Then, I understand, a copartnership was formed?

Mr. H. W. RICE. Yes.

Mr. DOWELL. And by the copartnership they united all of the land into the copartnership?

Mr. H. W. RICE. Yes.

Mr. DOWELL. You say you are still interested in the company?

Mr. H. W. RICE. I have not any stock in the company myself but my wife has.

Mr. DOWELL. How much?

Mr. H. W. RICE. Her family's estate has the controlling interest in the company.

Mr. DOWELL. So, then, you still have, as a matter of fact, a controlling interest in both companies?

Mr. H. W. RICE. No; in Haiku.

Mr. DOWELL. And with the copartnership arrangement you have the controlling interest in both?

Mr. H. W. RICE. No; in the five corporations we only have a one-third interest.

Mr. DOWELL. And they are also united in this copartnership?

Mr. H. W. RICE. Yes, sir.

Mr. DOWELL. This is a sugar corporation?

Mr. H. W. RICE. Yes.

Mr. DOWELL. You also stated that you bought 10,000 acres individually?

Mr. H. W. RICE. Yes.

Mr. DOWELL. Is that being controlled by these two companies?

Mr. H. W. RICE. No; I am running a ranch myself.

Mr. DOWELL. And these 10,000 acres are in sugar?

Mr. H. W. RICE. No; I am not in the sugar business; I am just running my ranch.

Mr. DOWELL. The 10,000 acres are controlled by you personally?

Mr. H. W. RICE. Yes, sir.

Mr. DOWELL. And the other is controlled by your wife?

Mr. H. W. RICE. No, sir; she is only one of eight.

Mr. DOWELL. Under this law you believe that your corporation has the right to own all these acres of land.

Mr. CHARLES A. RICE. They bought it before annexation; they owned it before annexation.

Mr. DOWELL. You bought this before annexation?

Mr. H. W. RICE. Yes.

The CHAIRMAN. They have a fee simple title to this land and owned it before Hawaii became a Territory of the United States.

Mr. DOWELL. What purpose has the Legislature of Hawaii in asking Congress to pass this provision at the top of page 23? What is the interest of the Territory as a whole in this question?

Mr. H. W. RICE. We asked the Secretary of the Interior for his approval, but having received no reply from him we thought this situation should be clarified.

Mr. DOWELL. Do you not think it is clarified under the law?

Mr. H. W. RICE. We feel we are within the law when we form subsidiary companies.

Mr. DOWELL. In other words, your position is that while corporations are limited by statute in the purchase of real estate, that by two or three or a dozen corporations uniting together you can multiply your purchases as many times as you want. Is that your position?

Mr. H. W. RICE. No, sir; I would not say that.

Mr. DOWELL. Of course, the sole purpose in forming your copartnerships is to evade the statute which limits each corporation; or, at least, it is for the purpose of accumulating more real estate than you are permitted to own under the statute.

Mr. H. W. RICE. It is for the purpose of complying with the law.

Mr. STRONG. And a desire to get more land.

Mr. ALMON. I understood him to say that if they were enabled to acquire larger tracts they could bring about development and more successful development.

Mr. DOWELL. Let me ask you one other question. The bill, as it is presented to us, has for its purpose the rehabilitation of the Hawaiian race.

Mr. H. W. RICE. Absolutely.

Mr. DOWELL. Can you tell me what application there can possibly be in including in such a bill a proposition that permits the corporations of the Territory to accumulate more real estate than they are permitted to accumulate under existing law?

Mr. H. W. RICE. Because in the bill we are asking for all the amendments we feel are necessary to the organic act. There are

other amendments to the organic act in the bill, and we are asking that this be made one of them.

The CHAIRMAN. How does it come about that corporations in Hawaii indirectly became possessed of more than 1,000 acres of land? Was it not in this manner? That they submitted the matter to the attorney general of the Territory and to the Secretary of the Interior of the United States, and that the then attorney general of the Territory rendered an opinion that the organization of such corporations would be legal, and did not the Secretary of the Interior of the United States at that time give his sanction to the organization of such corporations?

Mr. H. W. RICE. The attorney general can probably tell you about that history.

Mr. IRWIN. That practice, of course, was established long before I became attorney general of the Territory.

The CHAIRMAN. I am not speaking about the present attorney general, but I am speaking about the attorney general who was in office at that time.

Mr. IRWIN. I would say that indirectly—but not directly—the practice has been approved by the attorney general's department for this reason: That when these corporations are formed the incorporation papers and all the proceedings in connection with the incorporation have to come before the attorney general for approval, and when these landholding corporations are formed all the papers come before the attorney general for approval, and in that way the attorney general's department has, indirectly at least, approved of the formation of these corporations for that particular purpose. I do not believe there has been any direct opinion rendered by the attorney general's department on that question; at least, I have no recollection of seeing it in the files, that is, the opinion of any previous attorney general on the proposition. The matter has never come before me officially for an opinion.

Mr. STRONG. Then the attorney general's office has been particeps criminis in this procedure.

Mr. IRWIN. I will not make any admission at all.

Mr. DRIVER. What percentage of the lands on those islands are owned by corporations?

Mr. H. W. RICE. Well, that is pretty hard for me to say.

Mr. DOWELL. A statement was submitted in the other hearings, which, I believe, answers that.

Mr. DRIVER. It answers this question?

Mr. DOWELL. Yes; I think it completely answers that question.

The CHAIRMAN. It is stated in the hearings somewhere.

Mr. DOWELL. I think it is a very large part.

Mr. DRIVER. How much of the stock of these corporations are owned by people with native blood amounting to 50 per cent?

Mr. KALANIANAOLE. That is in the record, too, I believe. I think the ownership by Hawaiians was submitted to the committee.

Mr. DRIVER. Could you say now, without referring to the record?

Mr. KALANIANAOLE. No, I could not, but they own a great deal.

Mr. DRIVER. You have mentioned a corporation in which the estate of your wife is interested. Are any of the native people interested in that corporation as stockholders?

Mr. H. W. RICE. I do not remember.

Mr. DRIVER. Take the corporation that involves five separate lands owners, whose interests were amalgamated. Do any of the natives hold stock in that corporation?

Mr. H. W. RICE. I do not think so.

Mr. DRIVER. Would you say, without referring to that record—and I am not familiar with it—that they are very largely interested in it?

Mr. H. W. RICE. No.

Mr. DRIVER. Local people are not interested as stockholders.

Mr. H. W. RICE. Oh, local people? I thought you meant those of Hawaiian blood.

Mr. DRIVER. That is what I mean.

Mr. H. W. RICE. No; but I would say that the stock is very widely held; that all the corporation stock there is very widely held.

Mr. DRIVER. When was this prohibition as to the maximum acreage which could be held by corporations passed as a law of your Territory?

Mr. H. W. RICE. That is a part of the original organic act. It was not in the act as presented to Congress but was put in in the House by a vote, I think, of about two or three majority. But it was not presented from the Territory.

Mr. DRIVER. And that prohibition has not been generally observed—I am not addressing this to you personally—by the individuals or people there who have organized corporations.

Mr. ALMON. But some corporations owned more than that amount before the organic act, did they not?

Mr. DRIVER. And since then they have not observed it, generally speaking, and in order to avoid it they have organized subsidiary companies in order to acquire a greater maximum than the law permits.

The CHAIRMAN. Yes; there is no question about that. They have quite generally disregarded it, I think, and I do not think there is any disposition to deny it.

Mr. DRIVER. In other words, the people there pay every little attention to that prohibition—that is true, is it not?

The CHAIRMAN. The fact of the matter is that they did take this up with the then attorney general of the Territory and also with the then Secretary of the Interior, and this system of subsidiary or interlocking corporations was authorized and permitted, or at least winked at by the Federal Government at that time. I do not think it ought to have been done but it was done, and the situation now is that there are three, four, five, six, eight, or ten thousand acres in plantations being held together and worked together as one, that are organized by the same people in four, five, or six different corporations. There is no question about that.

Mr. WEAVER. What is there in the law that prevents that?

The CHAIRMAN. The only thing in the law to prevent it is that no corporation, domestic or foreign, shall own over 1,000 acres of land. Now, under the authority of the Federal Government they claim—and their contention may be according to law—that five people could organize five corporations, and own 5,000 acres of land. John Doe could be the president of one, Richard Roe the president of another, and John Smith the president of another, and so on down the line, the same people organizing five corporations, and the five corporations being composed of the same five men owning 5,000 acres and working them together.

Mr. LANKFORD. If the law provided that there should be no combination of corporations for the purpose of holding more than 1,000 acres that would prohibit it, but I see nothing in the law that prevents corporations from owning different lands and the stockholders owning stock in different corporations.

Mr. DRIVER. That was simply a subterfuge.

Mr. LANKFORD. I know it, but, as I say, I see nothing in the law that prevents it.

Mr. ALMON. And it was approved by the Territorial authorities.

Mr. DRIVER. But they can not contravene the plain law of the land, wink at it or connive at it.

Mr. ALMON. The witness says he thinks this is in the interest of the development of sugar plantations and the successful operation of sugar plantations, and for that reason he favors this amendment.

Mr. STRONG. Well, I would like to ask you how many of these sugar refineries are there in the island now—large plants?

Mr. H. W. RICE. On Maui, the island I live on, there are seven.

Mr. STRONG. Do those large sugar refineries accept the cane from individual plantations, or just convert their own cane into sugar?

Mr. H. W. RICE. They convert their own cane into sugar.

Mr. STRONG. They do not accept the cane from the individual plantations?

Mr. H. W. RICE. Well, they do, but there is very little grown outside.

Mr. STRONG. Well, is there any disposition, by refusing to refine that sugar or convert that sugar cane into sugar, to discourage the private ownership of small amounts of land?

Mr. H. W. RICE. No; not at all. I think that the small cane grower on the island of Kauai is very liberally treated. He is financed, and he is assisted in every way, and I think that in very few places do they get any finer treatment than the cane homesteader gets there.

Mr. STRONG. I do not doubt but what the costs that are incurred in the production of sugar cane make it advantageous to have the larger plantations, but will you say that the permitting of these lands to be acquired by the corporations or by individuals is the best for the common people of Hawaii?

Mr. H. W. RICE. I should say so.

Mr. DOWELL. Is this statement correct, as contained in the hearings, on page 124, giving the valuation of the property owned by the various divisions given there, of the corporations, of the firms, etc., as 74 per cent of all of the property there? Is that correct?

Mr. H. W. RICE. The valuation of the property?

Mr. DOWELL. Yes; the percentage.

Mr. H. W. RICE. I expect that that is correct.

Mr. DOWELL. And under this the Hawaiians have 6.23 per cent of all the property?

Mr. H. W. RICE. Are those the figures of the Government?

Mr. DOWELL. That is what is given on page 124 of the former hearings.

Mr. H. W. RICE. I should imagine that would be correct. I do not definitely know, but I should imagine that would be approximately correct.

Mr. DOWELL. Do you believe, in the interest of the whole people of the Territory, that Congress should by legislation present the opportunity to these corporations to increase this beyond the 74 per cent of the actual property in the islands?

Mr. H. W. RICE. I do not think that it will increase it, so far as the corporations are concerned, beyond that 74 per cent.

Mr. DOWELL. That has been gradually increasing up to 1919, has it not?

Mr. CHARLES A. RICE. It has been increasing gradually, because the value of these plantations has been increasing.

Mr. DOWELL. But if we liberalize these laws relative to the ownership of real estate, will we not by that increase the actual valuation of these companies?

Mr. CHARLES A. RICE. No; you must understand that the sugar plantations are, on the whole, just around the edge of the islands, and most of that land is taken up except the Government land, which they can not acquire. And I would like to make this statement, if I may be permitted. A plantation with a big mill can not operate unless it has guaranteed a certain amount of acreage back of it. The Kokaha plantation, on which the lease has expired, is wholly owned by the Government, and they do not care to operate unless they are assured a lease on a definite amount of acreage back of that mill so they will be assured a crop.

Mr. ALMON. About how much acreage to each mill?

Mr. CHARLES A. RICE. I should say, at least, the acreage to each mill is between 3,000 and 6,000 acres.

Mr. DOWELL. Would your theory now lead us to the conclusion that all of these sugars lands must be owned by the sugar corporations, in order to prosper the country there?

Mr. CHARLES A. RICE. No, sir. On the island I come from I am an independent grower of cane. My father has an acreage of land that he bought in 1872, about 5,000 acres. We are not a corporation. I run that. We have about 1,200 acres of cane. We send it to a mill. This mill is an old corporation there that had 30,000 or 40,000 acres of land before annexation, and say about 25,000 acres of this is watershed back of it, and then the next plantation is a plantation where they own about one-half of their land, about 5,000 acres. The lands are cut up into government homesteads, and the 165 homesteaders there send their cane to the mill.

Mr. DRIVER. Will not the people be induced to cultivate an acreage to supply those mills, without requiring them to acquire and own?

Mr. CHARLES A. RICE. They will have to guarantee a certain acreage.

Mr. DRIVER. The land is peculiarly adapted to that cultivation, and that is the most valuable crop, is it not?

Mr. CHARLES A. RICE. Oh, yes, but with the shortage of labor and the low price of sugar, there is from 17 per cent to 25 per cent of the land now idle.

Mr. DOWELL. You run your own ranch and raise your own crop, do you, independently?

Mr. CHARLES A. RICE. Yes; and we send it to a mill.

Mr. DOWELL. Is that under contract?

Mr. CHARLES A. RICE. Under contract?

Mr. DOWELL. You contract before the crop is raised?

Mr. CHARLES A. RICE. Yes; we contract for a definite period of years.

Mr. DOWELL. What is the nature of those contracts? Is it for the entire output at a certain price, or—

Mr. CHARLES A. RICE. A percentage of the sugar.

Mr. DOWELL. And it is for a term of years?

Mr. CHARLES A. RICE. Yes.

Mr. DOWELL. Is that a long term or a short term?

Mr. CHARLES A. RICE. The present contract we have was made—

Mr. DOWELL. I do not mean your own contract, but I mean generally.

Mr. CHARLES A. RICE. It is generally for a term of years.

Mr. ALMON. Has the practical operation of those mills demonstrated the fact that they can not depend upon a supply of cane from individuals in order to get enough to operate a mill, and that they have to have large plantations of their own, or not?

Mr. CHARLES A. RICE. I did not understand your question.

Mr. ALMON. I say, has the practical operation of the sugar mills in the islands demonstrated the fact that the mill owners could not depend upon a sufficient supply of cane from the individual owners, and for that reason they were forced to have plantations of their own?

Mr. CHARLES A. RICE. Yes; that is the reason. In the harvesting time a plantation has to have a certain amount of labor. They have to send over to the small man to help him harvest his crop. When the crop is ripe you have to get it off.

Mr. DOWELL. You think it is to the interest of the island that the amount of real estate permitted to be owned by the corporations should be increased?

Mr. CHARLES A. RICE. The general consensus of opinion is that there is nothing against it.

Mr. DOWELL. I am getting now your opinion. Do you believe it will help the people generally there by enlarging the acreage that corporations may own?

Mr. CHARLES A. RICE. Yes; but they can not get much more land. You can not get any government land. I would like to make this statement—

The CHAIRMAN. Can a person make a living growing sugar cane on 30, 40, 60, or 80 acres of land?

Mr. CHARLES A. RICE. Can he make a living?

The CHAIRMAN. Yes.

Mr. CHARLES A. RICE. Yes. It depends on the location of the land. In some places he can.

Mr. ALMON. He can not do it if there is no mill there, and no market for it?

Mr. H. W. RICE. I would like to qualify that statement. On the land that I speak of a man can not raise a stick of cane. He can not get any cane at all on a great deal of the land where there is not enough watershed.

Mr. STRONG. You can by the corporation that got control of the water?

Mr. H. W. RICE. Yes.

The CHAIRMAN. That is what I was coming to.

Mr. H. W. RICE. That is the point.

Mr. CHARLES A. RICE. If you do not have the corporation there, with a supply of labor to help out the small man in harvesting, etc., and financing, you can not do anything.

Mr. DRIVER. Will not the banking institutions finance agriculture of that character?

Mr. CHARLES A. RICE. No; they will not. I would like to say that two years ago a subcommittee of the Senate here was instrumental in having the legislature draw up a farm loan act. We started out with \$200,000 to loan to the small farmer, and we increased it this year to \$400,000, and it will be \$500,000 in two years.

Mr. DRIVER. That only pertains to real estate, does it not?

Mr. CHARLES A. RICE. No.

Mr. DRIVER. To crops?

Mr. CHARLES A. RICE. The farm-loan board, of which the attorney general is a member, loans on crops, too, and live stock. I know that the plantation next to mine, or about 10 miles away, has advanced to the small men there, and they have on their books now about \$600,000.

The CHAIRMAN. How much would a man have to invest in a plantation of 40 acres to make it a paying proposition?

Mr. CHARLES A. RICE. Last year, on a tract of land near where I live, in my district, it took them between \$250 and \$300 an acre to get their crop up.

The CHAIRMAN. Is that in addition to the value of the land?

Mr. CHARLES A. RICE. Yes, sir.

The CHAIRMAN. That is for the year's investment?

Mr. CHARLES A. RICE. Well, it is practically a two years' investment. They do not get their returns for two years. I know it is pretty hard sledding. When I started in, I owed a lot of money.

The CHAIRMAN. Then an ordinary man would not be financially able to cultivate a 40, 60, or 80 acre plantation?

Mr. CHARLES A. RICE. No; he would have to have a pretty good capital to start with.

The CHAIRMAN. Can the sugar plantations be operated more economically in large tracts than in small tracts?

Mr. CHARLES A. RICE. Yes.

The CHAIRMAN. If they were operated in small tracts there would have to be a sugar mill, would there not?

Mr. CHARLES A. RICE. Yes.

The CHAIRMAN. What would that sugar mill cost?

Mr. CHARLES A. RICE. Well, I would say, even for a small mill, not a very big one, a million and a half dollars now.

The CHAIRMAN. That would be the minimum?

Mr. CHARLES A. RICE. Yes.

The CHAIRMAN. How many people are employed around the mill?

Mr. CHARLES A. RICE. I guess about 100.

The CHAIRMAN. Are they employed all the year round?

Mr. H. W. RICE. It must be a small mill?

Mr. CHARLES A. RICE. I am talking about a small mill.

The CHAIRMAN. That is the minimum?

Mr. CHARLES A. RICE. Yes.

Mr. KALANIANAOLE. Have they any small mills?

Mr. CHARLES A. RICE. Yes, they have a few small mills. On a tract of land where we can not get a railroad through there is a small mill. In the off season the men are employed nearly all the time in repairing and getting ready for the next season.

The CHAIRMAN. Are the men employed around the mill employed at any time in the cultivation of the sugar cane, or the cutting of the sugar cane?

Mr. CHARLES A. RICE. A very few of them.

The CHAIRMAN. In a great many mills they are nearly all the time employed around the mill?

Mr. CHARLES A. RICE. Yes.

The CHAIRMAN. How many acres will that minimum sized mill care for?

Mr. CHARLES A. RICE. Two thousand acres.

Mr. STRONG. What wages will those mill hands average?

Mr. CHARLES A. RICE. Well, they range from \$300 a month for some of the higher mechanics, to about \$50 a month.

Mr. STRONG. I mean the common laborer.

Mr. CHARLES A. RICE. The common laborer in the mill, at the present price of sugar, gets about \$50 a month, but he gets his house, fuel, doctor, and hospital treatment free. I have to pay my share for the doctor and hospital, and it amounts to a good deal in the end. I think it amounted last year to about 30 cents a day for every man.

The CHAIRMAN. Do these corporations care for the sick?

Mr. CHARLES A. RICE. Yes, sir.

Mr. STRONG. Are you a member of the Legislature of Hawaii?

Mr. CHARLES A. RICE. Yes, sir; I am in the senate. I am chairman of the ways and means committee.

Mr. STRONG. Are the members of the legislature largely composed of the large land owners?

Mr. CHARLES A. RICE. No, sir.

Mr. STRONG. When this amendment was made to this present bill taking out the limitation of a thousand acres, was there much contest over it in the legislature?

Mr. CHARLES A. RICE. No. I would like to say that the stock in the corporations is very widely held. The school teachers, mechanics, and everybody around Honolulu, and all through the Territory, and even the men on the plantations own stock, and they are the ones that get scared first if anything happens, and when they heard that the Department of Justice, or some other department, was going after us they got unduly excited—you might say they got excited about this, and it is from them—

Mr. DOWELL. Do you think the school teacher who owns a share or two of stock would become more excited than the manager of a corporation if the Government started after them for violating the law?

Mr. CHARLES A. RICE. Yes, sir, most assuredly. They are the ones who get scared first.

The CHAIRMAN. How is the labor on these plantations paid? Are they paid a regular monthly or daily wage, or how are they paid?

Mr. CHARLES A. RICE. On the plantations?

The CHAIRMAN. Yes.

Mr. CHARLES A. RICE. The lowest wage is \$30 a month, with a bonus, and they get a house, fuel, water, doctor, and hospital treatment free, if they are sick.

The CHAIRMAN. What is the bonus?

Mr. CHARLES A. RICE. On the price of sugar, starting at 3 cents, for every cent above that it will be 10 per cent. On 4-cent sugar you get 10 per cent if you work 20 days.

Mr. ALMON. In addition to the \$30?

Mr. CHARLES A. RICE. Yes; in addition to the \$30. Last year we paid 276 per cent bonus to our labor.

Mr. DOWELL. But what was the price of labor?

The CHAIRMAN. A minimum of \$30 a month, he said.

Mr. CHARLES A. RICE. That is the lowest paid man.

Mr. STRONG. You say there was not much contest in the legislature over removing the restriction permitting corporations to have a thousand acres of land?

Mr. CHARLES A. RICE. No, sir.

The CHAIRMAN. Was there any opposition in the legislature at all?

Mr. CHARLES A. RICE. No; I do not think there was any.

The CHAIRMAN. Was it passed by both houses unanimously?

Mr. CHARLES A. RICE. No; this bill did not go through the house unanimously. I think out of 30 votes there were four against it.

Mr. STRONG. Was it pointed out on the floor there that the corporations were going to be permitted—

Mr. CHARLES A. RICE. Yes; it was read section by section, I was chairman of the Committee of the Whole, on the bill.

Mr. STRONG. It is practically your bill, then?

Mr. CHARLES A. RICE. No, sir.

Mr. ALMON. Suppose you tell what hearings were held, or what was said. If there was no discussion with reference to this particular feature repealing this limitation when the bill passed the legislature, what occurred, what discussions were there, and what expressions were there in reference to this particular provision now under consideration? Were there any hearings on it, and who was heard at the committee meetings?

Mr. CHARLES A. RICE. At the meeting of the committee on the whole it was an open meeting.

Mr. DOWELL. Was this in a proposition by itself, or was it included in an omnibus bill, with a lot of other provisions?

Mr. CHARLES A. RICE. No; we put all the amendments that we wished in the organic act in this bill. The Prince told us then that it was best to have it all in one bill, because we would have a hard time getting more than one bill through Congress.

Mr. DOWELL. It depends somewhat on what the proposition is.

Mr. CHARLES A. RICE. No; we saw what happened to the bill last year.

The CHAIRMAN. This is one of the features of the bill that the people of the islands are united upon.

Mr. CHARLES A. RICE. Yes, sir; I have heard no opposition to it.

The CHAIRMAN. Every one you have heard discuss it has been in favor of it?

Mr. CHARLES A. RICE. Yes.

The CHAIRMAN. You have had open hearings before the committee in the legislature, where people could appear and did appear?

Mr. CHARLES A. RICE. Yes, sir; and it was printed in the papers. The CHAIRMAN. And no one appeared in opposition to this section?

Mr. CHARLES A. RICE. No, sir.

The CHAIRMAN. Do you think this section is necessary for the perpetuity of the sugar industry in the islands?

Mr. CHARLES A. RICE. I do.

The CHAIRMAN. And that if this limitation on the ownership of land by the corporations is not taken off gradually the sugar industry will be destroyed?

Mr. CHARLES A. RICE. Well, I think that if they disband all these corporations and subsidiary corporations, it will just mean that we will lose so much more land under cultivation.

Mr. STRONG. Do you not think there ought to be some limitation—5,000 acres, 3,000 acres, or 10,000 acres?

Mr. CHARLES A. RICE. Well, it is hard to say just what the limitation should be. If you had to have a limitation, the best way would be, say, through the approval of the Secretary of the Interior, so that the case could be presented. Take a corporation that has to have watersheds. A plantation on the lower land is no good at all unless they have control of that water. Otherwise the man with the water has got the other fellow by a strangle hold.

The CHAIRMAN. And the corporations and the wealthy element of the islands probably have got the water long ago?

Mr. H. W. RICE. No; the Government.

Mr. CHARLES A. RICE. No; the Government has some very valuable water rights.

The CHAIRMAN. Will there not be some danger, if there is no limitation, of one corporation getting such a control as to monopolize or injure the other reasonably small producers of sugar cane? Do you not think there should be some limitation?

Mr. CHARLES A. RICE. I do not know how it would injure the small producer of sugar cane.

The CHAIRMAN. Suppose one corporation bought nine-tenths of all the sugar land. They might say, "We will not pay a fair price to the other one-tenth."

Mr. CHARLES A. RICE. Two years ago the legislature made an appropriation for a sugar expert, and Mr. Horner, who is here now, was appointed by the governor as sugar expert, and he goes over all contracts and sees that the small man gets a fair deal.

The CHAIRMAN. Then there is some danger?

Mr. CHARLES A. RICE. I do not think so, not by controlling the land.

The CHAIRMAN. If you went to your legislature for relief, there must have been some threat of danger?

Mr. CHARLES A. RICE. No; there had been talk of it, and the best way is to have everything aboveboard.

The CHAIRMAN. Absolutely. Well, it is just a question with me whether it might be best to raise the limitation of a thousand acres.

Mr. CHARLES A. RICE. Nobody in the Territory objects to this at all, that I have heard of.

Mr. DRIVER. In other words, you are convinced that the people of that island believe that title should be held in perpetuity, rather than be passed down from generation to generation? You would

not have the titles so separated as to enable the people to go into the open market and purchase them, but would leave them in perpetuity?

Mr. CHARLES A. RICE. You take the Bishop estate. They hold their land much more closely than any corporation does. They never sell the title.

Mr. DRIVER. That title, however, is gradually separating itself; it is going into the hands of other people?

Mr. CHARLES A. RICE. It remains in the Bishop estate.

Mr. DRIVER. If it is an estate, does it not pass into the hands of the heirs?

Mr. CHARLES A. RICE. It is a trust estate.

Mr. DRIVER. That is merely an agreement between the different interests in the estate, but the property itself could be disposed of; the title is a marketable proposition, is it not, Mr. Attorney General?

Mr. IRWIN. Yes.

Mr. DRIVER. But that is not true of a corporation where stock only is transferred.

Mr. CHARLES A. RICE. Corporations sell their land, too.

Mr. DRIVER. Not often. That has been my experience with them.

Mr. STRONG. They do not sell any good land, do they?

Mr. CHARLES A. RICE. Yes; they sell good land.

Mr. KALANIANA'OLE. I see Mr. Goodale here. He came here to see his son graduate from the Naval Academy. He knows a great deal about sugar plantations, and I would like him to give you some ideas, if you would like to hear from him. He is a plantation manager.

STATEMENT OF MR. W. W. GOODALE, MANAGER, WAILUA AGRICULTURAL CO., HAWAII.

Mr. STRONG. Mr. Goodale, how many acres are held by your company?

Mr. GOODALE. We have about 10,000 acres under cultivation in sugar cane.

Mr. STRONG. How much not under cultivation?

Mr. GOODALE. We have about 35,000 acres that we own and lease, in addition to the 10,000 acres.

Mr. STRONG. What interest have you in the company?

Mr. GOODALE. I am a stockholder in the company.

Mr. STRONG. A large stockholder?

Mr. GOODALE. No; not a large stockholder.

Mr. STRONG. Do you think this restriction should be removed?

Mr. GOODALE. I think it should be removed. I wanted to speak in regard to the question that was brought up in regard to the 74 per cent. That may be largely due to the fact that we have a condition in the island that I think does not exist anywhere else, and that is the taxation of growing crops, so that a sugar plantation that may have \$3,000,000 worth of actual property, or property whose physical value may be \$3,000,000, may at the same time have growing crops that would add \$3,000,000 to a total valuation upon that when taxed, and that may go very far toward making up that apparent great preponderance of the taxable value held by the corporations over the private citizens.

Mr. WEAVER. You mean there is a tax on the land, the physical property, and then also on the growing crops?

Mr. GOODALE. Yes; on the growing crops. Their valuation on the 1st day of January is taken into the taxable value that is put upon the property upon which we pay taxes, and a great deal of those growing crops is raised upon land held by the native Hawaiians.

Mr. BRITEN. I suggest that you explain to the committee the condition of your company at the time the organic act was passed, how much cane land you owned, and how much upland, and why it was necessary, so that it might get—

Mr. WEAVER. We would like an idea of your necessary holdings for water facilities, for instance.

Mr. GOODALE. The plantation of which I am manager is in one of the dry districts of the island, where cane can not be grown profitably without irrigation. It was a very small place, about 600 acres of cane, when I took charge of it, in November, 1898. The corporation had been floated, the stock placed upon the market, and the people of Hawaii encouraged to invest. A definite plan was made for the development of that property. I might say that the 10,000 acres of sugar cane are included in a total area of about 12 miles along the sea coast and running back 3 miles, making approximately from 30 to 36 square miles of territory, out of which the arable land is only about between 10,000 and 11,000 acres, the rest of it being deep ravines and other kinds of waste land and land that can not be used for cane. There are about a thousand different tracts of land in that district, large and small, none of it Government land. When I started in to develop the plantation, under the plan that had been formed, I had to select another site to provide means for the transportation of the cane then grown, and for the irrigation of the cane, to make it a running plantation. That carried with it the control of the water rights, the right to divert water from the running streams, rights of way for ditches, and rights of way for railroads.

During the first year of my management I had to negotiate 120 different leases, covering to a great extent rights of way for water and for railroad lines. Right down through the middle of the plantation there was a tract of land owned by a Hawaiian estate, an exceedingly complicated estate, upon which we held in January, 1898, an option for a lease signed by all the owners, about 25 owners, except one. We had a lease signed by all the owners except one. I bought out the man that would not sign the option, and then the property was—well, you might say, in chancery for the next five years, until 1906. The organic act—this amendment here gives merely a part of the clause—says that their vested rights shall not be interfered with, so it has been generally understood, and I think correctly, that the title to the areas of land owned by the plantations on the 14th day of June, 1900, when the organic act went into effect, was not affected, but there was some doubt as to what should be done about the land we wished to acquire after the date.

In 1906 the company of which I am manager had a chance to buy an undivided interest in this large estate that was in chancery, and the question came up as to what we should do, how we should go about that, and by the advice of some of our attorneys we formed

subsidiary companies to buy these lands, none of them to hold over 1,000 acres, as stated in the organic act. That I believed, and others also, was not what is called an evasion of the act, but a carrying out of the act. We formed those companies. They now own about 5,500 acres of land, nearly all of which was under lease to the company of which I am manager before the 14th of June, when the organic act went into effect. We did hold and control that land before the organic act went into effect, and we have proceeded on that basis, and from time to time since 1906 we have bought in the name of those subsidiary companies tracts of land making up now 5,500 acres.

That is the case, as it applies to the plantation of which I am manager.

Mr. WEAVER. Is all of that 5,500 acres cultivated land?

Mr. GOODALE. No; it is not all cultivated land. A part of that land is watershed land, absolutely necessary for the operation of the plantation. Without the control of those watersheds and the right to divert water from those streams, which goes with the ownership of the land, our operations would be very seriously hampered.

There are about 1,100 stockholders in this company, with a capital of \$5,000,000. As Mr. Britten says, the lands were divided by a surveyor along a very good system. The land that could be cultivated by the native Hawaiians was in the valleys near the streams. It was so arranged that every man who acquired title to kula lands also acquired the lands on plateaus above that could be used for pasturage, and a very good system was carried on in that district, touched upon in this new law, where they provided always for community pastures, no one man being able to go to the expense of fencing his lots, but they fenced the whole of it necessary and used the lands in common. As those lands have come into our possession we have acquired the control of the water rights and the dry lands above upon which the water could be used after being conserved, and to do that we have built about 35 dams; one of them costing about \$250,000, have probably 300 miles of ditches, 40 miles of permanent track, a complete transportation system of cars and locomotives, pumping plants to add to the natural water supply, costing about a million and a quarter, a large mill—

The CHAIRMAN. What was the cost of the mill?

Mr. GOODALE. The cost of the mill in 1899 was about \$800,000.

The CHAIRMAN. What would it cost now?

Mr. GOODALE. Probably about a million and three quarters, a mill of that size capable of taking off a crop of 35,000 tons of sugar a year.

The CHAIRMAN. Can you tell us how many employees you have in the mill, and what you pay them, how many employees you have on the plantation and what they are paid, and how they are paid, and the bonus you pay them, and what you do for them?

Mr. GOODALE. The normal staff would be about 2,200, including the men employed in the mill, in the fields, and the staff and superintendent of the work. The mill employs about 125, and although the grinding season lasts about 8 months the mill force is always employed in the mill between seasons. The minimum wage paid on the plantation to the men is \$30 per month of 28 days. In addition to that, they are furnished with houses, subject to the inspection of the board of health, the government authorities; they are furnished

with water, fire wood, medical attendance, medicine and hospital treatment all free of charge, the men themselves and their families.

The CHAIRMAN. And light too?

Mr. GOODALE. No, not light. I believe on some plantations they are furnished lights, where they have —

The CHAIRMAN. Is this medical attention given to the employee only, or to the employee and his family?

Mr. GOODALE. The employees and their families.

The CHAIRMAN. How about the hospital service?

Mr. GOODALE. We have a hospital with trained nurses, and the men themselves and their families are entitled to the free treatment in the hospital as long as necessary.

The CHAIRMAN. And they are not discharged when they are in the hospital?

Mr. GOODALE. No.

The CHAIRMAN. Or when any member of the family is in the hospital?

Mr. GOODALE. No; and we have a very excellent law there, a very excellent workmen's compensation law there, which provides for their pay when incapacitated by injury, not by sickness.

Mr. WEAVER. What is the bonus now?

Mr. GOODALE. I think Mr. Rice was wrong. I think the bonus starts at 4-cent sugar, and it is a rather complicated system. I can not remember the exact amount, but I think that on 5-cent sugar the bonus amounts to about 20 per cent of the market price.

The CHAIRMAN. When sugar is selling at 5 cents in New York, then their salary is increased 20 per cent?

Mr. GOODALE. Yes; 20 per cent.

The CHAIRMAN. And it increases gradually as the price of sugar increases?

Mr. GOODALE. As sugar goes up.

The CHAIRMAN. And last year you paid a bonus of 276 per cent?

Mr. GOODALE. Yes. The year before, during Government control, when sugar was selling at 7.28, the bonus was 87 per cent, and the year before that 57 per cent.

The CHAIRMAN. This year you will lose money?

Mr. GOODALE. I am afraid we shall.

The CHAIRMAN. Then there will not be any bonus?

Mr. GOODALE. The bonus depends upon the price of sugar, and we have no control over that. We may pay our profit in the shape of bonus to our laborers.

The CHAIRMAN. If the price of sugar is low you still pay the same wages?

Mr. GOODALE. Yes.

The CHAIRMAN. You still get the same service?

Mr. GOODALE. Yes.

The CHAIRMAN. And you still give them their house rent free, their wood free, and their water free?

Mr. GOODALE. Yes.

The CHAIRMAN. And medical attention and hospital service?

Mr. GOODALE. Yes.

The CHAIRMAN. The price of sugar does not regulate with it? If it is low or high, the wages are just the same?

Mr. GOODALE. These men's work is continuous. Our men are never discharged on the plantations between seasons.

The CHAIRMAN. How long must an employee work on a plantation to be entitled to the bonus?

Mr. GOODALE. If able to work he is supposed to work 20 days out of 26. If he is not able to work we have a system by which he may be excused and that does not deprive them of the right to the bonus on the days that they do work. For instance, a man might be sick 3 days out of the 20, but if he is excused for sickness or for some just cause he draws his bonus for the number of days actually earned.

The CHAIRMAN. There was a strike on some of the plantations last year, was there not?

Mr. GOODALE. Yes; on the Island of Oahu, a strike among the Japanese.

The CHAIRMAN. But not among any of your people?

Mr. GOODALE. The Filipinos tried to strike. They went out on some of the plantations for a few days, and went right back. The bonus they were earning was a very strong temptation to go back.

The CHAIRMAN. They did not lose their bonus by striking?

Mr. GOODALE. They only lost the bonus for the time they did not work.

The CHAIRMAN. For the time they were out?

Mr. GOODALE. Yes.

The CHAIRMAN. But not the rest of the time?

Mr. GOODALE. No.

Mr. BRITTEN. Mr. Goodale, if your holdings were forfeited under any possible construction of the organic act, would that enure to the benefit of the Territory in any way? Could these lands be operated otherwise than as a whole or collectively?

Mr. GOODALE. I think they could not be operated in any way except as we are doing.

Mr. BRITTEN. Forfeiture, then, would simply mean the destruction of the plant?

Mr. GOODALE. Yes; irreparable injury to the company of which I am the manager.

The CHAIRMAN. Could the sugar industry be conducted on any other plan than that on which this company is conducted in the island at the present time and survive?

Mr. GOODALE. I think not, except as a homestead system, and the development of that can not be on a very large scale.

The CHAIRMAN. It takes too much money, does it not, for a poor man to go into the sugar-cane raising business on a small scale?

Mr. GOODALE. The figure that Mr. Rice quoted is quite correct. An acre of cane ready for the mill has cost, in any one of the districts of the island, from \$250 to \$300 for the cane alone, without counting the investment in the land itself, and the necessary houses.

The CHAIRMAN. The land and the machinery and the houses on a 40-acre plantation would cost how much?

Mr. GOODALE. From \$10,000 to \$12,000—you mean the land?

The CHAIRMAN. Yes.

Mr. GOODALE. Cane land has an approximate valuation of \$200 per acre, and that would represent an investment of \$8,000 in the land. A house such as a family would live in, or a homestead such as a family would live in, would cost about \$1,000. A homesteader

would have to have a mule and implements that, on 40-acre tract, would probably stand him another \$1,500.

The CHAIRMAN. That would be a \$10,000 or \$15,000 investment, anyway?

Mr. GOODALE. Yes; on a cane-growing proposition.

The CHAIRMAN. In addition to that he would have to invest about \$24,000 before he had his crop ready for the mill?

Mr. GOODALE. Yes; and that crop would have to be harvested, and he would have to wait for the returns from the market, during which time he would need capital, or have to borrow more money.

Mr. BRITTEN. Will you explain to the committee that the Government itself owns most of the lands in the island, which it leases, in excess of 1,000 acres, to corporations, and if they were limited to 1,000 acres the income from these rentals and leases would be materially reduced?

Mr. GOODALE. That is true. These smaller plantations on the island would be practically out of business if they could not hold Government land, or land held by the Government, suitable for cane growing purposes.

The CHAIRMAN. The income to the government from these leased lands would be materially increased, would it not, under the operation of this bill?

Mr. GOODALE. Yes; there are some of the plantations that hold tracts of government land that can now be leased for terms based upon the improved value of the land, which is vastly in excess of what they paid when the leases were made 30, 40, or 50 years ago.

The CHAIRMAN. If this bill is enacted, the increased revenue to the Territorial government over what it receives now from leased land would be between \$500,000 and \$750,000 per annum more than they are receiving at the present time?

Mr. GOODALE. Yes.

Mr. WISE. And the leases, by the way, expire on the 30th of this month, and unless this bill goes through those lands will be subjected to homesteading again beginning on the 1st of July.

Mr. GOODALE. In regard to the running of the property that Mr. Wise spoke of, from my observation I can not see how anything can be done with that property other than is being done by the present company or its successor.

Mr. WISE. You do not see how anything could be done?

Mr. GOODALE. Nothing that would give the government any such income as can be had from its use as a sugar plantation.

Mr. IRWIN. The difficulty of running that proposition, if it was divided up into individual holdings, would be very considerable, would it not?

Mr. GOODALE. Very.

Mr. IRWIN. With that complicated water system?

Mr. GOODALE. With that complicated water system and the lay of the land and its general conditions.

Mr. BRITTEN. Before you close I would like to have you explain to the committee again, if you did not in the beginning, your understanding of a compliance with the provisions of this law by holding under lease, the act merely prohibiting the ownership, as you understood it.

Mr. GOODALE. Yes, sir; that is the way I understand it—that the clause in the organic act, which we call the thousand-acre clause, if it is intended to do anything, is intended to prevent a plantation owning a thousand acres of land, and had no reference whatever to the leasing of an area in excess of a thousand acres.

The CHAIRMAN. What is the maximum acreage of sugar-plantation holdings?

Mr. GOODALE. You mean actually cultivated in sugar?

The CHAIRMAN. Yes.

Mr. GOODALE. I think probably the Wauhua Plantation is probably the second in area. I think the Hawaiian-American Commercial Sugar Co. may have a larger area.

Mr. H. W. RICE. I think you are larger.

Mr. KALANIANA'OLE. What is the area?

Mr. GOODALE. Between 10,000 and 11,000 acres of cane land.

Mr. H. W. RICE. That is the ownership of cane land?

Mr. GOODALE. Yes.

The CHAIRMAN. How much other land do they hold?

Mr. GOODALE. About 35,000 acres.

The CHAIRMAN. That is watersheds and pastures?

Mr. GOODALE. Watersheds and wastes. In the area in which this 10,000 or 11,000 acres of arable land is included, there are 20,000 acres of waste land, land that can not be used. Those of the Members of Congress who have visited the islands will appreciate that fact, I think, from the depth of the ravines, the enormous ravines, and the large areas of land that can not be used for any purpose whatever.

The CHAIRMAN. Do you know the area of the smallest corporation engaged in the raising of sugar cane?

Mr. GOODALE. There are some very small places on the Island of Maui. I think there is one plantation that is carried on as a sort of family affair, that I think may have perhaps 500 acres.

Mr. H. W. PRICE. They have 2,600 acres.

Mr. GOODALE. I mean of cane.

Mr. H. W. RICE. They have about 600 acres in each crop.

The CHAIRMAN. Is that a corporation?

Mr. GOODALE. I think it is a corporation.

The CHAIRMAN. Do they own a sugar mill?

Mr. GOODALE. Yes. There was an old mill built, I think, in the early sixties, a very small mill. The manager and the principle employees are members of the family. There are a few other small plantations making 4,000 or 5,000 tons of sugar, but they are very few in number.

The CHAIRMAN. If this thousand-acre limitation is eliminated, would the present corporations increase their holdings to any material extent?

Mr. GOODALE. No; they could not.

Mr. BRITTON. Why not?

Mr. GOODALE. The area is not there, the land is not there. The arable land on the islands are confined to a narrow strip along the seacoast, and sometimes the tracts are several miles apart on the coast, and the lands between are not available for sugar land. The lands above a certain elevation are not available for sugar cultivation, and a very real difficulty is the labor supply.

The CHAIRMAN. Is all of the sugar land available cultivated at the present time.

Mr. GOODALE. I would say that all of the sugar land in Hawaii was now under cultivation.

The CHAIRMAN. All the lands that can be profitably cultivated in sugar cane are now under cultivation?

Mr. GOODALE. Yes; and there are a great many acres under cultivation that ought not to be.

The CHAIRMAN. So the elimination of this 1,000-acre limitation would not result in the corporations increasing their sugar acreage?

Mr. GOODALE. No; I am sure of that. I know that in my district I would not add 1 acre. I can not add 1 acre.

The CHAIRMAN. Then this section in this bill is put in there really to make absolutely valid and ratify what was supposed to be a valid act?

Mr. GOODALE. Yes.

Mr. BRITTON. And harmonize the other provision of the bill authorizing the leasing of government-owned land which, under the present law, would be limited to 1,000 acres, so as to enable the government to lease——

The CHAIRMAN. More than a thousand acres?

Mr. BRITTON. More than a thousand acres, and derive a larger revenue——

The CHAIRMAN. From these lands to be leased by the government or already leased by the government to corporations and to individuals?

Mr. BRITTON. And they have not regarded the thousand-acre clause any more than anybody else.

The CHAIRMAN. The Government has not upheld the thousand-acre clause?

Mr. GOODALE. This matter has been investigated to a great extent by three Secretaries of the Interior, Mr. Lane, Mr. Fisher, and Mr. Garfield, and the first companies formed, the first subsidiary companies were formed under the advice or with the advice of the United States District Attorney who was then in Hawaii.

The CHAIRMAN. Do you remember his name?

Mr. GOODALE. Breckons.

The CHAIRMAN. He is dead now, I believe.

Mr. GOODALE. Yes.

The CHAIRMAN. It was under the authority of Mr. Breckons that these corporations were organized?

Mr. GOODALE. I would not say under his authority, but he was consulted and approved of the——

The CHAIRMAN. With the approval of Mr. Breckons, and I understand that the matter was also submitted to the Secretary of the Interior, who did not disapprove of it, is that true?

Mr. GOODALE. Yes; that was true.

The CHAIRMAN. Do you know the name of the Secretary of the Interior?

Mr. GOODALE. No; I do not remember.

Mr. BRITTON. Thomas Ryan, of Kansas, the Assistant Secretary of the Interior.

The CHAIRMAN. Mr. Thomas Ryan, of Kansas, was Assistant Secretary of the Interior under Secretary of the Interior C. N. Bliss during the administration of President McKinley. He was the Assistant Secretary of the Interior who handled the matter, was he not?

Mr. GOODALE. I do not remember.

The CHAIRMAN. If the Assistant Secretary of the Interior having control of Hawaiian affairs gave his approval, that is the approval of the Government.

Mr. GOODALE. The charters of the companies give them great power, the power to own, to buy and to sell land, and to hold by purchase or by lease.

Mr. BRITTEN. Charters given prior to the organic act?

Mr. GOODALE. Our particular company is the only corporation in the island that was incorporated before the organic act went into effect. Some of them date back 50 or 60 years, and the power that was given to us we thought we held.

The CHAIRMAN. How is this stock held, mostly by American citizens?

Mr. GOODALE. To a great extent by American citizens, and our company has a capital of \$5,000,000 in \$20 shares, and I had occasion a few years ago to look up the number of stockholders on the main land of the United States and I think there were 33 States of the Union where there are resident stockholders in the plantation in Hawaii.

Mr. BRITTEN. In your company?

Mr. GOODALE. In our company.

The CHAIRMAN. How many in foreign countries?

Mr. GOODALE. Practically none.

The CHAIRMAN. How many individual stockholders are there in your company?

Mr. GOODALE. Between 1,000 and 1,100.

Mr. IRWIN. What percentage of that is held at home?

Mr. GOODALE. When I gave the matter special attention I think at that time there may have been \$100,000 worth of stock held on the mainland of the United States.

Mr. IRWIN. And the rest of it was held in Hawaii?

Mr. GOODALE. The rest of it was held in Hawaii.

The CHAIRMAN. Is there anything further you wish to present to the committee?

Mr. GOODALE. I do not think of anything.

The CHAIRMAN. We thank you very much. If there is nothing further to come before the committee this morning, we will take a recess until to-morrow morning at half past 10 o'clock.

(Whereupon the committee adjourned until Friday, June 10, 1921, at 10.30 o'clock a. m.)

COMMITTEE ON TERRITORIES,
HOUSE OF REPRESENTATIVES,
Friday, June 10, 1921.

The committee met at 10 o'clock a. m., Hon. Charles F. Curry (chairman) presiding.

The CHAIRMAN. The committee will come to order. Who will be the first witness this morning?

Mr. C. A. RICE. Mr. Chairman and members of the committee: At your request I have asked Mr. Farrington, our appointed governor, to appear before the committee and express his views on the bill.

STATEMENT OF HON. W. R. FARRINGTON, GOVERNOR DESIGNATE OF THE TERRITORY OF HAWAII.

Mr. FARRINGTON. Mr. Chairman and members of the committee: Being somewhat new in political and official life, I hope my position is not misunderstood. I am the governor-designate and not the actual governor of the Territory.

As a citizen of the Territory, the publisher of a newspaper and somewhat active in the civic life of the islands, I have been in touch with the measure that is before your committee. I would not at any time appear as an expert in connection with its details, but will deal with it in its generalities.

This bill seems to meet the approval of a large section of the people of the Territory. Our land matters in the islands can possibly best be visualized by the old pendulum idea. The pendulum, immediately after annexation, was possibly on the side of the feudalistic system, and when we were annexed there was naturally a very strong demand for a vigorous Americanization of the Territory, and our minds ran to the dividing up of the public lands so that they might become populated and worked by American citizens. Thereupon the lands were, generally speaking, distributed somewhat freely. Some of our lands, which had been very highly cultivated, were homesteaded under a system which unintentionally brought them back eventually into the hands of corporations, and theoretically we are back in the condition of trying to avoid—

Mr. DOWELL (interposing). Did not most of those homesteaders afterwards dispose of their property?

Mr. FARRINGTON. A very good number of them; yes, sir. Consequently we found that our birthright, in so far as the highly cultivated lands were concerned, was becoming dissipated: we were disposing of highly cultivated agricultural lands at a very low figure and, unfortunately, some—far be it from me to say all—of our homesteaders were in the position of speculators. Consequently the citizens of the Territory, in various groups, endeavored to work out some scheme whereby we could preserve the income from these highly cultivated lands, preserve it as a revenue to the Territory, and at the same time carry on a practical and limited homesteading program. The first effort of that kind in which I was interested—and I may say that I was intensely interested, because I am deeply interested in education and always have been—was a move made under what is known as the Fairchild bill, when Senator Fairchild was in the Territorial senate, to ask Congress to set aside these highly cultivated lands so that the income might be designated as an endowment, so that the income might be preserved for educational purposes under somewhat the same program as the universities or State colleges of the mainland of the United States are assisted under the Morrill Act. That created considerable opposition, because the charge was made that it was a selfish move on the part of those who were interested in a corporate way in the sugar lands.

The next to come up, so far as I recall, was this so-called rehabilitation act, and in a general way I should say that this bill aims to preserve the income from the highly cultivated sugar lands, and also the water leases, for the purpose of assisting the distinctively native

citizens of the Territory. I think it is a bona fide and sincere effort to establish deserving citizens and capable citizens on the soil and establish independent homesteads. At various times and during some of our campaign activities there have been features in connection with it that have not always appealed to all individuals and the publication with which I am associated, but taking it as a whole I think it is a fair consensus of the public opinion of Hawaii, and I should be very glad to see the Congress of the United States give us a trial in connection with it.

Mr. DOWELL. Referring to the cane land that is now owned by the Government and under lease, what is your belief with reference to homesteading that valuable land?

Mr. FARRINGTON. What is my belief in connection with it?

Mr. DOWELL. Yes. What do you think is the best policy for the Government to adopt relative to the use or disposition of that land?

Mr. FARRINGTON. I think it should be preserved in its present condition for a period and until we have established homesteading beyond a speculative venture.

Mr. DOWELL. You think it will be better for the Territory if the Government holds the land, leases it, and uses the funds for other purposes rather than to homestead it to persons whom you have indicated—at least, some of them—were speculators and who homesteaded the land not for their own use but to sell?

Mr. FARRINGTON. Our highly cultivated lands have been reduced to such a minimum that I think it is highly proper that we should retain these and experiment along these lines.

The CHAIRMAN. You think the Government should retain these lands and lease them?

Mr. FARRINGTON. Yes, sir.

The CHAIRMAN. Rather than sell them or homestead them?

Mr. FARRINGTON. I think this is a fair experiment; yes, sir.

The CHAIRMAN. Do you believe that under the leasing system, if this bill is enacted, the Territorial government will receive any larger revenue than it now receives from these lands?

Mr. FARRINGTON. Will it receive a larger revenue than it is now receiving?

The CHAIRMAN. Yes.

Mr. FARRINGTON. You mean on the re-leasing of them?

The CHAIRMAN. Yes.

Mr. FARRINGTON. I think there is no doubt about that.

The CHAIRMAN. A materially larger increase?

Mr. FARRINGTON. Yes, sir.

Mr. DOWELL. Do you think the Territory will be able to get a fair rental value for the lands as provided in this bill?

Mr. FARRINGTON. Yes; I am going ahead on that assumption. If there should prove to be any combination which would indicate that the Territory is being worked, so to speak—

Mr. DOWELL (interposing). Of course, you will have a great deal to do with that question, and it is very important that the committee should have your views upon it in advance.

Mr. FARRINGTON. Yes, sir; I think the income from these lands should be very materially increased on re-leasing.

The CHAIRMAN. Do you think it would be advisable to lease these lands in larger lots than 1,000 acres?

Mr. FARRINGTON. There comes the question of the general policy under the 1,000-acre clause.

Mr. DOWELL. Getting directly to this question—and I want to get to it directly—there is a provision in this bill for the repeal of section 55 of the organic act, which is as follows:

Provided, That no corporation, domestic or foreign, shall acquire and hold real estate in Hawaii in excess of 1,000 acres and all real estate acquired or held by such corporation or association contrary hereto shall be forfeited and escheat to the United States, but existing vested rights in real estate shall not be impaired.

Is it your opinion that Congress should repeal that provision?

Mr. FARRINGTON. Now, Mr. Congressman, here is a situation where my position is somewhat difficult, difficult for the reason that that provision of the law has not been strictly enforced along the lines which have been suggested during recent months.

Mr. DOWELL. In other words, it has been evaded by corporations through the organization of copartnerships, as I understand.

Mr. FARRINGTON. I do not know whether it would be fair to say that it has been evaded by corporations, because there has been a general acceptance of the situation there and precedents have been established with the full knowledge and consent of the executive departments.

Mr. DOWELL. You will occupy a different position from now henceforth.

Mr. FARRINGTON. Yes, sir.

Mr. DOWELL. You are the governor of the Territory, and we are attempting here to legislate for the benefit of the people of the Territory. Personally I would like to have your view, frankly expressed to us, as to what you think about the repeal of this provision and what you would advise this Congress to do relative to it.

Mr. FARRINGTON. Naturally as the governor of the Territory my first move would be to consult with the law department of the Government in order to establish general facts in the case, not only the law department of the Territorial government, but the Secretary of the Interior and the Attorney General. I do not pretend to be an expert on law, but, generally speaking, in so far as the principal industries of the Territory are concerned, I think it has been obvious from the manner in which that law has been observed, if I may so put it, that it is necessary for the proper conduct of the industries that they should be able to cultivate more than 1,000 acres of land. An instance came to my attention the other day, and I was not aware of it before. There is a railroad corporation in Honolulu, on the island of Oahu, which is unable to buy rights of way on account of the fact that it is checked by the 1,000-acre clause; it has to rent them of other people, and thus get around it, so to speak, and I do not think it is the intention of the Government at any time to place barriers in the way of an enterprise of that character.

I think it is wise to have a check on greed, but I would not have you infer from that that the people of Hawaii are greedy. I think the people there are law-abiding; they are public-spirited, and they play the game squarely, as nearly as any people can. Whether it is best to repeal this absolutely might be subject to question, but I do believe that the industries of the Territory and the enterprises of the Territory should not be impeded in their legitimate activities.

Mr. STRONG. Do you think that the amount corporations might own or individuals might own should be limited in any respect? This limitation, in other words, might be raised.

Mr. FARRINGTON. It is a rather unusual situation, and I do not know of a similar condition here on the mainland. Is there such, may I ask?

Mr. STRONG. No; but it would have been a good thing if there had been.

Mr. ALMON. Do you not think it would be all right to let the corporations acquire more than 1,000 acres, but only on the approval of the Secretary of the Interior, so that in cases such as the one you have mentioned, and others, more than 1,000 acres could be purchased by the corporations if it could be shown that it was to the interest of the Territory and the business of the country, granting of authority to purchase more than 1,000 acres being placed in the hands of the Secretary of the Interior? What would you think of that?

Mr. FARRINGTON. On first blush it sounds very reasonable, and it provides a check.

Mr. DOWELL. Well, is that a check? If one corporation applies for a certain number of acres is not another one entitled to the same amount?

Mr. FARRINGTON. I think that is where the discretion of the Secretary of the Interior comes in.

The CHAIRMAN. Do you think that vested rights should be subject to the ipse dixit of individuals? Do you not think they ought to be subject to law?

Mr. FARRINGTON. Well, we in our Territory have been largely subject to the will of the Secretary of the Interior. Of course, the way it has worked out practically has been that our rights have been subject to the interpretation of the departments, and it seems to me it would be very much better if the situation could be clarified by a clear-cut law.

The CHAIRMAN. The situation in which the people of Hawaii find themselves regarding the ownership of land is due directly to the interpretation of the ministerial officers of the Government. First of all, for some reason or other, a law was enacted as a part of the organic act limiting the amount of land which could be owned by one corporation to 1,000 acres, but it was found that that was not a sufficient amount of land for a corporation to engage in the sugar business or in the pineapple business.

Now then, the Attorney General of Hawaii, an appointee of the President of the United States, and confirmed by the Senate, and the Secretary of the Interior, appointed by the President and confirmed by the Senate, suggested a way of getting around this 1,000-acre clause, and following the suggestions of Federal officers these corporations went ahead and organized subsidiary corporations and formed copartnerships, so that instead of owning 1,000 acres, five or six men owned 5,000 or 6,000 acres. Now, the situation you are in at the present time is caused by taking the advice of men who temporarily held certain positions, so that when we are legislating on this subject at this time, as the governor of the Territory has pointed out, we ought to lay down some positive course of action so that the people

of Hawaii will know what they can do and what they can not do. You believe that, do you not?

Mr. FARRINGTON. Yes, sir.

The CHAIRMAN. If you need more than 1,000 acres let us say so, but if you do not need more than 1,000 acres we will say you can not have more than 1,000 acres. You are the governor of the Territory and have been there a great many years, and you and leading citizens representing the people of the Territory in all walks of life are here in support of this bill, and I think you folks ought to tell what is for the best interests of the Territory.

Mr. DRIVER. It just occurs to me to say that it seems to me that any regulation or limit that might be placed in an act of Congress would be of very little effect. Why should we kill time in fixing a limit when the highest officials, who have a duty to perform in connection with enforcing that limit, are devoting their time to the discovery of means and measures whereby that may be avoided?

Mr. ALMON. For the reason that they think it is necessary.

Mr. STRONG. Just to speak frankly, it looks as though the men who are interested in the corporations are the men who are assailing the government, and it is a question whether or not we should not look very carefully into the matter and get both sides of it. I have no interest except that of the best interests of the people of Hawaii, but it seems to me that this clause in the law legalizes their title to lands that they have taken in violation of existing law.

The CHAIRMAN. The question is whether we ought to repeal this section of the organic act entirely or whether we should validate what has been done, that is, whether we should raise the limit. Personally I do not know, and I must be guided to a great extent—and so must the committee—by the action of the Legislature of Hawaii, by the action of the supervisors of the counties and by the testimony before this committee of the citizens of Hawaii from all walks of life who are here in behalf of this measure. I have not received any letter or telegram against any feature of this bill and I have received quite a number from all over the Territory of Hawaii in favor of it. The governor is here and I would like to have a frank expression of opinion from him and from all of you who are here. This committee is a committee that wants to do what is right and we want to get definite information if we can.

Mr. FARRINGTON. I think, Mr. Chairman, that this bill is a fair expression of the general opinion of the people of the Territory and the general interests, because we must bear in mind that if it be true that this law has been violated during the years since annexation that we have had a change in administration territorially, so far as as the organization of the governor's office and the legislature are concerned, and we have had a change in the political administration of the national government. There has been ample opportunity and we have had sufficiently bitter campaigns, so that it it were felt on the part of any considerable-number of the people that they were being robbed of their birthright action would have been taken to bring this matter to a test.

Mr. DOWELL. The primary purpose of this bill is to permit people of Hawaiian blood to again get in possession of land in Hawaii?

Mr. FARRINGTON. Yes, sir.

Mr. DOWELL. The very fact that it is here is positive proof that the land has been taken from them; is that correct?

Mr. FARRINGTON. Well, I do not know that you could say it has been taken from them.

Mr. DOWELL. Well, at least, they are not in a position, without help from the Government, to hold and retain this land.

Mr. FARRINGTON. They have not in large numbers taken advantage of the opportunities to go on the land and this is an endeavor to secure their return to the land.

Mr. DOWELL. Originally, of course, this land all belonged to the Hawaiians?

Mr. FARRINGTON. Oh, yes.

Mr. DOWELL. Now, according to a statement you made a moment ago, the homesteaders heretofore have largely disposed of their homesteads to corporations?

Mr. FARRINGTON. Well, to quite an extent; there has been a tendency in that direction.

Mr. DOWELL. Has there not been a great tendency in that direction as a matter of fact?

Mr. FARRINGTON. A great tendency; yes.

Mr. DOWELL. And, as a matter of fact, it is not true that the corporations have taken up more of these homesteads than is good for the Territory, and would not the Territory be better off if a good deal of this land were in the hands of individuals who were taking charge of it in its present condition?

Mr. ALMON. The sugar lands?

Mr. DOWELL. Yes.

Mr. FARRINGTON. So far as the sugar lands are concerned, if the sugar estates are to be operated on the basis of individual ownership we have got to revolutionize our whole system and establish centrals, as I understand they have in the Philippines, and these centrals grind for independent holdings in the near vicinity. We have felt at times that that would be a better condition, but it has not worked out. I can not say that it is due to the selfishness, however, of the mills and corporations that it has not worked out.

Mr. DOWELL. That is just what I want to get at, what is the reason and how can it be remedied? What we want is to get a solution of this problem in the best way we can for the people who live there.

Mr. FARRINGTON. I will tell you this, that if I had the exact solution of this thing I would be the greatest man in the United States to-day. I have been in the islands for 25 years and I have seen these various experiments tried and they have been sincere experiments. I have been one of the most ardent advocates of the homesteading system, and under Gov. Frear's administration I recall very well that there were efforts made and we thought we had reached the solution, but experience shows we have not reached it, and this bill comes as near being one that will solve a number of our problems as anything we have had placed before us.

Mr. DOWELL. That is with reference to the bill generally?

Mr. FARRINGTON. Yes, sir.

Mr. DOWELL. But now the Government only owns about 1,000,000 acres in the Territory?

Mr. FARRINGTON. Yes, sir.

Mr. DOWELL. A large part of that is leased for the purpose of cultivation?

Mr. FARRINGTON. Yes, sir.

Mr. DOWELL. Assuming that the 1,600,000 acres will eventually be homesteaded and that the same progress goes on in the future that has been going on in the past with reference to its transfer, can you explain to us the effect it is going to have upon the Territory? That is what we want.

Mr. FARRINGTON. You mean, if it is homesteaded and then passes from its present owners?

Mr. DOWELL. I am inquiring whether that tendency will increase in the future if this repeal is made, or will that have a better tendency to help the people of the Territory?

Mr. FARRINGTON. I think there is a limitation at the present time as to the transfer of homesteaded lands to corporations, is there not?

Mr. C. A. RICE. No corporation can buy homesteaded lands.

Mr. ALMON. What land would they acquire if this provision is repealed?

Mr. FARRINGTON. I do not know that I can answer that question directly. Private individuals, of course, could come into any of this new land.

The CHAIRMAN. They could buy the lands homesteaded by an individual after that individual had title from the Government?

Mr. C. A. RICE. They can not do it, Mr. Chairman.

Mr. DOWELL. Why was that law passed? Was it not obviously for the reason that they wanted to hold the homesteaded property outside of corporations?

Mr. FARRINGTON. Yes.

Mr. DOWELL. Then it gets back to the question of the policy we should adopt. Should we restrain the corporations from getting all or too much of this land or should we take off the restriction?

Mr. FARRINGTON. The people of the Territory, I should say, have reached the general conclusion, generally speaking, that they have no cause to fear the buying up of land in large areas.

The CHAIRMAN. Is that because the sugar lands are practically controlled and owned now by corporations and individuals?

Mr. FARRINGTON. Is that the reason for it?

The CHAIRMAN. Yes.

Mr. FARRINGTON. Well, I do not know. There are large areas of pineapple lands which would enter into this as well.

The CHAIRMAN. Do you think this bill should be passed just as it has been presented?

Mr. FARRINGTON. Before I answer that question I would prefer to secure an interpretation of the law and the situation from the Attorney General.

Mr. DOWELL. Will you, for the benefit of this committee, get the information you desire and after you have made such investigation as you want to make for your own benefit, give this committee the benefit of it by placing in the record your views upon the paragraph we have under consideration?

Mr. FARRINGTON. Yes, sir.

Mr. DOWELL. And the bill generally?

Mr. FARRINGTON. Yes, sir.

Mr. DRIVER. Just what particular part of this suggested amendment are you in doubt about, Governor? It seems that we are all agreed that the purpose of this amendment is to strike out any limitation on corporations in the acquisition of amounts of real estate.

Mr. FARRINGTON. Yes, sir.

Mr. DRIVER. I do not think that is open to any question of construction by the law department. It seems that is the purpose of it so that we do not need any interpretation of it, do we? It is a question of policy.

Mr. FARRINGTON. Well, ever since Hawaii was annexed to the United States we have had before us the manner of the interpretation of this law.

Mr. DRIVER. There is no necessity for an interpretation of this as a law, but it is a question of policy, as to whether or not the restriction placed on corporations in acquiring and owning real estate shall be removed.

Mr. ALMON. I understood that the governor was asked for his views on the entire bill?

Mr. DRIVER. But that is not the point in which I am particularly interested. I am interested in finding out—

Mr. FARRINGTON (interposing). Whether corporations should be limited in the amount of land which they shall hold?

Mr. DRIVER. Yes; or strike out any limitation whatever on the amount of land they should acquire and hold.

Mr. FARRINGTON. So far as I know, this is the only Federal law of this character in the United States, is it not?

Mr. DRIVER. Oh, no; our States are dealing with the question. My colleague's State, Mississippi, has a constitutional provision that absolutely prohibits corporations from owning land in that State in the future.

Mr. FARRINGTON. From owning land?

Mr. DRIVER. Yes. And other States are now dealing with the proposition of a graduated land tax in order not only to deal with the corporations but to force individuals to dispose of large holdings as a matter of governmental policy, and that is occurring every day.

Mr. ALMON. But is there any limitation in the United States on the amount of land that any corporation shall own?

Mr. DRIVER. I know of no limitation, but I do know of the action to which I have referred.

Mr. ALMON. The governor asked that question.

Mr. DRIVER. I know of no limitation of that nature.

Mr. STRONG. For the sake of the argument, suppose we grant that it is an evil for corporations to own more than 1,000 acres of land. Will the clause in the bill prevent that and prevent the ownership of large tracts of land by individuals? Will it stop the thing we are trying to prevent being done, provided it is an evil?

Mr. DRIVER. You are overlooking in that proposition one fundamental question that is agitating the minds of this country to-day, and that is the question as to whether or not title should be owned in perpetuity. The individual has only a limited life and we know it runs pretty nearly a certain period. When he dies that title then passes and it passes from his heirs into other heirs and those larger

estates in that way are divided, while a corporation goes on, like Tennyson's brook, forever. The title is forever in the corporation and there is no end to it.

Mr. STRONG. How many corporations do you think are formed that run for a long period of years?

Mr. DRIVER. Well, I know of some over a hundred years old, and that is very nearly coextensive with the life of this nation.

The CHAIRMAN. This is a very interesting argument and probably both sides are correct, but we would like to know from the governor when he will be able to file this statement with reference to this bill.

Mr. FARRINGTON. I think I will be able to file it within a few days. How soon would you like it?

The CHAIRMAN. Well, I have understood that speedy action was necessary on the bill. I do not mean to-morrow or next day but within a month or two, and we would like to have it in time so as to have it printed and allow the members a chance to read the hearings, become familiar with the bill and with the evidence submitted in support of the bill and against the bill, so that we can get together and thrash it out later on.

Mr. FARRINGTON. I should say that under ordinary circumstances I ought to have it ready in 10 days.

The CHAIRMAN. Do you not think you could have it ready before that?

Mr. FARRINGTON. I will endeavor to do it.

The CHAIRMAN. I understand that some of the leases expire on the 30th of this month.

Mr. FARRINGTON. Well, I will have it ready in a week, not this week, but within seven days.

The CHAIRMAN. Or earlier, if possible?

Mr. FARRINGTON. Yes, sir.

The CHAIRMAN. Because we do not want to hold up the hearings any longer than possible.

Mr. FARRINGTON. I will endeavor to have it Monday, but I do not want to make any rash promises.

The CHAIRMAN. I think it would be a good idea to discuss the matter with the Interior Department.

Mr. DRIVER. I would like to have him state as a matter of policy whether or not he indorses and approves the striking out of the limitation as to the amount of land corporations may acquire.

The CHAIRMAN. I understand that is the question he is going to answer.

Mr. DRIVER. I am not addressing it to him as a legal proposition, but as a question of policy, a policy of administration.

Mr. STRONG. I understood from the governor's remarks that he would like to have some time for consideration.

Mr. DRIVER. I did not so understand; I understood he wanted to seek some legal advice.

Mr. FARRINGTON. I want to canvass the situation thoroughly before I make my answer.

Mr. DRIVER. It will be understood that you will appear before the committee as a witness after you have filed your statement.

The CHAIRMAN. I do not think that is necessary. The governor is probably going away. He is now before the committee and the

members can ask him any questions. If he files a statement giving his opinion of the bill that is all we care for, is it not

Mr. DRIVER. I think this is a very important matter. The policy of administration, I think, is a very important one, and this same question will appear in other matters affecting policy, and I am inclined to rather stress that matter as one on which this committee should have the benefit of all possible information.

The CHAIRMAN. I think it is hardly fair to ask the governor to stay here for our convenience. He will probably be confirmed in a few days—

Mr. DRIVER (interposing). I have no desire to inconvenience the governor.

The CHAIRMAN. And he will probably want to leave to take up the administration of the affairs of Hawaii. He is before the committee now to answer any questions, and we have asked him to file a written statement as to his opinion of the bill, and that is sufficient, I should think.

Mr. DRIVER. Do I understand that in that statement you will deal with this question of policy?

Mr. FARRINGTON. If it is the desire of the committee.

Mr. DRIVER. Well, as one member of the committee, I am very anxious that that matter be dealt with.

The CHAIRMAN. That is one of the questions he is to answer, whether this limitation should be taken off or should be retained, whether it should be extended or whether it should be modified.

Mr. ALMON. I asked you what you thought of striking out this limitation of 1,000 acres, with the approval of the Secretary of the Interior; and in connection with your study of that I would be glad to have you consider a provision something like this:

Not to be allowed to acquire more than 1,000 acres, except on the approval of the Secretary of the Interior or the recommendation of the governor of the Territory of Hawaii.

I would like to have you consider that for whatever it is worth.

Mr. FARRINGTON. Very well.

The CHAIRMAN. Governor, we thank you for appearing before us this morning.

Mr. STRONG. Perhaps I have been overly frank in some remarks I have made, and I want to say this: We are trying to legislate for the people of Hawaii, on a question I know very little about. I have never been in Hawaii, and I know nothing about the people, the customs, or the conditions, but it is not a very large island. There is a grave question in my mind whether or not, when legislating on a bill to protect the original inhabitants of the island in homesteading and enabling them to get homesteads and get back the land that has passed from them, we ought to repeal a part of the organic act that limits the right of corporations to hold more than 1,000 acres of land. Now, all the men we have heard, with the exception of the governor, are men who admit that they hold more than 1,000 acres of land.

The CHAIRMAN. There are a good many here who do not, and who are going to appear.

Mr. STRONG. I am willing to believe that these men are coming here for the best interests of the country regardless of their individual interests, and yet it is a grave question in my mind as to what ought

to be done, and I would like to have some information from the people who do not hold large acreages. I can see that in the cultivation of sugar lands, from what little I have heard about it, that it is very advantageous for them to have more than 1,000 acres, and the governor has brought out the point that a railroad company, if it is going to extend its lines, might need to have more than 1,000 acres, but whether or not we should change the organic act and enlarge the reservation is going to be a sticker before the committee.

The CHAIRMAN. On that question my mind is made up. If it should be retained, we should retain it; if it should be rescinded, we should rescind it.

We are trying to secure evidence as to what is to be done with regard to the points which we have before us at the present time. This is a bill that was the result of years of study and extensive hearings. A year ago when a similar bill was introduced, it was considered by this committee and we held extensive hearings. We met mornings and evenings, and we reported a bill out of the committee with the unanimous vote of the committee, and it passed the House with a unanimous vote; but it was not acted upon in the Senate. It was reported out of the Senate committee.

Now, then, in the meantime they had a session of the legislature in Hawaii, the Hawaiian Legislature was convened and the Delegate was cabled to go home and appear before the legislature and tell them why that bill was not passed. He went, and explained the situation to the best of his ability. And they reenacted the bill with a few amendments. One of the amendments was requiring certain matters to be presented to the Secretary of the Interior for his approval before final action was taken.

Another amendment was including more land to be used for the rehabilitation of the native Hawaiians. The bill passed both houses of the legislature, and there were four votes against it. It has been approved by the board of supervisors of the different counties, the chamber of commerce, and by the Hawaiian Association, and members of the chamber of commerce, members of the legislature, the governor of the Territory, the attorney general of the Territory, the Delegate is here, and a commission appointed by the legislature to appear before this committee in reference to this bill and there are here individual Hawaiians.

And, that is the situation at the present time. Now, we are trying to find out from them, from the representatives from Hawaii, the reasons for the changes in the bill. And the particular change in the bill that we wish to receive the most light on is the 1,000-acre clause.

Mr. STRONG (interposing). I am interested in knowing---

The CHAIRMAN (continuing). And if the Hawaiians are better taken care of under the 1,000-acre clause it ought to be retained. If they are better taken care of by the repeal of the 1,000-acre clause, it ought to be repealed.

The Governor will file his opinion later on. He has given us very good evidence this morning. The other people we have had before us have given reasons as to why this clause should be repealed. I am going to have Senator Wise and some others, who represent directly the Hawaiian people, before us to say what they think the

effect will be on Hawaii. We all want to legislate for the benefit of the people, and I do not think there are any of us who want to put our individual judgment, 5,000 miles away from Hawaii, against the best judgment of the people who live there.

Mr. STRONG. No, sir; not at all.

The CHAIRMAN (continuing). Without very good reasons, we do not want to act counter to their wishes. I believe in local home government. I always did. And millions of lives and billions in money have been spent for individual personal liberty and local government; and sometimes a people of a locality do not legislate in their own interest. In the long run, they always do, and I always believe that the people in a neighborhood know better what is for the interest of the neighborhood than the people living four or five thousand miles away from it.

What I want to find out is what the people of Hawaii think about this bill and how they think it is going to affect them, and that is what I think we all want to get at.

SUPPLEMENTAL STATEMENT SUBMITTED BY HON. W. R. FARRINGTON.

Mr. FARRINGTON. The Hawaiian rehabilitation bill now before your committee is a sincere effort to promote legitimate homesteading in Hawaii, having special reference to and regard for American citizens of Hawaiian ancestry. The bill aims at the same time to preserve to the people of the Territory certain cultivated public lands from which it now appears that the people as a whole will derive much greater benefits through a continuation of the lease system.

This measure comes to the Congress after a long period of discussion by citizens, civic bodies, and varied interests of the Territory. The conclusions reached by the territorial legislature have been the result of practical experiences and applied theories of 20 years. The central thought of the whole movement has been to determine a way whereby certain public lands of Hawaii, limited in area, can be used to best strengthen the number and character of American home-owning families in the islands and also bring about a closer approach to the ideal self-sustaining American community so important in the development of this vital outpost of the Pacific.

A study of the various homesteading experiments has led many of the most radical and sincere advocates of dividing public lands among the people to question the wisdom of freely distributing, by a system of lottery, highly cultivated lands to successful applicants whose purpose may be to use the land in a trading speculation rather than a legitimate effort to establish a home and be a permanent factor in a community of American farmers.

Our fellow Americans of the mainland of the United States are generally conversant with the law (signed by Abraham Lincoln) by which public lands of the Nation were set aside in each State as an endowment for colleges of agriculture and mechanic arts. This rehabilitation or Hawaiian homes act sets aside certain successfully cultivated sugar lands and certain water licenses of Hawaii as an endowment of an enterprise of Americanization so that the income so derived may be preserved to finance what promises to be an

inspiration and opportunity for the American citizens of Hawaiian ancestry.

The purpose of the measure is to preserve the present income bearing public lands from reckless dissipation through alienation to possible speculators, using this income to assist in financing an experiment in homesteading which at once satisfies the American principle of land settlement by home builders, and gives appropriate recognition to the people of Hawaiian blood. There is no division of opinion on the desirability of the results sought to be attained.

If the experiment should fail, the loss would not equal that which has been suffered in earlier homesteading enterprises. Crowned with success, as we anticipate, the benefits accruing to the Nation and the Territory from this plan would be far beyond any figure that might be estimated in dollars and cents on the credit side of an agricultural enterprise. Homesteaders under this bill will be urged on, not only by the natural desire to "make good." They will be fired by the added ambition to demonstrate that the American of Hawaiian ancestry can establish a leadership in intelligent cultivation and profitable production so vital in maintaining the solid bulwark of American homes in Hawaii. The stage of events is set in a manner to arouse home makers and also those intrusted with the interpretation and administration of the proposed law.

The income producing lands set aside to finance this project include approximately 5,000 acres, returning to the Territorial Government an annual income of approximately \$5,000 a year but an anticipated income under this act of \$600,000.

The lands made available for settlement during the first period of the enterprise amount to approximately 40,000 acres. Other lands named will not be made available until a sufficient period has elapsed to demonstrate whether we of Hawaii have been able to fulfill the expectations of our prospectus.

This measure has practically the unanimous approval and the sincere support of the citizens of the Territory of Hawaii and it is our hope that it will also receive the approval of the United States Congress.

The proposed amendment to raise the limit for the bonded indebtedness of the Territory is the logical result of increasing demands made upon a progressive American community located at the center of one of the rapidly developing commercial areas of the world. We no longer question the dominant position of the Pacific in the trend of world trade.

Hawaii must build if it is to fulfill its responsibilities. It must have the means with which to improve its ports, modernize its harbor facilities, and construct roads that will not only carry the usual traffic, but also meet the demands made as a result of Hawaii's situation as the military and naval first line of defense in the Pacific.

It should be recalled that Hawaii has little or no municipal indebtedness. The assessed valuation of the real and personal property of the Territory for the year ending 1920 was \$287,006,792. Under the present law this gives the Territory a bonding privilege of approximately \$20,000,000. Including the bonds authorized for public works by the last Territorial legislature there have been authorized and issued Territorial bonds amounting approximately to \$15,000,000. The bonded indebtedness on June 30, 1920, was \$10,894,000.

Hawaii has a financial reputation second to none. Never in its history has the Government of Hawaii repudiated a debt, defaulted on interest, or indulged in legislative indorsements of "wildcat" projects that fattened contractors and robbed the public. Hawaii has never had a bank failure. During the financial panic of 1907 Hawaii was one of the very few places in the American Union that did business in coin. It has never been reduced to the clearing-house certificate.

To keep pace with the expanding commerce of the Pacific Hawaii must build docks, island wharves, and landings. It must facilitate trade. It must erect modern public buildings, and in this list may be included schoolhouses erected under the municipal administrations. Hawaii must build roads with a proper regard for Hawaii's present and future exceptional prospect as one of the great tourist centers of the world. These roads are needed by the Army. They are vital to every interest.

When considering the Americanization of the Territory we should not view lightly the important part that will be played by the tourist travel from the mainland of the United States. This factor has not appeared prominently in legislative hearings, but none can gainsay the social, political, and national value of large numbers of American citizens visiting Hawaii's National Park and other points of interest, traveling in American ships manned by American citizens. From this source we will surely receive a steadily increasing and distinctly American population.

To properly finance these public works it is obviously necessary that the Territory shall have available money in larger amounts than we would be justified in raising through direct taxation levied from year to year during the life of the present generation.

Hawaii now derives from taxation and appropriates for its own use \$6,995,479.20 annually.

Hawaii, during the year ending 1920, paid to the Federal Government taxes totaling \$11,920,872.72.

The estimate of taxes paid to the Federal Government by Hawaii for the year ending June 30, 1921, is \$23,000,000.

Especial attention is called to the position Hawaii holds in relation to other sections of the country in the amount of money returned to the Federal Treasury through our customs, internal revenue, and other Federal departments.

It seems to be not generally understood by the average citizen of the mainland that Hawaii, as a Territory of the United States, contributes to the expense of the Federal Government under the same laws and rules as the States and Territories of the mainland. As we came into the Union at the same time, though under different conditions, as the Spanish possessions of the Philippines and Porto Rico, it is a popular error to assume that all the taxes paid by the people and property of Hawaii are returned to the treasury of our Territory. This is an error.

The section repealing the so-called 1,000-acre clause is an amendment of the organic act that comes before the Congress after thorough discussion and practically unanimous conclusion by the legislature of the Territory. When this clause was placed in the organic act of Hawaii by Congress it is recorded that Senator Pettigrew suggested "the paragraph will be entirely harmless, for the reason that any

body of men can organize just as many corporations as they please, each holding 1,000 acres, and run them all under one management."

It appears that the view of the Senator has been followed, and not until recent months has this method of solving the problem been called into serious question.

The purpose of law is to protect the public and facilitate legitimate business.

The record of the last 20 years indicates that a more exacting interpretation of this clause than that which was advanced by Senator Pettigrew would have greatly retarded and seriously crippled legitimate agricultural industry.

Having resided in Hawaii when the organic act was passed and during all the intervening period, I can not recall any popular or official protest originating in Hawaii against the methods used for adapting the demands for expanding industry to the interpretation of the law that has prevailed. In these years we have had several changes in national and territorial administration. Local elections have taken place in which the contest was sufficiently keen to have brought out an attack on the interpretation of this law if any considerable number of persons felt that the public welfare was in any way jeopardized.

The successful financing of the Hawaiian homes act involves the releasing of the Kekaha sugar lands, an area of 3,000 acres. It is obvious therefore that Hawaii should know where it stands, and the clause repealed or amended so as to avoid ambiguity or hampering of legitimate business.

The files of the Interior Department show that the officers of the department had been fully informed on the acquisition of land by holding or subsidiary companies as practiced in Hawaii for the past 20 years. Three Secretaries of the Interior, Secretary Garfield, Secretary Fisher, and Secretary Lane made personal visits to Hawaii and investigated this question. So far as I am informed they found no situation prompting them to demand action by the Federal Government.

Five territorial administrations, three Republican and two Democrat, have failed to see in the situation any menace to the public interest requiring action or recommendation. On the contrary the Territorial government has, under existing land laws, leased government lands to corporations already holding in excess of 1,000 acres, including leases of single tracts considerably in excess of 1,000 acres. I append a list of such leases as found in the annual reports from the governor of Hawaii to the Secretary of the Interior.

Your committee, after exhaustive hearings of a prior delegation from Hawaii, determined that the best policy to be pursued with respect to sugar cane lands owned by the government was to lease these to the plantations at an adequate rental, confining homesteading endeavors to other classes of land. It would appear a natural conclusion that the plantations should be empowered to acquire and hold the lease of such land without the risk of some subsequent administration bringing proceedings to forfeit and escheat them with all the improvements.

The area devoted to sugar cane in Hawaii has apparently reached a maximum development, having declined somewhat since the war. While the land suitable for the cultivation of sugar cane becomes most valuable and desirable land, it has certain definite and natural limita-

tions and its area is not disproportionate as compared with the amount of other agricultural land available. A glance at the maps attached to the governor's report of 1906, on which sugar areas are outlined in red, will give an idea of their relation to the whole. The Territorial government owns good sized areas of agricultural and pastoral lands. Problems of homesteading are mainly due to other conditions than the lack of land, which have been fully explained to your committee. The largest private landowners in the Territory are for the most part estates and not corporations. The unhindered acquisition of land by corporations during the last 20 years through holding or subsidiary companies has not resulted in any discernible public evil. The 1,000-acre clause acts as a restraint upon the alienation of land from one private owner to another and as a cloud upon the title of the purchaser or lessee.

My observations and experience lead me to conclude that the people of Hawaii believe their interests would not be endangered by a repeal of the 1,000-acre clause. A strict construction involving the overthrow of the precedent of 20 years would be disastrous. I believe the public interests of Hawaii will not suffer by the repeal of this clause. In view of the situation presented by the expiration of leases on highly cultivated sugar lands and the importance of preserving these income-bearing lands to the Territory, I believe the 1,000-acre clause should be repealed.

If, however, it is felt that some check should be held on corporation holdings of land, the public interest would be amply protected by authorizing the waiving of the 1,000-acre limitation when the land transaction involved is recommended by the governor and Territorial land board and approved by the Secretary of the Interior.

On the question of corporation land holdings, propounded by a member of your committee, I am of the opinion that the Federal Government is justified in leaving the decision of such a question to the local State or Territorial units. There is such a diversity of physical and economic conditions that it would appear to me impracticable for the Federal Government to lay down a law attempting to cover all the conditions and not impede legitimate industry. What might be sound public policy in Maine might not be under conditions prevailing in Hawaii. As the State governments are jealous of their ability to determine what is best for their interests, so we of the Territory of Hawaii feel that our record has demonstrated that the Nation will be safe in relying upon the judgment and final conclusion of our American citizenry.

Senate Document No. 309, covering sugar statistics compiled by the Hawaiian Sugar Planters' Association, and presented by Mr. Warren, February 3, 1916, shows the area of Hawaiian lands under cultivation in sugar cane as follows:

Island.	Fee simple.	Government lease.	Private lease.	Total.
	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>
Hawaii.....	41,098.01	18,202.10	41,103.83	101,000.60
Mauit.....	29,661.00	3,111.65	11,739.76	48,790.40
Oahu.....	3,174.91	2,773.73	31,401.42	40,413.06
Kaui.....	17,310.29	0,309.30	12,102.00	31,474.55
Total.....	01,811.81	30,300.84	09,412.00	221,051.01

Territorial sugar expert, Albert Horner, informs me that expressed in round numbers the area of sugar lands at the present time is approximately 250,000 acres. Of this from 25,000 to 28,000 acres are government lands and approximately 75,000 acres are privately owned, leaving about 147,000 acres owned by corporations.

Leases of government land in Hawaii made by the government to corporations already holding in excess of 1,000 acres (including leases of tracts in excess of 1,000 acres each) as reported by the governor of Hawaii to the Secretary of the Interior.

Lessee.	Area.	Term.	Date of lease.
<i>Acres.</i>			
Governor's report, 1902, p. 22:			
Waianae Co.	3,332.00	5	Nov. 30, 1901
Onomea Sugar Co.	160.00	5	Feb. 28, 1902
Hutchinson Sugar	5,000.00	21	May 24, 1902
Plantation Co.			Do.
Pepeekeo Sugar Co.	210.00	5	Do.
Governor's report, 1903, p. 30:			
Hawaiian Agricultural Co.	3,119.50	5	Aug. 9, 1902
Do.	5,000.00	21	Do.
Governor's report, 1904, p. 49:			
Hamakua Mill Co.	80.00	5	Dec. 12, 1903
Do.	185.00	5	Do.
Wailuku Sugar Co.	75.01	5	Apr. 26, 1904
Hawaiian Agricultural Co.	186.00	5	Apr. 23, 1904
American Sugar Co.	3,730.00	14	Apr. 26, 1904
Governor's report, 1905, p. 57:			
Pepeekeo Sugar Co.	347.00	5	Dec. 12, 1904
Onomea Sugar Co.	252.00	5	Apr. 17, 1905
Hawaiian Agricultural Co.	224.00	5	June 26, 1905
Do.	467.00	5	Do.
Do.	80.45	5	Do.
Governor's report, 1906, p. 62:			
Onomea Sugar Co.	162.30	5	Sept. 26, 1903
Do.	321.90	21	Do.
Governor's report, 1910, p. 42:			
Kaoleku Sugar Co. (Ltd.)	400.00	5	July 24, 1915
Honokaa Sugar Co.	114.00	5	Do.
Hakalau Plantation Co.	133.01	10	July 14, 1915
Kipahulu Sugar Co.	1,500.00	15	Dec. 20, 1915
Waianae Co.	513.00	5	Jan. 31, 1916

From 1907 to 1915, inclusive, and from 1917 to 1919, inclusive, general leases were not listed in the governor's reports but were reported in bulk, substantially in the following form:

Seven leases were of larger tracts, chiefly of cane land, aggregating 5,854.01 acres, at rentals aggregating \$12,013.55. (Governor's report, 1912, p. 57.)

The CHAIRMAN. Who is the next witness?

Mr. C. A. RICE. Do you want to hear anything further, Mr. Chairman, on the thousand-acre clause? If you want to get the history of that, I think that Judge Ballou can give you that information. I know that Judge Ballou can give you the history as to how it passed Congress. I think that perhaps there may be some members of the committee who would like to hear the history of the act.

The CHAIRMAN. We will be very glad to hear Mr. Ballou.

STATEMENT OF MR. SIDNEY BALLOU, ATTORNEY FOR THE HAWAIIAN SUGAR PLANTERS' ASSOCIATION.

The CHAIRMAN. Give your name and the business you represent to the reporter.

Mr. BALLOU. Sidney Ballou; I am attorney for the Hawaiian Sugar Planters' Association, representing all of the sugar planters of Hawaii, and—

Mr. DOWELL (interposing). You represent them here at this hearing?

Mr. BALLOU. Yes, sir. I did not know that I was going to be called on, but I represent them generally.

Mr. KALANIANA'OLE. Are you representing the sugar interests under the thousand-acre clause?

Mr. BALLOU. I am representing the sugar interests and they are in favor of the repeal of the thousand-acre clause. I did not know that I was going to be called, but I am familiar with the history of the act.

Mr. C. A. RICE. I would like to have Judge Ballou give the history, if you would like to have it, Mr. Chairman.

The CHAIRMAN. You know the history of the act, of the thousand-acre clause, do you not?

Mr. BALLOU. Whether it was in the original draft of the commission, and things of that sort?

The CHAIRMAN. You know the history of the act?

Mr. BALLOU. Yes; I know the history of the act.

The CHAIRMAN. Well, that is what we would like to have from you, the history of the legislation, and not any particular argument in favor of or against it, but the history of the legislation.

Mr. BALLOU. Hawaii was annexed, as you know, by a joint resolution in 1898, during the Spanish War. The organic act, organizing the Territory of Hawaii, was not passed until April 30, 1900. In the meantime, Congress had appointed a commission consisting of Senator Cullom, of Illinois; Senator Morgan, of Alabama; and Mr. R. R. Hitt, of the House. These were the three representatives of the United States, and Judge Dole and Judge Frear, representing Hawaii. The American members of the commission journeyed to Hawaii and spent a great deal of time drafting the organic act, which organized the Territory.

This thousand-acre clause, which you are now considering, was not in the draft of that commission at all. It was not in the bill which enacted the organic act when it passed the Senate.

When it came to the House it was suggested on the floor of the House, as an amendment, as a proviso, that no corporation should hold or acquire more than a thousand acres of land. It was adopted by the House as an amendment by a very close vote, something like 70 to 67, and therefore went into conference. There it was approved in conference.

I had occasion, since this question came up, to look back into the Congressional Records of those days, and when the matter came on the floor of the Senate, Senator Bacon, of Georgia, said, "Why, this is too drastic. This is new matter. There is no precedent for this anywhere in the United States"; and Senator Pettigrew, of North Dakota, arose and said, "Why, this clause won't have any effect whatever, because under its operation what the people will do when they want to own more than a thousand acres of land is that they will organize another corporation, and there will be just as many holding corporations as there are thousand acres."

There was practically no further discussion on the floor of the Senate at that time, and the conference report was adopted with that clause in it. And that was the history of it, and, as you have already been told, the actual working out has been very much along the

lines forecasted by Senator Pettigrew; that is to say, subsidiary or holding corporations have been formed to hold the legal title to these various tracts of land.

So far as the history of the legislation is concerned—I might add to the history the acts there in Hawaii. In Hawaii, so far as we may judge by the history of legislation there, there was never any apprehension felt that the acquisition of land in excess of a thousand acres would result in any detriment, because not only have the executive officers, as you are aware, raised no objection to this holding scheme, but as early as 1903 there was an act passed in the legislature of Hawaii authorizing corporations to go into partnership, which was done avowedly for the purpose of facilitating holdings of various corporations under this act, and there are a number of large plantations being operated now as partnership corporations under that act.

Mr. DOWELL. Then, your proposition is that this provision of the law has not in any manner restricted the holdings of corporations?

Mr. BALLOU. As a matter of fact, the restrictive authority has not restricted the corporations in any way, under the practice that has grown up.

Mr. DOWELL. And your position, as legal representative of the sugar planters, is that a subsidiary corporation has the right to purchase the land under this provision in whatever number of corporations they may organize.

Mr. BALLOU. They certainly do. I think the provision is very inadequate to carry out what may be presumed to have been the intention of its author, if you construe it as extending all of the way—

Mr. DOWELL (interposing). Do you represent all of the sugar planters in Hawaii?

Mr. BALLOU. Yes, sir.

Mr. DOWELL. Do you know how much land they own now, taking into consideration all of the corporations?

Mr. BALLOU. I have not had it up. I could give you examples. I could give you exact figures on some of the large and some of the small corporations which I have here. I have the holdings of some of the owners of land—

Mr. DOWELL (interposing). What I want to get at is the aggregate, if you could give that to me. I do not want the detail. All I want is the aggregate.

Mr. STRONG. Could you get that up and put it in your statement?

Mr. BALLOU. I do not know whether I could get it, except by going to Hawaii, the absolute total of all of the acreage. You must bear this in mind: That sometimes a corporation a sugar corporation is limited by not only the rough contour of the land, but the amount of land which is available for sugar cane is limited.

The islands are not small. The island of Hawaii is as large as the State of Connecticut, and there are four islands on which sugar is grown on a belt around the seacoast. At the same time the plantation may own land for purpose of forest reservation on the islands, higher up.

Mr. STRONG. Why?

Mr. BALLOU. Merely for forest reservations and for water conservation. But with that exception there is a natural limitation to growing sugar cane, and that has long since reached a maximum.

Mr. STRONG. You mean, then, that the sugar corporations own all of the available cane lands?

Mr. BALLOU. The sugar corporations; yes, sir; own practically all. They are limited by water more than by area.

Mr. STRONG. I know; but they own practically all of the available land?

Mr. BALLOU. Practically.

Mr. STRONG. Now, you represent all of them?

Mr. BALLOU. Yes, sir.

Mr. STRONG. How many are there?

Mr. BALLOU. About 50 of them.

Mr. STRONG. Corporations, and they own mills, too?

Mr. BALLOU. Yes, sir.

Mr. STRONG. Are they practically owned by the same group of men?

Mr. BALLOU. No, sir.

Mr. STRONG. How many men are interested?

Mr. BALLOU. The stockholders——

Mr. STRONG (interposing). I know; the small stockholders; but I want to know whether or not the sugar plantations are owned by a small group of men, by the same interests?

Mr. BALLOU. Practically the contrary exists. Those corporations, for example, are run by a group of six or seven agencies in Hawaii. They are at Honolulu, the agents for them.

Mr. STRONG. Well, but, as you have been made the attorney for all of them, the natural conclusion would follow that the same group of men owned those corporations or had them under their control.

Mr. BALLOU. Why, they have the Hawaiian Sugar Planters' Association, just as there are associations of practically every agricultural interest in the country.

Mr. STRONG. Well, is there a single small group of men that have control of the sugar corporations?

Mr. BALLOU. No, sir.

The CHAIRMAN. The sugar corporations, I suppose, are organized the same as the citrus-fruit men in California?

Mr. BALLOU. Yes, sir.

The CHAIRMAN. And do you represent each individual corporation, or do you represent the organization?

Mr. BALLOU. I represent that association for the purpose, not for commercial purposes, but for general purposes and their welfare, the same as the citrus people and other people are organized.

There is a board of trustees of, we will say, a dozen men. Those trustees of the Hawaiian Sugar Planters' Association are the people who employ me, and employ people to do experiment work on cane, and for the purpose of advancing the industry. They employ these experts to go out and get parasites to fight the leaf hoppers and other injurious insects that damage the crop.

Mr. STRONG. May I ask you whether the capital invested in the corporation is foreign capital, speaking of Hawaii, or largely home capital?

Mr. BALLOU. It is practically all home capital, and if you take California into consideration, without question 90 per cent of the capital is Hawaiian and California capital. It is practically all

home capital, and we have been very fortunate in that respect, in that we have no absentee holdings, and control of the industry. We have no Delaware corporations. We have not got that sort of a thing.

Mr. STRONG. What percentage of the capital is owned in California?

Mr. BALLOU. I would have to get that and insert it in the record.

Mr. STRONG. About what?

Mr. BALLOU. Ten or 15 per cent.

Mr. STRONG. What I am trying to get at is whether or not the corporations are owned in Hawaii, or whether they are millionaires living somewhere else.

Mr. BALLOU (interposing). No.

Mr. STRONG (continuing). Getting hold of the best land.

Mr. BALLOU. That is exactly what we have been very fortunately free of. Even when men make a million dollars in Hawaii, as Mr. H. P. Baldwin, his sons stay there and manage the plantations. They are part of us, even the second generation does not drift away. We are very fortunate in that we own our own plantations.

Mr. DOWELL. The 50 corporations you represent, does that include the subsidiary corporations?

Mr. BALLOU. No, sir; it does not.

Mr. DOWELL. That is the main corporations?

Mr. BALLOU. Yes.

Mr. DOWELL. And, how many have been organized among themselves in addition to that, for the purpose of taking up this land?

Mr. BALLOU. Why, I am unable to state that number, I have in mind one plantation—you must bear in mind, of course, that at the time of the annexation a great many—

Mr. DOWELL (interposing). Now, just getting back to the question, you have been the one who has organized those corporations?

Mr. BALLOU. No, no; I have been their attorney here in Washington. Most of the subsidiary corporations, holding corporations—

Mr. DOWELL (interposing). You live in Washington?

Mr. BALLOU. No, sir; I live in Hawaii. I have spent most of my time in Washington during the last 10 years.

Mr. DOWELL. You represent them here in Washington?

Mr. BALLOU. Yes, sir.

Mr. DOWELL. And you are their legal adviser?

Mr. BALLOU. Yes, sir.

Mr. DOWELL. What does that include?

Mr. BALLOU. That includes general legal charge of all legal matters here in the East. It includes, of course, being Washington, looking after their interests, and appearing before the departments, appearing before committees, such as this, if necessary, and keeping them informed on the progress of legislation.

Mr. DOWELL. You represent them in a legislative capacity, also, here?

Mr. BALLOU. Yes, sir. I beg your pardon, if I may continue, they also send a great deal of sugar around to the Atlantic coast. It brings up legal questions, of the shipper, cargoes, and so forth, and the drawing of contracts.

Mr. DOWELL. Have you any objections to stating what salary you are drawing as representative of these corporations?

Mr. BALLOU. No; I have no objections. I am being paid a salary amounting to \$18,000 a year. That includes, as I say, a great deal of work. They are shipping twenty or thirty million dollars worth of sugar a year. I have to go up to New York a great deal as a commercial and business—

Mr. STRONG (interposing). Now, the bill which was presented to us a year or two ago had this thousand-acre provision in it. Now, this bill which is presented does not have. How was the change in this bill brought about in the Legislature of Hawaii?

Mr. DOWELL. Did you draw this section?

Mr. BALLOU. No, sir.

Mr. DOWELL. Were you consulted about it?

Mr. BALLOU. In answering the question, I was here when that was drawn. I will answer the question. In the last days of the last administration it appeared that the Attorney General, A. Mitchell Palmer, raised a question about the legality of these subsidiary companies. We became aware of that and went to the Attorney General and asked what was being done, and he said this question had been raised and he wanted to hear us on the matter. We had a hearing before him, and I think that Mr. Britten here—

Mr. DOWELL. What date was that?

Mr. BALLOU. This was early in March, about the 7th of March, shortly after the coming of the present administration.

Upon the presentation we made the assistant to the Attorney General said that he saw no reason for taking any action until a more thorough investigation had been made, laying particular stress upon the fact that the Department of Justice under the last administration had acted without the slightest reference to the Department of the Interior, under whose jurisdiction we were supposed to be.

He said that the matter would be referred to the Department of the Interior for investigation, to find out whether there was any objection, and in order to determine how the thousand-acre clause had worked, and things of that sort. And in the meantime—

Mr. DOWELL (interposing). Have they made that investigation?

Mr. BALLOU. No, sir.

Mr. DOWELL. He made no report on the matter, no investigation, so far as you know?

Mr. BALLOU. No. At the same time the Assistant Attorney General said, "I should think that could be cured by legislation. I see no"—and he was frank in saying that—"I see no particular reason at all for any action on our part."

Mr. DOWELL. That is the reason this was suggested?

Mr. BALLOU. Then this was suggested.

Mr. DOWELL. Did you suggest this?

Mr. BALLOU. Yes; I passed on the suggestion of the Attorney General. I consulted with the Delegate from Hawaii. I told him it could be cured by legislation, and I pointed out that the committee had previously determined that the cane lands, that the best policy for the development of the cane lands, even those belonging to the Government, was that they lease them back to the plantations.

Mr. DOWELL. Then your sentiment is to cure this question entirely by legislation, by the introduction of this amendment, was it?

Mr. BALLOU. Yes, sir.

Mr. DOWELL. And before the Attorney General had completed his investigation of the question you had up with him in March?

Mr. BALLOU. No, sir; we notified the Attorney General that we had taken this action and owing to that notification he suspended all further action. He has suspended action awaiting the determination of the legislative branch of the Government, and as I have just said he said he could see no particular reason why this clause should be enforced in any strictness. "If it is the will of the legislative branch of the Government that it should be enforced I am going to make an investigation of it, but if you can get legislative relief I am willing to suspend action until you can get it."

Mr. DOWELL. Then you submitted this proposition to Congress after having your conference with the Attorney General and he stated that he intended to make an investigation of this question, and your purpose in presenting it is to have this repealed before he takes his action?

Mr. BALLOU. He made a distinctive alternative recommendation. He said he could have the matter investigated through the Department of the Interior, or he said that we could get it cured through legislation. We notified him promptly of every step we took and when we notified him that the Delegate was going to take the matter up with Hawaii, and notified him that the Hawaiian Legislature had recommended the repeal of the thousand-acre clause, he took no further action and is taking no further action until the policy of the legislative branch of the Government has been determined by you gentlemen and the two Houses of Congress. He has been advised of what we are doing and he is thoroughly acquainted with what we are doing. He has suspended action until he can find out what Congress thinks of the matter.

Mr. DOWELL. Did you present this matter to the Hawaiian Legislature?

Mr. BALLOU. No, sir.

Mr. KALANIANA'OLE. This matter was taken up with the Attorney General. I was one of the men who was supposed to call to see the Attorney General, but what happened, is that I was not able to call upon the Attorney General that morning, and I asked Mr. Shingle, Senator Shingle, who is our national committeeman, and who was in Washington, to see Mr. Fowler and talk to him and find out more about this matter from the Attorney General, and through the suggestions made by the Attorney General and Mr. Shingle, I presented this matter to the territorial legislature. I believed it necessary that our people should be informed of what was being done by the last administration. And this matter was put into this shape, not from the suggestion from Mr. Ballou, or anyone else, but from the suggestion of the Attorney General. Then I took it up with our people at home.

Mr. STRONG. Was there considerable difficulty found in getting this through the legislature?

Mr. KALANIANA'OLE. Absolutely none.

Mr. STRONG. Was there any compromise made between the proponents of these amendments and the proponents of those who were trying to get more lands for the Hawaiian people into this bill? Is this bill the result of a compromise?

Mr. KALANIANA'OLE. No, sir; not that I know of.

Mr. STRONG. There are no lands included in this bill?

Mr. KALANIANA'OLE. That is the bill of the legislature containing the idea of rehabilitation, of having the Hawaiians back on the lands in different parts of the islands, but in our discussion with the Senate and the House committees it was decided that it would be better to start off on certain land on two islands. It was advisable, according to some of their views, for us to confine the experiment to certain lands of the islands, and then later extend it to other lands, and so on, and so it was agreed to begin on these certain lands and the experiment to be limited to five years. If the scheme was workable then we could continue it on other lands of the islands.

Mr. STRONG. I know there are no lands included in this bill.

Mr. KALANIANA'OLE. That provision of deleting the thousand-acre land from the organic act was included in the bill by the Hawaiian Legislature.

Mr. STRONG. What I am getting at is, was this a matter of compromise between the proponents of those who wanted to have an increase in the lands made available for the Hawaiians, and those who wanted this restriction?

Mr. KALANIANA'OLE. Absolutely not. I am opposed to certain amendments put in by the House, but the matter came within the power of the legislature of Hawaii, and I called on some of the Senators and asked those Senators to concur in the amendments put in by the House, that if they did not take action right away, the matter would be tied up in conference. It was only a day or two before adjournment. And so they concurred in these amendments. This bill which I have presented is the same identical bill except for these additional amendments which were suggested by the Senate, and also to meet the wishes of those people in Hawaii who were opposed to certain sections of this bill in the last Congress. And we have met their views and sentiments in this bill.

Mr. STRONG. I do not think that this committee has any doubt about giving its approval to the bill. The only question seems to be about this thousand-acre restriction, and I was just wondering whether or not that thousand-acre restriction was put into this bill by the legislature as a result of the compromise over there with those who had some other measure they wanted to put into the bill.

Mr. KALANIANA'OLE. Absolutely not. I was in Washington when this question came up concerning the legality of corporations acquiring more than a thousand acres. I was in Washington when the new administration came in.

When I went back to Hawaii and conferred with the legislature, I had this matter in mind, and presented it to the legislature.

When the question first arose we never knew of it, and know nothing of it until the last days of the previous administration when Mr. Palmer made this move. That is when we found out about it.

Mr. DOWELL. Just a moment; there was some opposition to this bill before?

Mr. KALANIANA'OLE. Yes, sir.

Mr. DOWELL. And you say this amendment satisfied everybody. Isn't it a fact that the men who were opposed to the bill, the previous bill, are the ones who are now wanting to get this amendment in here, and is it not being put in here to satisfy that opposition?

Mr. KALANIANA'OLE. No; that could not be so, because this matter only came up during the last days of the previous administration. The opposition to the last bill was as to the degree of Hawaiian blood of those whom it would benefit. Another reason for opposing the bill was that it was thought that the Hawaiians should not have the right to homestead any land they wished to homestead.

Mr. ALMON. That provision is now confined to one island?

Mr. KALANIANA'OLE. That provision is now confined to two islands; to certain tracts of land on two islands, Molokai and Hawaii.

The CHAIRMAN. You want this bill passed the way you have introduced it?

Mr. KALANIANA'OLE. Yes.

The CHAIRMAN. I would like a consecutive statement; have him complete his history of this thousand-acre clause. Will you continue on that now?

Mr. BALLOU. If I may be permitted——

Mr. ALMON. I would like to have Mr. Ballou state in this connection his reasons for favoring this repeal under this thousand-acre clause, why it is necessary to bring about that development, and why he thinks it is a detriment to the people, at least, in his testimony.

The CHAIRMAN. Well, he can answer that question after he has completed his history.

Mr. ALMON. I thought he had completed it.

Mr. BALLOU. I think I had completed my statement with regard to that. I might say that I think there was absolutely no opposition to the rehabilitation bill on the part of the sugar plantations which has been compromised or in any way affected by including this amendment at this time.

The CHAIRMAN. If you have answered Judge Almon's question, I want to ask a question.

Mr. BALLOU. I appreciate the difficulties of those who see here a bill designed primarily to put the Hawaiians back on the land, which at the same time removes the restrictions on corporations acquiring lands.

Mr. STRONG. That is just the point.

Mr. BALLOU. The answer to that is the distinction, the economic distinction, between sugar lands and other agricultural lands.

Mr. STRONG. But the land restriction in this bill, the way it looked to me, is as though there might have been some compromise.

Mr. BALLOU. No, sir; you are mistaken. There was no repeal of the restriction in last year's bill, because the question had not come up at that time one way or the other.

The CHAIRMAN. I brought that matter up during the hearings. I do not think any of the Hawaiian people brought that matter before us.

Mr. BALLOU. There is nothing in the wording of the bill whatever.

Mr. DOWELL. May I ask one question? When you were having this conference on the 7th day of March with the Attorney General's office, whom did you have it with?

Mr. BALLOU. With Mr. James A. Fowler, the Assistant Attorney General, to whom we were referred by the Attorney General. We had first interviewed Attorney General Daugherty in Mr. Fowler's presence, and Mr. Daugherty referred us to Mr. Fowler, and he said he would take the matter up.

Mr. DOWELL. Is Mr. Fowler in office now?

Mr. BALLOU. He is. He was appointed by Mr. Daugherty. He was not a hold-over appointment. He came in with Mr. Daugherty.

Mr. STRONG. And I want you to make it clear to this committee what suggestions or information you got from him relative to this legislation, stating whether or not he recommended this, and if so, give us the facts about it.

Mr. BALLOU. Action had been taken by the last administration looking to a forfeiture of all of these lands held by subsidiary corporations. Attorneys representing Hawaiian interests, including myself, appeared before Mr. Daugherty and asked that nothing further be done in the matter until an opportunity had been given for Hawaiian interests to be heard in the matter. Mr. Fowler heard us fully. He said that the matter obviously was one that should be referred to and reported on by the Interior Department and that it was a matter that would take some time, and he made the suggestion that we might get it cured by legislation.

Mr. DOWELL. You think that he meant to refer, that he was recommending that you come to Congress?

Mr. BALLOU. Yes, sir; I think that was Mr. Fowler's understanding. I have quoted his exact words.

The CHAIRMAN. I do not think that there is anything wrong in that. I think that would be the proper and equitable thing to do.

Mr. DOWELL. I am not questioning that, Mr. Chairman, but I am trying to get the facts.

The CHAIRMAN. I know, but I want to get it into the record that you do not question that.

Mr. DOWELL. I am trying to get the facts.

Mr. STRONG. What are the facts?

Mr. BALLOU. The facts are, that he said that it was a matter that might be cured by legislation.

Mr. DOWELL. Do you think that is what he wanted you to do?

Mr. BALLOU. I took that to be his recommendation, that we come before Congress and when we informed him of the fact that the Delegate in Hawaii had introduced this amendment to the rehabilitation bill, and that it had been approved by the Hawaiian Legislature, when he was acquainted with that fact, he suspended all operation in his department, pending the results of our efforts.

Mr. STRONG. When you made your visit to the Department of Justice, that was since the 4th of March, but it had already been acted upon by the legislature?

Mr. BALLOU. No, sir; not before the 4th of March.

Mr. STRONG. When did they act? In April?

Mr. BALLOU. In April; yes, sir. The matter was not taken up before the 4th of March. It was taken up after the 4th of March with the new administration. I do not think I am misquoting Mr. Fowler's attitude—he simply said that there was not any particular good that could be done by raising the question of the legality of these subsidiary corporations and in saying that no action should be taken in the matter. He made alternative recommendations. The first was that it go before the Interior Department and that the matter be investigated and reported on, and the second was that we might get it cured by congressional legislation.

Mr. STRONG. And, you were equally frank with him, as you have been with us, that the purpose of these subsidiary corporations is that they were organized for the purpose of controverting the principal provision of the former act?

Mr. BALLOU. I did not put it that way, and I do not put it that way.

Mr. STRONG. Was that the principal one?

Mr. BALLOU. No, sir. As long as we judge the former act by its language, if you state it as what may be presumed to be the intent of the act.

Mr. STRONG. You do not believe that was the intent of the act?

Mr. BALLOU. But, when you go and make the statement that the legal title shall not be held to land in excess of a thousand acres, then I do not think that the formation of subsidiary holding companies, just as has been done, is in contravention of the law or ethics.

Mr. STRONG. If organized especially for the purpose of doing what the Congress restricted?

Mr. BALLOU. I do not think Congress did restrict. I do not think Congress restricted it.

Mr. STRONG. But you say that they did intend to.

Mr. BALLOU. I say that may be presumed to have been the intent of the man who drew the bill.

Mr. STRONG. Do you not also construe it as the intent of the Congress as it enacted it?

Mr. BALLOU. Considering that the adoption by the Senate of the conference report followed immediately after Senator Pettigrew's statement, that it would have exactly this effect, we are left very much in doubt as to whether or not the Senate voted because they thought that Senator Pettigrew was right, or because they felt that it would follow some other course.

The CHAIRMAN. Now, do you know whether or not any of these lands have been sold or transferred to these corporations since the organic act was put into effect, other than the lands that were in private ownership at that time?

Mr. BALLOU. Government lands have been leased.

The CHAIRMAN. I am talking about land sold.

Mr. BALLOU. Sold?

The CHAIRMAN. Yes, sir.

Mr. BALLOU. I do not, with the exception, it may be that there is an exception, perhaps of a few homesteads, prior to 1910. Prior to 1910, a man who got his homestead patent after living on it for five years got an absolute title, and there was no restriction as to who he could sell it to, and the corporations, to some extent, bought in these homesteads from private owners, being private owners who had gotten it from the Government by way of homesteading. That was stopped by the law of 1910, which forbade any homesteader from alienating his title to a corporation.

The CHAIRMAN. Since that time, has any such lands been bought by these corporations?

Mr. BALLOU. No, sir.

The CHAIRMAN. None since 1910?

Mr. BALLOU. No, sir; not since 1910.

The CHAIRMAN. Private corporations have leased lands from the Government?

Mr. BALLOU. I beg your pardon.

The CHAIRMAN. Lands have been leased by the Government?

Mr. BALLOU. The Government has not complied with this thousand acre clause, as they have leased large tracts of lands to the various plantations, at various times, as reported, all of that has been reported in the Governor's reports to the Secretary of the Interior, where they appear on file. Of course, we do not know yet, we do not know to-day whether the "holding, or acquiring" of lands, means holding under lease, or not, and that is another cloud that we have to work under.

Mr. DRIVER. Can you tell us now, as to the duration of such leases, are they uniform or not?

Mr. BALLOU. The duration—I have a number of them, if—

Mr. DRIVER (interposing). I do not wish to refer to any particular lease, I just want to know what the general practice is.

Mr. BALLOU. For agricultural lands, they only call for five years. For lands for forest reserves, forest reserve lands, which are under restrictions, and are simply held for the development of water, they run for 21 years.

Mr. STRONG. If you have the control of the water, you can force a renewal of a lease of the land, can you not?

Mr. BALLOU. It depends upon what lands the water pertains to.

Mr. STRONG. I know, but the idea I am getting at, is that if you have control of the watersheds for 21 years you would be able to control the land?

Mr. BALLOU. No, sir.

Mr. STRONG. Could you not control the lands below?

Mr. BALLOU. No, sir; because the watershed has no reference to the land below, and the title to the water below has no reference to the land above. The idea of the forest reserve is merely conservation, to see that the water there, whatever may be its ownership, is conserved. The place where it rises, where the stream rises, you may control that, you may own that in fee simple, and have no right yourself to the water down below.

Mr. STRONG. What is the use of owning it?

Mr. BALLOU. Merely to see that the forest is preserved in its natural state, so that the water will continue to flow instead of drying up. They are merely following forest reservation principles.

Mr. STRONG. Well, it deprives them of the grazing rights?

Mr. BALLOU. Yes, it is to keep the cattle from encroaching upon the forests.

Mr. STRONG. How many acres of lands have been leased within the last two years?

Mr. BALLOU. Have been leased by whom?

Mr. STRONG. By corporations, by your corporations?

Mr. BALLOU. I doubt if there have been any appreciable number.

Mr. STRONG. How much of the cane lands have been leased within the last two years?

Mr. BALLOU. I doubt whether there have been any appreciable number of acres.

Mr. H. W. RICE. I think that there was one within the island of Maui who was compelled to lease because they had no water.

Mr. STRONG. Were there not some leases to expire last year?

Mr. BALLOU. Those were owned by the Government, Government leases.

Mr. STRONG. Have you acquired any of those lands by lease?

Mr. BALLOU. No, sir.

The CHAIRMAN. That is Government land?

Mr. BALLOU. They are awaiting action on this bill.

Mr. STRONG. Do you have any stock in these corporations?

Mr. BALLOU. I have a very small amount. Now, there were one or two questions.

Mr. ALMON. I would like to get back to the question that I asked. I would like to get an answer to my question as to your reason why this thousand-acre limitation should be removed. Now, if the members of the committee will let you alone, I would be pleased to have an answer to that question.

Mr. BALLOU. I begin that by calling attention to the question which has developed and which developed in this committee last year, to the economic status of cane lands, and other agricultural lands. At first blush, as long as the Government owns very valuable tracts of sugar-cane lands, the most valuable land in the Territory, and there are thousands of Hawaiians and other bona fide settlers we would like to see settled on the lands, at first blush it would appear that the cane land would be the first thing to be cut up and given to homesteaders.

As this committee knows, every man who sat on the committee last year, the universal testimony from the Hawaiians was that had been a failure, and that was backed by Secretary Lane and practically everybody who had been out there. It was determined by this committee and incorporated in the bill last year that so far as the cane lands of the Government were concerned the best policy for them would be to lease them back to the plantation at adequate rentals, thereby permitting the settlement of Hawaiians on other agricultural lands, bearing in mind that the cane land is very strictly limited in the islands, running up to a certain altitude. A map of any of the islands may be improvised by this [illustrating with a handkerchief]. Now, there is a little fringe along here [indicating] that is suitable for cane. Now, that above would be good agricultural land. That is not suitable for cane.

Now, when that determination was made by this committee, it appeared that that would go a long way toward answering your own question; that is to say, that if the land which the Government itself owns, which is the best of it, is, for the present at least, to be leased back to the plantations, why any restrictions on the plantations receiving it or anything of the kind.

The further answer to that is that this has been tried in Hawaii; they have tried to put the Hawaiians back on the cane lands, and that has been tried and has been found to be a failure. The committee is fully aware of the failure of that plan. We are now trying to put the Hawaiians back on the agricultural lands, of which there is a great plenty in the islands, certainly more than enough to try this experiment for the next 25 or 50 years.

Mr. STRONG. Do you know any reason why this bill should limit to one island this experiment of giving the Hawaiians homesteads?

Mr. BALLOU. No; I really do not.

The CHAIRMAN. I think that Mr. Kalaniana'ole can answer that.

Mr. BALLOU. I think there was objection to the bill. As I understand this situation as it was last year, the objection was first from people entirely disinterested, who thought that, as a matter of fact, the rehabilitation plan would not work out in practice; the second was from certain interests who have large tracts of land, but which are not owned by corporations. The largest landowners are not corporations but are the Bishop Estate, which is a charitable organization, and the second largest is the Parker ranch, which is owned by a minor.

Mr. STRONG. Those interests are not in sympathy with the Hawaiian people's interests?

Mr. BALLOU. I presume so.

The CHAIRMAN. Those who were opposed to this bill at the last time of the hearings were those who were leasing the lands that were being taken under the provision of the bill for the rehabilitation of the Hawaiians, and they are not sugar lands.

Mr. BALLOU. And they are not owned by corporations either. They are not incorporated. The land is owned by individuals and estates, who own large tracts of land on which they run cattle, etc., and that land is being taken at the expiration of the lease. They had leased this land from the Government, and their leases were nearly expired, and they were desirous of reserving, in other words, leasing, the land as they had done before.

Mr. STRONG. I would like to ask if you know whether or not they are leasing any of this land.

The CHAIRMAN. There are no further re-leases yet, and there will not very likely be, and they are trying to find some method of stopping it until the bill can be enacted, if it is not enacted between now and next session.

Mr. BALLOU. So, finally, Judge Almon, my reasons in this matter are: During the past 20 years the law has been, for all practical purposes, a dead letter—evaded, if you please, by means of these holding corporations, and the result is that no public evil has arisen which is detrimental to anybody on the Islands. Three Secretaries of the Interior have considered that question, Garfield, Fisher, and Lane, and they have found nothing to correct in this system of holdings. The natural limitations of the sugar plantations are such that they do not interfere with the general settlement of the other agricultural lands of Hawaii. Here you can find no protest from Hawaii against this system of corporations acquiring exactly what they wanted by means of holding corporations, but it has been acquiesced in by two or three administrations in Hawaii, and by two or three administrations here, because they have always been fully reported to the Secretary of the Interior. For that reason, and because it does not interfere with the actual settlement of agricultural lands, we think the restrictions should be removed, and we should not be compelled to operate under a clause whereby the title to our lands may be questioned by some Attorney General at some future date, saying: "Oh, well, all of this is illegal, and I propose to bring a suit against your land."

The CHAIRMAN. Is it not true, that you could not raise sugar if it were not for the large companies?

Mr. BALLOU. Absolutely.

The CHAIRMAN. You can not raise sugar on small tracts?

Mr. BALLOU. That is the economic situation. At the time of annexation, we were raising about 250,000 tons of sugar. Now, of course, this does not interfere with the vested rights of any plantation. But that would still be the size of the crop, and that would be the amount of our sugar, and the amount that we would have raised most of the time since then. Since that time, we have increased it until during the war we raised 647,000 tons, and we are now raising about 550,000 tons on an average.

I have one plantation in mind in particular, a plantation which not only could not have continued to have grown sugar but which would have gone into bankruptcy. That plantation was formed in 1898, before the organic act was passed. That plantation was a failure. It could not pay the interest on the investment. At last, taking desperate chances, they went to work and built a tremendous dam, which they did against the judgment of a great many engineers, who said that the dam would never hold water, because the soil was so porous, that it would all seep out, but they did build the dam at a tremendous expense, and they did impound the water. The dam did hold the water, and thereby they were able to get water on to an additional acreage of higher land which they took up by forming five holding companies, whose names I do not know. There were five holding companies, each holding about a thousand acres of land, and by getting that increased area under cultivation, that plantation was able to raise cane and produce sugar, and without doing that it would have gone broke, absolutely.

The cultivation of cane in the islands, with the exception of one district in Hawaii, lying along the coast, is made possible only by very extensive systems of irrigation. We use these great steam plows that are beyond the cost of any individual. We have to cultivate the plantation as a whole. We have plantation railroads, with portable tracks. The whole economic system is founded upon the management of the plantations in sizes sufficient, I say again, sufficient to make an economical plantation, and its expansion has been due to this evasion of the organic act, if that is what you are going to call it, during all of these 20 years.

The CHAIRMAN. Are there any further questions?

Mr. DOWELL. You speak of the land outside of the sugar land, and you seem to divide it into two classes.

Mr. BALLOU. Exactly.

Mr. DOWELL. One is that land which is adapted to the cultivation of sugar.

Mr. BALLOU. Yes, sir.

Mr. DOWELL. And the other seems to be the higher land?

Mr. BALLOU. Yes, sir.

Mr. DOWELL. Now, how necessary is the development of that character of agricultural lands, that they should have some privileges as to the water on the lands?

Mr. BALLOU. Why, a great deal of that character of land is under irrigation, but the water in Hawaii is owned, and has been owned since time immemorial, with the land to which it is appurtenant.

Mr. DRIVER. Under these recent restrictions the water rights are exclusive?

Mr. BALLOU. Do you mean the Government leases of the watersheds?

Mr. DRIVER. Yes.

Mr. BALLOU. I do not think you understand me. The lease which I refer to, as the 21-year leases, those leases have nothing to do with the water rights at all. The water belongs to the Government, the plantation is a separate thing. I am merely referring to the leases of tracts of land for the purpose of restrictions, which is for the purpose of keeping the cattle out so that water that does arise on that land will be conserved and run down to the sea, and they will not lose the water.

Mr. DRIVER. What is meant, is that they have really leased that water?

Mr. BALLOU. In truth, they lease——

Mr. STRONG. How——

Mr. DRIVER. Just a moment. Have you the power to divert the water under that lease?

Mr. BALLOU. No, sir; there is no right at all to the water.

Mr. DRIVER. In other words, you just lease that tract of land, that is in the watershed?

Mr. BALLOU. Yes, sir.

Mr. DRIVER. And it then takes its natural flow, and you have no right to divert it?

Mr. BALLOU. No, sir.

Mr. DRIVER. You have no right to divert its flow?

Mr. BALLOU. No; you do not have any interest in it, the plantation may own the water rights below, and may have owned them for 50 years, just the same as you gentlemen——

Mr. DRIVER (interposing). With the land?

Mr. BALLOU. With the land which they acquired, if it did not belong to the Government, just the same as you gentlemen make a forest reserve on the top of the Appalachian Mountains, and they do not divert the water, or use the water, but they simply make it into a forest reserve.

Mr. DRIVER. And the purpose of leasing it is merely to avoid the loss of the flow?

Mr. STRONG. How does the keeping of the cattle out protect the watershed, I want to know?

Mr. BALLOU. Anybody in this room from Hawaii, I think, can answer that.

Mr. STRONG. Well, tell us.

Mr. BALLOU. It has been our greatest evil, the gradual recession of the forests. That has been caused by cattle, when cattle get into the forests they eat the underbrush and they prevent the new trees from coming up, and the land very soon becomes deforested; and we have this situation. I think it would be well to let some of these practical ranchmen answer that question.

Mr. H. W. RICE. Now, as to the amount of privately owned private land thrown into the forest reserve, for the best interests of our islands, in that group, I myself have a thousand and three acres, to be accurate, in forest reserves, fenced off entirely.

Mr. ALMON. Why do you want to fence it off and reserve that land?

Mr. H. W. RICE. Because of the watershed. If you do away with the watershed, you reduce the value of the total territory, the whole island.

Mr. STRONG. I still do not understand. You mean that the water does not fall on the ground, if you have cattle on it?

Mr. H. W. RICE. It falls on the ground, but we have such a tremendous fall to our land—take on my ranch, for instance, within 17 miles it is from 10,000 feet above sea level, rises from sea level to 10,000 feet above sea level, so you see if there is nothing to hold the water, no underbrush, no undergrowth, then the water will simply rush away and it is to prevent that erosion, the washing of that land, that we graze in order to save the vegetation.

Mr. STRONG. When the trees are there, when you have the brush, the soil stays on that land, is that the idea?

Mr. H. W. RICE. Yes, sir.

The CHAIRMAN. Is there anything further? Who will be the next witness?

Mr. KALANIANA'OLE. Mr Chairman; I would like to have you hear Senator Wise, if you have time.

The CHAIRMAN. Senator Wise is not very verbose, he will not take long. We will be glad to hear Senator Wise.

STATEMENT OF MR. JOHN H. WISE, A MEMBER OF THE HAWAIIAN SENATE.

The CHAIRMAN. Now, what I want to know is whether this thousand acre clause has anything to do with the land that is being segregated under this bill for the rehabilitation of the Island?

Mr. WISE. No.

The CHAIRMAN. There is nothing, none of this thousand acre land that would be segregated for them, even if the thousand acre clause were not repealed?

Mr. WISE. No.

The CHAIRMAN. This has nothing whatever to do with the lands that you want segregated for the rehabilitation?

Mr. WISE. It does not.

The CHAIRMAN. This sugar land is an entirely separate proposition?

Mr. WISE. Except, of course, the leasing of the Government lands to the corporations, the plantations.

The CHAIRMAN. Yes, the leasing of the sugar lands to the plantations, but none of this land would be leased to the plantations, none of it which would be leased is included in these lands that you are segregating for the rehabilitation of the Hawaiians in this bill.

Mr. WISE. Well, I want to say that a good many acres for instance, are not being used for sugar.

The CHAIRMAN. At the last session, they were not, and so far as that is concerned—

Mr. WISE (interposing). That is not used for cane lands, but is leased to the plantations.

The CHAIRMAN. But they are the character of lands I am talking about—

Mr. STRONG (interposing). What do you do with the lands that you do not use?

Mr. WISE. Make grazing lands of them.

The CHAIRMAN. Grazing lands, and lands to be segregated for the Hawaiians are not sugar lands, are they?

Mr. WISE. No sugar lands, no, sir.

Mr. STRONG. Is there any objection, Senator, to leasing them over 1,000 acres of those lands?

Mr. WISE. Cane lands?

Mr. STRONG. Those that are used for grazing lands?

Mr. WISE. Grazing lands?

Mr. STRONG. Yes.

Mr. WISE. Yes, you take a good part of those grazing lands, they are not fit to make—

The CHAIRMAN. Take all of the grazing lands.

Mr. WISE. Mr. Ballou made a statement with regard to some of the agricultural lands. I do not know of any that is being cultivated now, except possibly a few acres in pineapple.

Mr. STRONG. Is there any objection that you know of to raising the restriction of the 1,000-acre clause?

Mr. WISE. You mean in the bill called for now?

Mr. STRONG. Yes.

Mr. WISE. I do not know of any reason why it should not go through.

Mr. STRONG. You think that this bill should go through?

Mr. WISE. I think so.

The CHAIRMAN. You represent the Hawaiian people?

Mr. WISE. Some of them.

The CHAIRMAN. You are not a sugar planter?

Mr. WISE. Mr. Shingle thought I represented the barefooted people. I believe he is pretty nearly right.

The CHAIRMAN. You are not a sugar planter?

Mr. WISE. Not a sugar planter.

Mr. ALMON. How long have you been a member of the legislature, of the house or the senate?

Mr. WISE. I have only been there two terms. My term expires in November, 1922.

Mr. ALMON. That means eight years?

Mr. WISE. Four years.

Mr. ALMON. As a Hawaiian, and a citizen of Hawaii, and as a member of the senate of the Territory, and as a special representative of the native Hawaiians to make a provision for their home commission, as provided in one part of this bill, you state that you know of no objection to removing this restriction?

Mr. WISE. I know of no objection.

Mr. ALMON. Go ahead now.

Mr. WISE. I do not know what question you want to ask.

The CHAIRMAN. Do you want to talk on any changes in this bill, or is there anything else you wish to say?

Mr. STRONG. Why do you in this new bill limit this homestead proposition to one island?

Mr. WISE. Well, because we thought that was the only way we could get the bill through. It is a compromise.

Mr. STRONG. With whom?

Mr. WISE. With those who objected to the first bill.

Mr. ALMON. They represented the individual interests or the corporation interests?

Mr. WISE. Private interests.

Mr. STRONG. Well, this bill limits it to one island; what would be the results on the other islands as to the advantage to be gained by those ranchmen?

Mr. WISE. Their lands will not be homesteaded until such time as we call for them under the homestead—under the rehabilitation scheme—in other words, until the ranch lands of the other islands or sections of the other islands can be homesteaded, putting in this bill and being held for the Hawaiians, and it would give us one island to start our scheme with and save them from having those lands homesteaded, until we need those lands.

Mr. STRONG. That was provided in the last bill?

Mr. WISE. Yes, sir.

The CHAIRMAN. That is one of the amendments to the last bill, the original bill.

Mr. STRONG. Senator, having been a member of the committee that framed the other bill I am very much in favor of the homestead scheme, and I do not want you to put anything in this bill that will interfere with it.

Mr. WISE. Why, when I came here, a year and a half ago, I came here as a beggar. The scheme that we proposed had not been put into form to be heard in the legislature; no bill was drafted or introduced in the legislature. We came over here with a bare resolution asking that some scheme might be made in order that we might have a chance to rehabilitate our race.

There was some objection even at that time. The chamber of commerce, in their pamphlet, came out stating that it was class legislation.

I came on that commission, not knowing what my rights were, but after appearing before the committee here, and after the consideration that you people gave us in the matter, we felt that we were entitled to some of these lands. At that time we requested that one-thirty-second degree of Hawaiian blood would be sufficient to qualify him to come under this scheme. Some people objected to that because it was hard to distinguish between one-thirty-second Hawaiian and wanted one-half part Hawaiian. Of course, I do not agree with that part of the amendment, but still, in order to put the thing through, I had to agree to it.

If the Hawaiians have an equity right to those lands, that we are asking for, and if it is unconstitutional to give us these lands, I can not see how one-half Hawaiian would make it constitutional and if our parents had an equity right in these lands I can not see why one-thirty-second part Hawaiian should be refused the right to come in for his share in these lands.

Mr. STRONG. Well, who is objecting to those things?

Mr. WISE. Why, some people in Honolulu, and in order to put it through—it came up in the campaign and it came up in the legislature—and in order to put the resolution through we had to come down to one-half part Hawaiian.

Mr. STRONG. Well, if this committee should restore that part of the bill permitting Hawaiians of one-thirty-second blood participation, what would be the result?

Mr. WISE. Why, I think the Hawaiians, so far as the Hawaiians are concerned, they would bless you.

Mr. STRONG. Well, I want to be blessed.

The CHAIRMAN. Do the Hawaiians themselves consider it to be a good scheme to limit it to full-bloods, or half-bloods?

Mr. WISE. Yes; a large part seem to agree to that.

Mr. DRIVER. The legislature is composed of how many Hawaiians, and how many of the Caucasian race?

Mr. WISE. In the senate?

Mr. DRIVER. Yes.

Mr. WISE. About six Hawaiians.

Mr. DRIVER. About how many others?

The CHAIRMAN. Nine.

Mr. WISE. Nine others.

Mr. DRIVER. How about the house?

Mr. WISE. In the house the majority consists of Hawaiians.

The CHAIRMAN. Well, it seems that the Hawaiians are in favor of having this limitation?

Mr. WISE. Yes; they are.

The CHAIRMAN. To the full-bloods, and half-bloods.

Mr. WISE. Half-blood Hawaiians.

Mr. STRONG. You think that that would be the most satisfactory?

The CHAIRMAN. To them?

Mr. WISE. To them.

The CHAIRMAN. Yes, to them.

Mr. WISE. Well, that will be hard to answer.

Mr. ALMON. They have answered that under the settlement of this compromise?

Mr. WISE. They have authorized the backing up of the bill as it is, and I have no right to ask for any limits or any deviation.

Mr. KALANIANA'OLE. That agreement was put into the bill because of the suggestion of Senator New. That was put in by the legislature to meet the objection. I called on the legislature to ratify just what the Senate wanted, so that we would have easy going in the Senate.

Mr. STRONG. What is the objection?

Mr. WISE. According to his remarks, he thought it was unconstitutional, but I can not see where he can reconcile his statement by the remarks that one-half would make it constitutional.

Mr. STRONG. I agree with you.

Mr. WISE. But, as I said, we came over here as beggars, and so we took what we could get. I was told a long time ago that one of your proverbs was never to look a gift horse in the mouth, so we took what we could get.

Mr. STRONG. No, I think you have great rights.

Mr. ALMON. Are there any other amendments you want to discuss other than that amendment which you are on now?

Mr. WISE. The first amendment is on the degree of blood; the second important one is the thousand acres, and I have already said that we have no objections to that. There is another amendment.

The CHAIRMAN. You approve of it?

Mr. WISE. I do approve of it.

Another amendment raised yesterday was the majority of the commission of three, is provided in the bill instead of a mere majority. That was introduced by the members of the House.

The addition of 9,200 acres was also introduced by the Members of the House. The original bill as introduced in the Senate only contained those lands that went through a year ago. The additional, 9,200 acres was put in by the Members of the House. This new bill has two or three lands on Hawaii together with the Molokai lands for experiment.

Mr. STRONG. And you are satisfied with the limitations in these islands?

Mr. WISE. Yes, perfectly satisfied. It was the intention of the governor and the Government that we make an experiment on one island alone, but the House changed it.

Mr. STRONG. But the bill contains a provision that will hold the other lands on the other lands, subject to settlements, if it is desirable.

Mr. WISE. Yes.

Mr. STRONG. If your colonization scheme, or your homestead scheme works satisfactory?

Mr. WISE. Yes, sir.

Mr. ALMON. And that is all that you are asking for?

Mr. WISE. That is all we are asking for.

Mr. STRONG. Then the bill that has been presented here to this committee is satisfactory?

Mr. WISE. Yes, sir.

Mr. STRONG. And it is satisfactory to the people you represent?

Mr. WISE. Yes, sir.

The CHAIRMAN. This bill is satisfactory to all of the people?

Mr. WISE. Yes, sir.

The CHAIRMAN. With the amendments?

Mr. WISE. With the amendments; yes, sir.

The CHAIRMAN. Are there any further questions that anyone desires to ask? Or is there anything further that you wish to state?

Mr. WISE. I beg your pardon?

The CHAIRMAN. Is there anything further that you wish to state, Senator?

Mr. WISE. I do not know of anything further unless some one desires to ask some questions.

Mr. ALMON. I want to ask the witness one question: Are you interested in any of these corporations?

Mr. WISE. No; not in any way.

Mr. ALMON. Then you are not connected with these corporations?

Mr. WISE. No, sir.

The CHAIRMAN. Mr. Almon, have you completed your questions?

Mr. ALMON. Yes.

The CHAIRMAN. We will hear Mr. Irwin.

STATEMENT OF MR. HARRY IRWIN, THE ATTORNEY GENERAL FOR THE TERRITORY OF HAWAII.

Mr. IRWIN. On page 26—my remarks with regard to the amendments to the original bill—on page 26 of the typewritten bill and page 27 of the printed bill, there is this change—

The CHAIRMAN. How long will it take you to get through?

Mr. IRWIN. It will take me a very short time.

I want to call your attention, and the attention of the committee, to the fact that the land which may be leased under the present bill applies only to agricultural cane land.

The CHAIRMAN. Now, while we are on that proposition, I would like to have you indicate for the record where this 9,200 extra acres of land is located that has been added to the original amendment for the same scheme.

Mr. IRWIN. Let Senator Wise answer that question.

Mr. WISE. On page 4 of the printed bill, line 17, "200 acres, more or less"; line 21, "Panaewa, Waiakea (2,000 acres, more or less), Waiakea-kai, or Kaaupaha (2,000 acres, more or less)"; on page 5, lines 14 and 15, "and Kalauppa (5,000 acres, more or less)."

The CHAIRMAN. That is good.

Mr. IRWIN. On page 27 of the printed bill you will recall that in the original bill all cultivated cane lands could be leased for a definite plan, so as to change that to convey that benefit of the irrigated lands only so that you leave the remaining cane lands open to homestead, the irrigated cane lands. This irrigated cane land consists of approximately 11,000 or 12,000 acres. I have not the exact figures here but I think they will run close to 12,000 acres.

The next change is made on page 27 of the typewritten bill and on page 27 of the printed bill, line 21. The provision here is made that it is to change the date from May 27, 1910, to May 27, 1915. That is a proposition that we have been considering about the cultivation by the homestead land. I do not know how that change was made. I am inclined to think that it is an error. I do not know of any one intending to make the change.

The CHAIRMAN. Where is that?

Mr. IRWIN. In line 21, page 27, of the printed bill.

The CHAIRMAN. Do you know what it should be?

Mr. IRWIN. It should be 1910. I do not know any reason why that should be changed.

The CHAIRMAN. What is that, May 27, 1915?

Mr. IRWIN. It is 1915, in the bill.

The CHAIRMAN. What should it be?

Mr. IRWIN. In the original bill and as the law stands, 1910.

Mr. BROOKS. The typewritten copy has 1910.

The CHAIRMAN. Well, Mr. Kalaniana'ole introduced the bill.

Mr. KALANIANA'OLE. It must be a mistake in the print.

The CHAIRMAN. So that it should be 1910.

Mr. KALANIANA'OLE. Yes, sir, 1910.

The CHAIRMAN. Will you remember that when the committee takes up the bill section by section; will you remember that change, Mr. Kalaniana'ole?

Mr. IRWIN. The next amendment is on page 30 of the typewritten bill, and page 30 of the printed bill, lines 23 and 24 of the printed bill. The addition there is, "Sell to any citizen of the United States, or to any person who has legally declared his intention to become a citizen, for residence purposes, lots and tracts, not exceeding 3 acres in area."

At the present time there is no restriction, and aliens will come in and buy up those 3-acre tracts. It is believed there should be a restriction to citizens and persons who have declared their intentions to become citizens.

The next change you will find on page 33 of the printed bill and page 33 of the typewritten bill, line 10, which is, district judges shall receive \$7,500 a year. That is changed from \$6,000 a year in the original bill to \$7,500. Seven thousand five hundred dollars is the salary that they are drawing at the present time and is the salary that they have been drawing for some time.

The CHAIRMAN. They are drawing how much now?

Mr. IRWIN. They are drawing \$7,500 now and have been drawing that for some years. Six thousand dollars was the salary when the original organic act was enacted, but that was later changed?

The CHAIRMAN. Then, there is no change in this?

Mr. IRWIN. No.

Mr. IRWIN. It was \$6,000; the committee had \$6,000.

The CHAIRMAN. But that was an error.

Mr. IRWIN. I assume that it was.

The CHAIRMAN. That was an error in the original bill, because that is \$1,500 less than the salaries which are provided by law.

Mr. IRWIN. That is in connection with paragraph 80, and there is a deletion in the original bill, which I am unable to indicate in the typewritten bill. You will remember that in the original bill it was provided for the deletion of one of those judges after his present term expired. Then the legislature saw fit to eliminate that provision from this bill, and now, as it reads, it provides for the two judges, the same as are in existence at the present time.

The CHAIRMAN. I think they are needed out there. You folks need some judges to keep you straight.

Mr. IRWIN. On page 35, of the present bill, and page 35 of the typewritten bill. On page 35 of the printed bill, line 10, it is provided that the governor's salary shall be \$10,000. I think that is an increase from the previous bill. I have forgotten what the previous bill contained.

The CHAIRMAN. His salary at present is \$7,500.

Mr. IRWIN. And that is increased.

Mr. H. W. RICE. The legislature saw fit to raise the governor's salary to \$10,000 until such time as this law might go into effect.

The CHAIRMAN. I think \$10,000 is little enough for the governor.

Mr. DRIVER. In line 22, in the printed bill—

Mr. IRWIN. What page?

Mr. DRIVER. That has reference to the judges you have just mentioned, and carries a salary of \$7,000.

Mr. IRWIN. No; those are the local territorial judges.

Mr. DRIVER. I see you have United States district attorney there, and for that reason I called your attention to it.

Mr. IRWIN. Yes.

The CHAIRMAN. I think the governor's salary is too low at \$7,500. Personally, I believe that \$10,000 is little enough to pay him.

Mr. H. W. RICE. I believe that it ought to be \$12,000.

The CHAIRMAN. Yes, he has to do a great deal of entertaining out there at Honolulu.

Mr. H. W. RICE. Yes, he has got to represent the Secretary of the Interior, the Secretary of War, and the Secretary of the Navy, and entertain for the United States Government, and that all comes out of his personal pocket, and I feel that \$12,000 would be little enough for the Governor of Hawaii, instead of \$10,000.

Mr. IRWIN. That covers all of the changes in the bill as it passed the House last year.

The CHAIRMAN. How many more witnesses have we to hear. Judge Hatch is a member of this commission. Is he here?

Mr. IRWIN. No, he is sick.

The CHAIRMAN. Will he be here to-night?

Mr. KALANIANA'OLE. No, I am sorry that he can not be here. He is one of our leading legal authorities, and we wanted him to discuss the constitutionality of the act, but he is very sick at the Willard Hotel.

(Whereupon, the committee took a recess to meet at 8 o'clock p. m.)

COMMITTEE ON THE TERRITORIES,
HOUSE OF REPRESENTATIVES.

Friday, June 10, 1921.

The committee met at 8 o'clock p. m., Hon. Charles F. Curry (chairman) presiding.

The CHAIRMAN. The committee will come to order. The first witness will be Mr. McClellan. Gentlemen, I would like to get through with this hearing to-night if we can and do justice to the subject. I would like to have as little repetition as possible and I would like to have those who appear before the committee confine themselves to information, not speculation, but information, so that we can have information before the committee.

STATEMENT OF MR. GEORGE McK. MCCLELLAN,

Mr. McCLELLAN. I appear as counsel for Mr. Alfred Carter, trustee of the Parker ranch in Hawaii, a large portion of whose lands it is proposed to take under the pending bill.

The CHAIRMAN. Are any of his lands to be taken or simply lands that are leased to him?

Mr. McCLELLAN. I mean the government lands that are leased.

The CHAIRMAN. The lands that he has at present under lease?

Mr. McCLELLAN. Yes.

The CHAIRMAN. There is nothing in this bill that would take away any of his property?

Mr. McCLELLAN. None of their fee simple property; I do not want to convey that idea. It is the government lands now leased to him that are involved. But Mr. Carter's objections are based on grounds of public policy.

The CHAIRMAN. Leased to him at a small rental and included in this segregation?

Mr. McCLELLAN. Leased to the Parker estate and included in this bill.

I do not represent those who are interested in the 1,000-acre clause, and for the present my remarks will be confined to the so-called rehabilitation section, except as other portions of the bill have bearing on the part opposed.

The CHAIRMAN. Before you go any further, we have it in the record that you represent as attorney the Parker ranch.

Mr. McCLELLAN. Yes, sir.

The CHAIRMAN. Are you a lawyer?

Mr. McCLELLAN. Yes, sir.

The CHAIRMAN. Are you retained on a retainer fee or is it a straight fee?

Mr. McCLELLAN. I have a straight retainer with an additional fee per month so long as this bill is under consideration.

The CHAIRMAN. We would like to know what your employment is, what you are receiving, and what your percentage retainer will be.

Mr. McCLELLAN. I have no percentage retainer; I have a flat fee per month for presenting Mr. Carter's views so long as the bill is under consideration.

The CHAIRMAN. How much?

Mr. McCLELLAN. \$500 per month.

The CHAIRMAN. Whether the bill is before Congress or not?

Mr. McCLELLAN. No; while it is before Congress.

The CHAIRMAN. How long have you been receiving this retainer?

Mr. McCLELLAN. One month.

The CHAIRMAN. You were retained after this bill was introduced by Mr. Kalanianiʻōle?

Mr. McCLELLAN. I was retained one month ago. I do not recall the date the bill was introduced. Mr. Carter cabled over and asked if I would represent him, and after consideration of the matter for a week's time I cabled back I would. Mr. Carter's objections are based on principle and on grounds of public policy. I would state in that connection that last year, when the rehabilitation bill was before the Senate, I appeared there as an individual citizen and was heard for two days before that committee without any compensation whatever. The statements made before the Senate committee represented my individual views as a resident of Hawaii as to the actual workability or nonworkability of that bill. So that what I say here to-night as counsel for Mr. Carter and the Parker ranch is in line with what I stated as a resident of Hawaii and is also in line with protests that have been made both by settlers' associations in Hawaii and by the Kaula Chamber of Commerce on the island from which Senator Rice comes, and other protests that have been made against the rehabilitation bill.

The CHAIRMAN. Where were those protests filed?

Mr. McCLELLAN. With the Senate committee.

The CHAIRMAN. There were no such protests received by this committee, by me or by the Speaker of the House. I should appreciate it if you will confine your remarks to the bill before this committee. I do not think we care about having you go over what you said before the Senate committee, and we will take it for granted that you did make a statement there. But I want to emphasize that there were no protests filed with this committee at any time, either in the past or at present. Instead of protesting, some of the people you have mentioned have indorsed this measure and I have their indorsements on file. I would like to know how large this Parker ranch is, what proportion of the Parker ranch is owned by the Parkers, how much they lease from the Government and what they pay the Government for the leases.

Mr. McCLELLAN. Mr. Chairman, I can answer that only in part.

The CHAIRMAN. Being their attorney and employed to appear here, you ought to be in a position to answer any questions that will throw light on this subject.

Mr. McCLELLAN. I have written for all that information and will be very glad to file all of it as soon as it comes to me.

The CHAIRMAN. We are not going to do what you want to do. We are not going to hold up this bill until you write for information and wait on your convenience. You know you were coming here a month ago and it was your business, as attorney for these people, if you have anything to present to be ready to present it. If it is simply a matter of ipse dixit you might as well say that, but if you know how much these people own, how much they lease from the Government and how much they pay the Government, that is the information we would like to have.

Mr. McCLELLAN. I think I can give you that particular information but not at this moment; I think I have it in my office. As to the area, I believe the area is stated in the bill; it is given in the bill as 53,000 acres, to be selected by the commission from the lands of Humuula Mauka, together with other lands specified in the bill.

Mr. IRWIN. That does not comprise all of the Government land they are leasing, does it?

Mr. McCLELLAN. It refers to the amount that is under consideration here.

The CHAIRMAN. How much do they lease?

Mr. McCLELLAN. As I said, I think I have that information in my office.

The CHAIRMAN. Do you know the size of the Parker ranch?

Mr. McCLELLAN. No; I could not answer that offhand, but it is a very large ranch.

The CHAIRMAN. Do you know the number of cattle or horses they have there?

Mr. McCLELLAN. No, sir.

The CHAIRMAN. Do you know the rental they pay the Government for the land they lease?

Mr. McCLELLAN. I can give you that information to-morrow.

The CHAIRMAN. You do not know?

Mr. McCLELLAN. Well, I know in the sense that I have the records in my office, Mr. Chairman; I could not anticipate every possible question that would be asked here, and I can not answer that question at this moment.

The CHAIRMAN. You are a lawyer and have been appearing before committees, so that you ought to know the information we want. Now, then, state the reasons you have in opposition to the bill.

Mr. RANKIN. Is he appearing in opposition to this bill?

The CHAIRMAN. Yes. I believe we will allow him to make his statement without any further interruption.

Mr. McCLELLAN. I stated that at the present time I do not represent those who are interested in the 1,000-acre clause, and for the present my remarks will be confined to the so-called rehabilitation section, except as the other portions of the bill have a bearing on that part. Out of deference to the Hawaiian Delegate and to the committee, as well as to the commission, I want to say in the beginning that none of my statements will be made or intended in to any way reflect on the Hawaiian race. In my opinion the Hawaiian race has

certain traits that are distinctly more likable than those of the Caucasian race, but being human they have their defects, as do all other races. I shall refer only to those traits that have a bearing on the proposed legislation. Everyone wants to befriend the Hawaiians, and I can truthfully say to this committee that there is not one man in a thousand, certainly not one man in a hundred, in Hawaii, who has not a friendly attitude toward the Hawaiians, and who is not especially glad to do anything that he believes would help the Hawaiian race. We are here to contend that this rehabilitation bill will not benefit the Hawaiian race and that it is, therefore, not worthy of the support of Congress, because it will not accomplish the supposed object.

Mr. DOWELL. Suppose it does not accomplish it, but an earnest and honest effort is made to help them, can any possible harm come to them because of our efforts in their behalf?

Mr. McCLELLAN. I am coming to that further in the discussion, Mr. Dowell, but I am perfectly willing to stop now and discuss that if you desire.

Mr. DOWELL. You may do it later if you prefer.

Mr. McCLELLAN. I want to say in that connection, Mr. Chairman and gentlemen of the committee, that if the Delegate and Senator Wise meant literally what they said to this committee this morning in regard to the bill being limited, as stated on page 6, to only those lands that are available in the first five years and they are willing to recommend to this committee one six-word amendment which will make that effective, I am ready to waive my own views on this bill and to cable my client and advise him to accept that compromise, which will end my \$500 a month that the chairman is interested in.

The CHAIRMAN. No; the chairman is not interested in this \$500 a month, but the chairman is interested in finding out whom you represent and what you are being paid for.

Mr. McCLELLAN. My belief is that the experiment will not be successful; but my client's financial interests will be protected, Mr. Dowell, by amendments to carry out the statement made by the Delegate and Mr. Wise this morning.

Mr. DOWELL. From your statement a moment ago I take it you have answered my question.

Mr. McCLELLAN. Not fully; no.

Mr. DOWELL. You are not interested in the bill except as it applies to your own client?

Mr. McCLELLAN. Mr. Dowell, I was going on to answer your question, and perhaps I had just as well do it now.

Mr. ALMON. He said he was opposed to it before he had a client.

Mr. McCLELLAN. I spent two days before the Senate committee giving the reasons why I was opposed to it before I had a client, and among those reasons, to answer your question, is this statement, that this, in our opinion, will not help the Hawaiians, but, on the contrary, it will tend to pauperize them and will lessen their capacity to take their place in the economic life of Hawaii, as they are now doing more and more. In other words, this experiment, even on the limited scale set down in this bill, limited to the island of Molokai and a small area outside, will cost at the least \$3,000,000 or \$4,000,000, anywhere from \$3,000,000 to \$5,000,000 to carry it out. That is a good deal of money for the Territory to put into an experiment which

there is every reason to believe will fail, and if the committee is interested I would like to go on and show the reasons why I believe it will fail.

In other words, if this thing is workable, if I believed it were workable, I would not have opposed the bill before and possibly Mr. Carter would have waived his objections and not have employed anybody to represent him; but, gentlemen, after this bill went through the House of Representatives without opposition and went over to the Senate, when the Senate committee came to listen to only a 3-day statement as against five or six weeks of statements that were made here—when three days' statements were made in an analysis of that bill and the actual conditions in Hawaii, at the end of that time there were only two Senators left on that committee who were in favor of reporting the bill.

The CHAIRMAN. The bill was reported and then there was a telegram from an attorney in Honolulu. If you are going into that kind of a proposition I am not going to let it go in the hearing without telling the truth about it. We want to hear from you in reference to this bill if you wish to be heard on it, and I do not care to have you go into the reasons of the Senate because if you do I will state something about that myself. If you have any reasons why this bill should not pass, tell the committee.

Mr. RANKIN. Let me ask a question. I have not been in the hearing to-day. Whom do you represent?

Mr. McCLELLAN. I have placed all of that in the record.

Mr. RANKIN. Well, you may have placed it in the record, but I do not know it.

Mr. McCLELLAN. I represent the owner of the Parker ranch, a large stock ranch.

Mr. RANKIN. A stock ranch?

Mr. McCLELLAN. Yes.

Mr. RANKIN. Who owns that ranch?

Mr. McCLELLAN. The Parker estate. They are the lessees of a large portion of these lands; they have leased some 80,000 acres of land which it is proposed to set aside for this homesteading purpose.

Mr. RANKIN. They leased it from the Government?

Mr. McCLELLAN. Yes.

Mr. RANKIN. Where are they from? Are the parties you represent Americans?

Mr. McCLELLAN. The estate belongs to a family that has been there for generations.

The CHAIRMAN. They are one of the old families?

Mr. RANKIN. They went from the United States to Hawaii?

Mr. McCLELLAN. No, no.

Mr. RANKIN. They are native Hawaiians?

Mr. McCLELLAN. Yes.

Mr. RANKIN. You are employed, then, by some of the natives of Hawaii?

Mr. McCLELLAN. The trustee of the minor who is now the heir of the estate.

Mr. IRWIN. He is the trustee for one Hawaiian child.

Mr. DRIVER. And that one child is the owner of this ranch?

Mr. McCLELLAN. Yes.

Mr. DRIVER. You made some allusion to the vocation of the Hawaiians. What are their pursuits now?

Mr. McCLELLAN. Mr. Driver, I am coming to that in this statement.

Mr. DRIVER. Pardon me for interrupting you, then.

Mr. McCLELLAN. I was going on to say, Mr. Chairman, that if this five-year experiment is made under those conditions and is successful there is no influence in Hawaii that can possibly prevent the extension of that work by Congress and all of the purposes sought by the Delegate and those who are back of this bill can be carried out; but it would seem as though the experiment for five years and for the area designated, as I was pointing out, is going to cost somewhere from \$3,000,000 to \$5,000,000.

The CHAIRMAN. Probably what you say is true in that connection, and when you put that in the record you had better also tell the date of the expiration of these leases. For instance, if the Parker ranch is to have a re-lease of this 50,000 or 70,000 acres from the Government the lease would be for a term of years, and at the end of five years, if this experiment were a success in Molokai, they could not get that land to experiment with.

Mr. McCLELLAN. No, Mr. Chairman, I have not made myself clear. Under the provisions of the bill now before you I suggest merely six words of amendment.

The CHAIRMAN. What are those words?

Mr. McCLELLAN. That these 200,000 acres of land shall still be reserved and can not be let out under any lease that is not subject to recall for the purpose of this Hawaiian homesteading when the additional provision is made.

Mr. RANKIN. Just a moment. Suppose you turn to that clause in the bill in which you would insert this amendment and dictate that amendment into the record, just where you would insert it in this bill. I want to understand just what your objection is.

Mr. McCLELLAN. If you will refer to page 6 of the printed bill-----

Mr. RANKIN (interposing). You refer to H. R. 0207?

Mr. McCLELLAN. Yes, page 6, line 10, after the word "except" insert the following, "By further authorization of Congress and."

Mr. RANKIN. Would that eliminate all of your objections to this bill?

Mr. McCLELLAN. I stated that if the delegate and Senator Wiso are willing--in line with what they stated about this bill being limited to a five-year period--to recommend to the committee an amendment covering that point, I would be willing to withdraw my personal objection to the bill, and would cable my client recommending that he withdraw his objections, so that the bill could receive speedy enactment. Now, Mr. Chairman, in line with your request that information be given on these points, I want to verify what I said about the probable cost of the experiment which is to be made, which will provide for not more than 200 or 300 families, and I want to call the attention of the committee to what some of the costs of this experiment will be. This is in regard to the lands on Molokai which, in 1899 and 1900, were held by a sugar corporation that attempted to make a sugar plantation out of that place. That sugar company spent over \$1,500,000 in cash in their efforts to develop a sugar plantation on a part of these lands that are to be taken

for these homesteading purposes. They found, after they had spent that money, that their water supply was inadequate and had failed—the water supply that they had relied upon. They had the most capable engineers they could get make a survey as to the cost of bringing out the identical waters that it is proposed now to bring out for homesteading purposes, and it was found at that time——

Mr. IRWIN (interposing). Was that for homesteading purposes or for the purposes of a sugar development company?

Mr. McCLELLAN. It was for the purposes of a sugar company. Expert engineers were employed and they made a survey; they asserted that it would cost approximately \$2,000,000 to tunnel through and bring water to the other side. The expenditure of that amount of money, it was decided, was out of the question. It was not a business proposition. Notwithstanding that a million and a half of dollars had already been spent, the additional expenditure necessary to get the water would not be good business. Now, Mr. Chairman and gentlemen, I do not think anybody will dispute the fact that there is no industry in Hawaii that will stand as high a water cost as sugar cultivation; and this sugar plantation, which had already invested \$1,500,000 in this enterprise, could not afford to spend \$2,000,000 additional to bring water on that land. Now you can judge for yourselves how much of an economic proposition it is that money of the Territory is to be spent to bring that same water out for the purposes of homesteading the Hawaiians on the land. The homesteading experiment may be a very beneficial thing to a few, but the cost of that experiment is going to be tremendously out of keeping with anything that can be expected of benefit to be derived from it.

Mr. MOORE. You said earlier in your remarks that it would be a failure. Why would it be a failure and not be a success, regardless of the cost?

Mr. McCLELLAN. Gentlemen, I am quite willing to answer these questions as they come up, if you think that is the quicker way to get it, but I have covered those points in order. However, I will be glad to take up these matters just as you wish, in the order I have them here or as they come up. The substance of the answer is that the present-day Hawaiians are not agriculturists and that they have not the traits nor the likings that would make them do pioneering work on new land and make successful homesteads out of raw pieces of land.

Mr. ALMON. Has not the argument been made repeatedly in connection with this proposed rehabilitation legislation that the reason the Hawaiian race was becoming extinct was because the Hawaiians were not on the farms?

Mr. McCLELLAN. I can not be responsible for many of the arguments that have been presented to this committee; in fact, I propose to try to show that some of the statements made to this committee are absolutely fallacious, and that is a part of the occasion for my appearing here.

Mr. RANKIN. What is the population on the islands of all races?

Mr. McCLELLAN. Approximately 255,000.

Mr. RANKIN. What is the native population?

Mr. McCLELLAN. I am going to put that quite extensively into the record.

Mr. RANKIN. I want to get that in my mind now. I would like to have some of this in my mind before I read this record.

Mr. McCLELLAN. The total number of Hawaiians is 41,750.

Mr. DRIVER. That is of all degrees?

Mr. McCLELLAN. That is the number shown by the last census. Of that number 23,723 were of the full blood.

Mr. MOORE. Have you figures as to the Japanese?

Mr. McCLELLAN. The Japanese are 109,274.

Mr. RANKIN. Then the rest of them are white people, are they, that is Caucasians or Americans?

Mr. McCLELLAN. No; there are a great many other groups.

Mr. IRWIN. There is a large number of Chinese besides that.

Mr. RANKIN. I am very anxious to know what constitutes the population of Hawaii.

Mr. McCLELLAN. If the committee wishes I will read into the record the entire tabulation of the last census report, as follows: Hawaiians, of the full blood, 23,723; Caucasians, Hawaiians, 11,072, and Asiatic Hawaiians, 6,955, a total of Hawaiians of 41,750. Then Japanese, 109,274; Chinese, 23,507; Filipinos, 21,031; Portuguese, 27,002; Caucasians, meaning northern Caucasian groups, 19,708; Porto Ricans, 5,002; Spanish, 2,430; Koreans, 4,950; Negroes, 318; and all others, 310. Total population, 255,912.

Mr. IRWIN. I would like to supplement that by saying that of the 109,000 Japanese there are about 60,000 of them aliens, the other 49,000 being Hawaiian born.

Mr. RANKIN. Then less than 10 per cent are Caucasians? That is right, is it not?

Mr. IRWIN. Yes.

Mr. McCLELLAN. Since the rehabilitation sections are distinctly race legislation, it is impossible to lay the subject fully and fairly before Congress without frank reference to the race problems involved. We oppose the rehabilitation measure on the ground that it will not even appreciably benefit the Hawaiian race; that it is a misleading and misguided political measure; that the measure is unconstitutional; that it will be a useless and ineffective waste of a large amount of public funds; that it is a blow at general homesteading in Hawaii, and that it would be distinctly detrimental to the general welfare of Hawaii, in which the United States has a very important interest. Our chief contention is that it will not actually benefit the Hawaiian race, but instead will really injure them.

Your committee may well ask why, after this bill failed of passage by the United States Senate at the last session, it is sent here again by the Territorial Legislature. A combination of influences made that possible. The first is the very general friendly feeling toward the native Hawaiians in the Territory. A second reason was the strong influence of those business interests that desire the repeal of thousand-acre clause and the legislation affecting cultivated sugar lands. A third compelling influence is the fact that the Hawaiian race still holds a clear majority in the Territorial electorate, and constitutes a decided majority in the legislature. Since the Hawaiian political leaders insisted that the rehabilitation bill was the most important matter before them, it could not well fail of passage by the legislature.

Last year this committee gave several weeks of consideration of the grounds for passing a similar bill. Since this is the most important Hawaiian measure that has been before Congress since annexation, your committee will doubtless want to give the same full consideration to the reasons against approval of the rehabilitation measure in its present form. Certainly your committee must be deeply interested in the question of whether or not this measure will help the Hawaiian race if enacted into law. I want to say, with all the earnestness of which I am capable, that it is my conviction that not only will the bill not benefit the Hawaiians, but it will positively injure them by placing them in a dependent class and lessen their own self-confidence and capacity for self-maintenance.

The avowed purpose of this measure is to rehabilitate a dying race; yet that is an undertaking that has never been achieved in the history of the human family. Surely if the Congress is to attempt what all history has shown to be impossible, it should be done only after considering with extreme care the means to be used.

Mr. KALANIANAOLE. Do you not know that the British Government in New Zealand has undertaken the rehabilitation of the Maoris, and that it has been a success?

Mr. McCLELLAN. Mr. Delegate, there has been considerable discussion and difference of opinion about that. It is true, Mr. Delegate, that the British Government has made an effort to retain the Maoris on the land, but there is this marked difference, as I understand it, that in the case of the Maoris they were on the land, they were still on the land, and the Government extended particular opportunities to them in order to keep them on the land. It was not, as I understand it, a movement to put men back on the land and furnish money to them for the purchase of land in addition to the land that they did not then possess or have.

Mr. IRWIN. In principle, what is the difference between the two things?

Mr. McCLELLAN. I was just going to say, Mr. Attorney General, that that experiment has not gone far enough to prove that it will rehabilitate the Maori race, and I challenge any man in this room, any member of this committee or any Member of Congress to cite a case in history where there has been decadence in a race, whether it be white, brown, yellow, or black, that it has been brought back.

Mr. STRONG. You do not think, then, that we ought to try it?

Mr. McCLELLAN. I am not stating that; I am laying these facts before you and I am going to show you why these means will not be effective means.

Mr. STRONG. What interest have you in not trying or letting us try to rehabilitate this race? Have you a personal interest in the matter?

Mr. McCLELLAN. I explained to the committee before you came in whom I represented. I represent the Parker ranch in Hawaii.

Mr. STRONG. They are the people who will lose control of this land?

Mr. McCLELLAN. They will ultimately lose control of a part of this land.

Mr. STRONG. Then your interest is a personal one and not in the Hawaiian race?

Mr. McCLELLAN. I am interested, so far as I am appearing here, Mr. Strong, as I have indicated to the committee. Last year I spent two days before the Senate committee, as I have stated, in going over this same ground. I did that as a resident of Hawaii because I believed that this bill would not benefit the Hawaiian race and gave in extended form my reasons for that belief. This year I am retained by Mr. Alfred Carter, the trustee of the Parker ranch, to represent his views, which we maintain are the views of a considerable number of people in Hawaii.

Mr. STRONG. But it is the personal interest of your client that you are interested in?

Mr. McCLELLAN. Yes. It is the interest and views of my client that I represent.

Mr. STRONG. And not the Hawaiian race?

Mr. McCLELLAN. Absolutely.

Mr. STRONG. And do you think this committee should give it much consideration?

Mr. ALMON. We had decided to let this witness make a statement and his argument against the bill, and I think he ought to be permitted to do it.

Mr. RANKIN. You brought in this New Zealand proposition, and before you go any further I want to ask a question about that. Is it not a fact that the keynote of the British rehabilitation in New Zealand was the very opposite of one thing that is being done in this bill, and that is this: Instead of creating landed monopolies, did not the British Government, through its influences, possibly through the legislature of New Zealand or possibly through legislation in Great Britain, break up all the landed estates there and restrict the owning of land by individuals or corporations to very small portions? Is not that one of the things carried out in their rehabilitation of New Zealand?

Mr. McCLELLAN. My information about that is that those two things were separate; that the breaking up of the estates in New Zealand, which was done as a public measure, was not related to this question of the Maoris; that that was a separate proposition, because the Maoris were on holdings of their own, and that it was not related to this other question of breaking up of estates. I want to say frankly, as I have already stated, that I do not represent anybody or any interest that is concerned in the 1,000-acre clause.

Mr. STRONG. But you are not in favor of breaking up the estates in Hawaii?

Mr. DRIVER. We have had a \$1,500 a month man say that, but you only have \$500.

Mr. McCLELLAN. As to pay I am a mere piker compared to Mr. Ballou.

The CHAIRMAN. Until recently you were paid \$18,000 a year to represent the Chamber of Commerce of Honolulu in Washington.

Mr. RANKIN. I am asking these questions purely for information. My mind is not made up, and I am not antagonistic to the witness, but I would like to know how he stands on this proposition of restricting corporations or any one else to 1,000 acres of land in Hawaii?

Mr. McCLELLAN. I have no objection to going into that subject, but according to what the chairman has said

Mr. RANKIN (interposing). Do you object to that phase of the bill?

Mr. McCLELLAN. I have stated already that I did not expect to speak on that subject at all.

Mr. RANKIN. I want you to speak on it. I would like to know whether or not you object to that phase of the bill.

Mr. McCLELLAN. If the committee wishes that I go into that subject, I will do so, but I am here to represent another matter, and I would like to go into that first, and then I will talk on the 1,000-acre clause as long as you want. But I would like to take whatever time is allotted to me in making my other statement.

The CHAIRMAN. Let us go about this thing systematically and see whether we can get some evidence.

Mr. McCLELLAN. May I say just one thing in relation to it?

The CHAIRMAN. I think you are probably right when you say you did not intend to say anything about the 1,000-acre clause, because you represent an estate that owns 200,000 or 300,000 acres, most of it in fee simple, the rest of it being leased from the Government. Of those leased Government lands there are two big lots for which the leases have expired, but the lands are still being used by your client, and there are about 50,000 or 60,000 acres included in this bill for the Hawaiians.

Now, if you are not opposed to the proposition of an estate owning 200,000 or 300,000 acres and leasing 60,000 or 70,000 acres from the Government, of course you can not be opposed to the 1,000-acre clause, so that I think you had better confine your remarks to the other features of the bill.

Mr. McCLELLAN. I thought the inference was rather plain that I am not here to oppose the 1,000-acre clause.

The CHAIRMAN. It is a fact that for two of these tracts the leases have expired, but the lands are still being used by your client; they have not been re-leased to him, but he is being permitted to use them. It is also true that this bill withdraws 40,000 or 50,000 acres for the Hawaiians that are being leased by your client for \$1,200 a year and without paying any material amount of taxes upon the lands because the lease contains a withdrawal clause, and, if this bill goes through, the Hawaiians can have the lands, so that I think you had better represent your client's interests.

Mr. DRIVER. I wish to let the record show that I differ very materially with your views on that question of the distinction between the ownership of individuals and corporations and possibly this witness may feel that same distinction. He is the only man we have had before us so far in opposition to this bill, and as I am interested in this hearing I want to ask whether the interest you represent is a corporate interest or an individual interest.

Mr. McCLELLAN. It is an estate.

Mr. DRIVER. Is that estate vested in the heir? Is the title to the property that they own in fee simple vested in this heir?

Mr. McCLELLAN. It is vested in the trustee.

Mr. DRIVER. For the benefit of the heir?

Mr. McCLELLAN. Yes, sir.

Mr. DRIVER. Was that under the provisions of a will?

Mr. McCLELLAN. Yes.

Mr. DRIVER. And the will designated a trustee for the benefit of the minor child?

Mr. McCLELLAN. Yes, sir.

Mr. DRIVER. And that child takes the title in fee simple, he is the only heir, and is entitled to whatever title there may be, the estate simply being administered by the trustee?

Mr. McCLELLAN. No; the title is in the trustee.

Mr. DRIVER. The title being held for the benefit of this heir?

Mr. McCLELLAN. Yes; the heir is the cestui que trustent.

The CHAIRMAN. It is held for the benefit of this heir and is a fee simple title, but the land that is being considered in this bill; that is, in the Parker estate, is Government land, on a part of which the leases have expired.

Mr. DRIVER. We have another provision in this bill that seeks to strike down the clause limiting the land holdings of the corporations, and what I am trying to get in the record is that there is a very marked and very important distinction between the tenure or ownership of land by a corporation and that of an individual.

The CHAIRMAN. I think that is admitted.

Mr. DRIVER. And to the extent that this witness may be a resident of Hawaii and has some interest in that particular matter, as a matter of policy I think possibly he may be inclined to give the committee the benefit of his views and the views of the people there.

Mr. McCLELLAN. If you will permit me, the most informative thing I can say to this committee, it seems to me—and I have nothing to conceal from the committee at all—is this: That these two questions, of whether you shall permit a corporation to hold more than 1,000 acres of land and the question of whether you shall pass this rehabilitation bill for the Hawaiians, are not interdependent; and that the giving of greater latitude to those corporations does not take land away from the Hawaiians; that the Hawaiians can take their lands under the general homesteading proposition or under the provisions that are specially made for them under the pending bill.

Mr. ALMON. Ordinarily there would be two separate bills, but they have them both in one.

Mr. McCLELLAN. I think the committee could consider this thing more clearly if they could get definitely in mind that so far as the 1,000-acre clause is concerned it is not incompatible with the other.

Mr. STRONG. You are not against the elimination of the 1,000-acre limitation?

Mr. McCLELLAN. Not against its elimination?

Mr. STRONG. Yes, sir.

Mr. McCLELLAN. No, I am not; nor am I for its elimination.

Mr. STRONG. You are only against allotting this land to the Hawaiians?

Mr. McCLELLAN. That is the only part that I appear against.

Mr. STRONG. I think you ought to be.

Mr. McCLELLAN. Ought to be what?

Mr. STRONG. Opposed to the bill.

Mr. ALMON. I think we should allow him to make his argument.

The CHAIRMAN. We will.

Mr. McCLELLAN. The committee spent some six weeks last year in considering the reasons why you should pass this legislation for the Hawaiians, and I would suppose that a committee of Congress would be interested in spending two or three days in hearing a state-

ment about whether or not all they are proposing to do should be done.

Mr. ALMON. Make your argument against it.

Mr. McCLELLAN. A study of race groups from the dawn of history up to the present day shows that always and everywhere nations and separate race groups, like trees, have their period of growth, of maturity, and inevitable decline. Like trees, some race groups are longer lived than others, but the final decline is as inevitable with one as with another. Reference to historic examples shows that this decline occurs regardless of what the blood or race type may be. The degree and rapidity of decline varies greatly, but the decay of national types and their merging into other race groups is one of the oldest and most constant phenomena of history. Take, for example, countries of the purest Aryan stock, Persia, Mesopotamia, and the countries bordering upon the Mediterranean, the cradle of the human race, so far as history shows. Every school boy knows that Egypt, Babylonia, Assyria and Chaldea each in turn rose to power and more or less of world domination. Now remember, gentlemen, that we are talking there about races that were of the best Aryan stock. Yet every one of those peoples failed to maintain either their place or population; as separate race groups they reached their maturity and then quickly declined and were merged into other race groups; there was no power of mankind that could stop it. Great cities that were the seat of empire and the flower of civilization, as every one knows, have for centuries been literally the habitation of wolves and jackals. Persian kings made that country the world's rulers in both war and commerce, but they were quickly merged into Greek life and domination, and that in turn gave way to the Roman.

In all those cases we are considering not primitive or undeveloped race groups but those that were the most highly developed of their own age. If we consider the more primitive and less developed race groups we find the same results. Whether it be the Aztecs of Mexico or the brown race groups of Polynesia, the results are the same. The only difference is that in the primitive races the decline is much more rapid. I quote here from Topinard's Anthropology, at page 416, as follows:

In Africa at the present time, where the influence of the European has not yet been felt, there are Negro tribes which are becoming extinct without any apparent reason, without any change in their external condition, and almost without having become reduced in number by war.

Now, gentlemen, every well-informed man knows that the Negro race has no comparison with the Hawaiian race, and that they are of wholly different race origin. I am citing the entire range of race groups and showing to you that the same thing occurs in all, and that when that period of maturity and decay sets in you can not, by government subsidies stop it. That is the substance of my position.

Mr. STRONG. Do you not think that the greatest decay from which civilization has suffered is because of the centralization of power and the breaking down of the common people?

Mr. McCLELLAN. It has been, perhaps, Mr. Strong, a little different in all cases. The case in Hawaii has been quite different from what it was, for example, in ancient Babylonia.

Mr. STRONG. I like your comparison of the races with the trees, and I just want to call your attention to the fact that trees do not thrive very well when separated from the land.

Mr. McCLELLAN. That is very true. Also I call your attention to the fact that after a tree has been separated from the land it is rather difficult to replant it.

Mr. STRONG. Well, they are transplanting them now, and with a great deal of success.

Mr. BROOKS. Do you think that because other nations have risen and then fallen and passed out that the Hawaiians ought to be given a kick and kelped out so much sooner?

Mr. McCLELLAN. Not at all, not by any means, and I go further into that question. The only question that I am discussing here is whether or not these are the means which will be helpful to the Hawaiians.

The CHAIRMAN. What is the purpose of this historical illustration? We recognize that that is true. But why can you not come down to the proposition involved in this bill and discuss that?

Mr. McCLELLAN. That is what I am coming to, Mr. Chairman.

Now, coming to the native population of Hawaii, it is a fact that Capt. Cook estimated the population of the islands in 1778 at 400,000. Nobody knows whether that estimate is accurate or not; I believe it is an overestimate; and it is generally so regarded. But when Vancouver returned there 14 years later, he describes the change which had taken place between his visit in 1778 and his visit in 1792, as an apparent depopulation—and it must be remembered that that was entirely before there was any contact with the white race at all. Only 14 years elapsed between the time Vancouver went there with Capt. Cook and the time he went back; and there was an enormous depopulation of the Hawaiian race in that time.

The CHAIRMAN. Well, that depopulation was caused by war, by smallpox, and later on by measles. There were great native wars fought at that time also.

Mr. WISE. Yes; there were epidemics and great wars were fought then.

Mr. McCLELLAN. Vancouver said the population of a certain village had been reduced at least two-thirds in 14 years. In 1823, a few years after the missionaries first went there, which is the time of the beginning of the more extensive contact with the white race, the Hawaiian population was estimated at 142,000. That would show that in 31 years the population of the native Hawaiians had decreased about five-eighths; the native population had decreased more than one-half in 31 years; and that was practically all before the white race came into any considerable contact with them.

Mr. IRWIN. That is, conceding the correctness of Capt. Cook's estimate?

Mr. McCLELLAN. That is conceding the correctness of Cook's estimate.

Mr. IRWIN. Well, that is conceded by everybody to be wrong.

Mr. McCLELLAN. Well, if you struck off one-quarter from that, you would still have a decrease of one-third of the population.

Mr. RANKIN. Is that conceded to be incorrect?

Mr. IRWIN. The estimate of Capt. Cook is conceded to be incorrect.

Mr. RANKIN. Both of them?

Mr. IRWIN. Capt. Cook made only one estimate, of 400,000.

Mr. RANKIN. Well, what about this other estimate?

Mr. IRWIN. That seems to be fair.

The CHAIRMAN. That is probably approximately correct.

Mr. RANKIN. That was in 1810, was it?

Mr. McCLELLAN. No; 1823.

The CHAIRMAN. There were a number of what you might call kings in possession of the different islands, and they had great wars before the islands were subjected to one king; and after that there was a smallpox epidemic among the people; and later on there was an epidemic of measles. They did not die off because of the race dying out or because they had lost stamina. There is not anything in the contention, that they were dying off because of loss of stamina; it was on account of wars; on account of smallpox, and on account of measles.

Mr. RANKIN. When did the first white settlers go there?

Mr. WISE. The first census was in 1832.

Mr. IRWIN. I think you did not understand the Congressman's question; he asked when the first white settlers went there.

Mr. WISE. They began to come shortly after the coming of Vancouver in 1793.

Mr. McCLELLAN. How many came in then?

Mr. WISE. Up to the arrival of the missionaries there were 400 white people.

Mr. RANKIN. What time was that?

Mr. WISE. From 1793 to 1820.

Mr. RANKIN. There were 400 that had come there?

Mr. WISE. There were about 400 that had come there. And some of the native Hawaiians had come here also; 8 or 10 of them had come here and were attending school in Connecticut.

Mr. McCLELLAN. And there was an estimated population of 142,000 at that time, as compared with a population of 400,000 at the time Capt. Cook first went there.

Now, coming back to the history of the Hawaiian people, I quote the following from Blackman's History of Hawaii, page 211:

In 1838 the Rev. W. P. Alexander computed that only 3,335 births had occurred on the islands during the preceding year, as against 6,838 deaths. In 1840 Mr. Whitney told Commodore Wilkes that for several years he had kept a register of births and deaths and that the latter to the former were as three to one.

So that you can see that in these very early stages of the increasing number of the Caucasian population the birth rate was only one-half to one-third of the death rate of the people. So that you have there a fundamental reason as to why the race is disappearing—a condition which no legislation will meet.

Now, there is one matter bearing on this question of rehabilitation of the Hawaiians by the method proposed. It is well known that the Hawaiian chiefs were of a special class, and they were the finest physical specimens of their race. They were the feudal lords; they had the best food; they had the best living conditions; they had as many homes as they wanted. So that the environment for the continuation of their part of the race was as perfect as the conditions could make it.

And yet the facts that we find recorded in history are as follows—
I will quote from page 213 of Blackman's Making of Hawaii:

About a score of years from the landing of the first missionary families—

Which would be somewhere around 1840 or 1841—

the contrast in fecundity viability between them (the missionaries) and the natives was pointed out, the missionary families averaging 6 $\frac{1}{2}$ children each, while 20 chiefs had only 19 children among them.

Mr. BROOKS. Did Blackman ever visit the island, and did he know anything about the people?

Mr. McCLELLAN. I could not answer as to that.

Mr. RAWLINS. I can answer that. I was a student at the university when Dr. Blackman was a professor. This book, "The Making of Hawaii," was written by him then. He had never been in the Hawaiian Islands. The information in that book was taken from the "Missionary Herald" and from books written on the islands; and he was assisted by Rev. W. B. Oleson and others who furnished him with data. And, as I said, Dr. Blackman, was never in Hawaii, but gathered all of this data from reports and books. I was a student in Yale University in 1899, when he wrote that book. I am familiar with the book all the way through, and I can say that he had never been in the Hawaiian Islands when he wrote it.

Mr. McCLELLAN. Was it compiled from fairly reliable sources?

Mr. RAWLINS. Some of his data is all wrong. I was born in the Hawaiian Islands, and I have been a student of the conditions there, and I can refute some of the statements that Blackman sets forth in his book.

Mr. McCLELLAN. I do not think anyone can dispute that the birth rate is going down.

Mr. RAWLINS. I can refute his statements on this birth-rate proposition. Capt. Cook was the first white man who touched at the islands. His visit was supposed by the natives to be the return of a god; and everybody swarmed to the place where he was, the same as boys will swarm around a circus. When Vancouver returned there, the same conditions did not exist, as to the newness of the appearance of ships and white people, and therefore Cook's estimate may have been based, and probably was based, upon the fact that at Waimea, Kauai, and Kealakekua Bay, where he landed, there was this enormous concourse of people, which, as I say, was due to the fact that they thought it was the return of a god; whereas when Vancouver returned, the novelty of seeing white men had worn off.

Now, as to this computation of the birth and death rates to which Mr. McClellan has referred, that was made on one side of the island, and there was no communication except by trail and by boat with the other side; and there were no records kept except those which happened to be kept at the church; and they could not possibly cover all the births.

Mr. McCLELLAN. Of course, this gentleman was not alive at that time, and could not know much about it.

Mr. RAWLINS. Yes; I may not have been alive at that time, but I know enough about it to know that. I have gone enough into the archives of Hawaii to know that the accuracy of birth rates and death rates, and especially the former, can not be depended upon.

Mr. IRWIN. I think that is a very fair statement.

Mr. DRIVER. Well, how do you explain the disproportion of the death rate to the birth rate?

Mr. IRWIN. I think there is no question about that.

Mr. DRIVER. Well, if that is true, that is the proposition we are discussing, the proportion of the birth rate to the death rate; and I understood this gentleman [Mr. Rawlins] was disputing that.

Mr. IRWIN. He is disputing the figures, but not the actual fact of a disproportion.

The CHAIRMAN. Let us allow the witness to continue.

Mr. McCLELLAN. I am trying to show this committee the figures as to the population of Hawaiians, and what can be done with them, and what probably can not; and I trust that the committee, having spent six weeks last year in listening to one side of it, might be willing to spend one or two sessions in listening to a statement of the other side.

Mr. STRONG. Do you propose to suggest a remedy to perpetuate the race?

Mr. McCLELLAN. If the committee wishes; yes.

Mr. STRONG. I mean, is that your purpose?

Mr. McCLELLAN. I have not been retained for that purpose; no.

Mr. STRONG. That is a pretty good answer.

Mr. McCLELLAN. I want to say to the committee that the substance of our contention is that this experiment, the first stage of which will cost from \$3,000,000 to \$5,000,000, will not be effective, and that you will waste the resources of the Territory to no purpose.

Now, I shall undertake to show to this committee that the arguments in favor of the rehabilitation bill that were presented to this committee last year, and particularly the statements made by Senator Wise, were lacking in essential frankness, and were practically misleading to the members of this committee.

Mr. RANKIN. I would like for you to begin where you left off, and go on as to the destruction of the Hawaiian race; you were interrupted by the gentleman back there, and we will hear his side later. I would like for you to go on from where you were interrupted. I am very much interested in that statement, and I want to know what is the cause of the disappearance of those people there.

Mr. McCLELLAN. Well, I had very nearly finished that part of the subject.

Mr. RANKIN. You had got down to 1,840, I think.

Mr. McCLELLAN. The facts of the matter are perfectly well known, that the race has been decreasing gradually in numbers. So far as the full-blooded Hawaiians are concerned, I think that is admitted. Is not that true, Senator Wise?

Mr. WISE. The figures are, 1,000 births to 600 deaths.

Mr. RANKIN. Let me ask you this question: When was the first accurate census of the islands taken?

Mr. McCLELLAN. In the thirties.

Mr. RANKIN. What are the official figures of the population at that time?

Mr. McCLELLAN. I am not sure that I have those figures here.

Mr. RANKIN. I want to get them in the record.

Mr. MOORE. You will find them in the record of last year.

Mr. RANKIN. I want to get them in this record.

Mr. McCLELLAN. I would say it was 135,000, approximately.

Mr. RANKIN. Of native Hawaiians?

Mr. McCLELLAN. Well, Senator Wise said there were a few whites there then.

Mr. IRWIN. The first official census of Hawaii gave 130,313.

Mr. RANKIN. And now it is 41,000 of Hawaiians?

Mr. IRWIN. Yes.

The CHAIRMAN. There are 23,000 pure Hawaiians.

Mr. WISE. I prefer to call them all Hawaiians.

Mr. McCLELLAN. We contend that this committee did not get the correct impression of the facts last year with reference to the appeal made for the Hawaiians, so far as the bill was concerned—for the Hawaiians are a dying race; the reason being that the bill as drawn, and even the bill as amended, includes the part Hawaiians, including this year only those of half blood, who are to-day increasing at a more rapid rate than the northern Caucassian groups. Now, let me make that clear.

The bill last year included part Hawaiians having so little as one-thirty-second of the blood; the bill as amended this year includes those of half Hawaiian blood. But the census figures show that the part Hawaiian groups, both the Caucassian Hawaiian and the Asiatic Hawaiian, were increasing in numbers in the last decade more rapidly than the Caucassian population of Hawaii. So that, so far as the comparison between the part Hawaiians who are made beneficiaries of this bill and the Caucassians is concerned, you have greater need, Mr. Strong—to answer your question—for a bill to rehabilitate the Caucassian race than you have for a bill for those you are seeking to rehabilitate; and I suggest that that is worthy of consideration.

Mr. STRONG. It is; but the only difference is that these islands originally belonged to the Hawaiians, and passed to the United States by annexation without consideration or cost.

Mr. McCLELLAN. That is true.

Mr. STRONG. And I am more interested in helping that race by giving them back part of their own lands than I would be in helping a race that has moved in there.

Mr. McCLELLAN. Now, I wish to say that the bill as presented here last year on behalf of a dying race was an appeal to the sentiment of this committee, when, in fact, the entire race group represented by that bill, taking both the Hawaiians of the full blood and the part Hawaiians together, were actually increasing in numbers, both in the decade from 1900 to 1910 and the decade from 1910 to 1920. So that it was absolutely misleading to come to this committee and say that that group as represented by this bill were a dying race. The native Hawaiians of the full blood, of course, are decreasing.

Mr. STRONG. As I understand you, you do not think it is worth while to perpetuate this dying race?

Mr. McCLELLAN. I have made no such statement. If you will permit me, I was going on to say that it was the contention of Judge Robertson and others last year that if this bill is to be passed by Congress, you can not possibly extend its benefits to all that need it; and by every rule of reason and fairness, you should exclude all except the native Hawaiians of the full blood. You can not begin under these provisions to take care of all natives of the full blood; and they are the only ones who are decreasing.

Mr. STRONG. Following your logic, the less number of people we take care of, the more opportunity there is for your corporation not to lose any of its holdings?

Mr. McCLELLAN. No; that has no bearing whatever on the question.

Mr. STRONG. I wish I could think that.

Mr. McCLELLAN. If you will just take a pencil and paper, you can figure it out for yourself.

Mr. STRONG. I do not need a pencil and paper to figure it out.

Mr. McCLELLAN. Well, you can see that the million-dollar revolving fund that is provided in the bill, at \$3,000 per family, after making your deductions for overhead, can not take care of exceeding 300 or 325 families at the most.

Mr. STRONG. How many heirs are there of the estate which you represent?

Mr. McCLELLAN. You have already been told.

Mr. STRONG. That is rather a dying race, is it not?

Mr. McCLELLAN. That has no valid bearing on this question. I have told you how many heirs there are to this estate. It is very interesting to try to divert this discussion in this way—

The CHAIRMAN (interposing). The money will come from the leasing of the sugar lands. The Government land will be leased, and a part of the income will be used for the purpose of helping these Hawaiians.

Mr. STRONG. It is going to take some of the profits out of this estate, however.

Mr. McCLELLAN. Not a dollar.

Mr. STRONG. Absolutely, if it takes your land away from you; that is the reason you are here.

Mr. McCLELLAN. If the gentleman really wants to know about this thing I will be very glad to inform him. I do not care to waste the committee's time. When you have provided in your revolving fund for 300 families, whatever the source of the money is, you can only take care of 300 or 350 families with that fund.

The CHAIRMAN. That is true; and when you have done that, you can take care of 300 more later on.

Mr. McCLELLAN. And my contention is that that money should be devoted to Hawaiians of the full blood, and that you should not include in the bill members of the part-Hawaiian group, who are increasing in number more rapidly than the Caucasians.

The CHAIRMAN. Well, if we eliminate the half bloods and make it apply only to the full-blood Hawaiians, would you withdraw your objections?

Mr. McCLELLAN. No, I can not say that I would. That is simply a suggestion that it is an illogical thing to do, as well as an unconstitutional thing, as we maintain; I will go into the question of constitutional law, if you will just let me finish this statement. I think it is unconstitutional to tax one group of people for the benefit of another, on the pretext that they are a disappearing race, when the group taxed are not increasing as rapidly as the group for whom they are taxed. I think that that must appeal to any one's sense of fairness, if you are really trying to get at this thing.

Mr. STRONG. I am only trying to take care of the people that originally owned all of this land.

Mr. McCLELLAN. Those are the full-blood Hawaiians.

Mr. STRONG. And your people went over there and got it away from them.

Mr. McCLELLAN. It happens that the people that I represent are the descendants of the old Hawaiians.

Mr. STRONG. Well, they have pretty nearly all died off now.

Mr. DOWELL. A moment ago you stated that this experiment was bound to be a failure, and that it would not rehabilitate the Hawaiians, and I think your statement was that it could not be a success. Now, you are stating that we should not include so many in this bill, because there would not be sufficient to take care of the number who wanted to be provided for under it.

Mr. McCLELLAN. Why, it is a simple matter of arithmetic, that the amount you are providing for in the bill can not take care of 2 per cent of the pure Hawaiians in any event. The whole thing is nothing but an experiment.

Mr. DOWELL. But if all of them we are providing for would take this, could it not be extended to include others? I mean if it proves a success.

Mr. McCLELLAN. Well, if you can devise some Ponzi system of finance—

Mr. DOWELL (interposing). Oh, no.

Mr. McCLELLAN (continuing). That would enable 23,000 of the pure-blood Hawaiians to be taken care of in homes with a million-dollar fund, you certainly would be a financial genius.

Mr. DOWELL. Oh, no. Because you can not take care of all of them, you do not want to take care of any.

Mr. McCLELLAN. No; that is not the reason.

Mr. DOWELL. It is not presumed by anyone who has any knowledge of the situation at all that all of them are going to be included in this provision.

Mr. McCLELLAN. I prefer not to have my position stated by others. Our position is, if you are going to spend the money, it should be expended for those who are disappearing, namely, the full-blood Hawaiians. That position we support by the showing here that the rate of increase of the Caucasians, the pure northern group of Caucasians, in the last decade was 32½ per cent, while the increase of the Part-Hawaiians in the same period was 44 per cent. Also that the birth rate of the Part-Hawaiians is higher than that of the Caucasians and much higher even than that of the Japanese.

Mr. STRONG. But you do not want to spend money for the protection of any of them.

Mr. McCLELLAN. For other reasons, which I am coming to, I am undertaking to show now that the money spent would not achieve its purpose.

Mr. IRWIN. Let me ask you this question: Let us assume that we take 150 full-blood Hawaiians—

Mr. McCLELLAN (interposing). I would rather go on and try to get through with this statement, because the chairman does not want me to talk at too great length. I am perfectly willing to answer questions after I finish.

Mr. STRONG. But you would rather not?

Mr. McCLELLAN. I want to make this position clear to the committee. Of course, if you gentlemen have your minds made up and wish to say so, I will sit down; I do not want to waste time. It does

not add anything to my fees to talk to this committee; and if you have your minds made up and do not want to hear this statement, I will not speak further.

The CHAIRMAN. If we did not want to hear your statement, we would not have invited you to make it, and we would not listen to you; but we would like to have you make it without digressing, if you will.

Mr. DOWELL. Permit me to make this suggestion; I do not want to interfere with any statement you may wish to make. But your position here is that a certain definite amendment should be made to this bill, is it not?

Mr. McCLELLAN. That is only one amendment that we say should be made if you are determined to pass the bill.

Mr. DOWELL. You stated a few moments ago that if that amendment was made, your objection to it would cease and you would retire from the matter.

Mr. McCLELLAN. I said I would recommend that to my client.

Mr. DOWELL. Well, if that amendment is of such importance to you and your client, I personally would be pleased to have it explained why that amendment should be included?

Mr. McCLELLAN. I will be very glad to answer that question.

Mr. DOWELL. That, I think, will be directly upon the point.

Mr. McCLELLAN. I will be very glad to answer that question; my answer to it is this: The general contention that we make against the bill is that you are spending Territorial funds and diverting lands, which blocks the general matter of homesteading, in the effort to rehabilitate the Hawaiian race, which we maintain will not be successful.

Mr. DOWELL. In what respect will it not be successful?

Mr. McCLELLAN. Let me answer this other question first, and then I will go back to that. That is our general contention, that it will not be successful; but at the same time we say—I think consistently—that if you are going to make the experiment, then make the experiment on the five-year basis, and limit it to this area prescribed, and have it definitely stated that that is as far as the experiment will go until you come back to Congress and show that that experiment has been even reasonably successful.

I want to say to you that, so far as I am concerned, if you can show that experiment to be reasonably successful, you certainly will never hear from me any further objection to the bill. And all that my suggested amendment goes to at all is that you only commit the Territory to that much of the experiment, and that nothing beyond that shall be done without the additional authorization of Congress on the showing that it has been successful.

Mr. STRONG. Do you think your client during the period that this scheme is being tried out will try to assist it to be successful?

Mr. McCLELLAN. To answer your question frankly, Mr. Strong, I do not think he would have the slightest thing to do with it, one way or the other.

Mr. STRONG. He would not give it any assistance?

Mr. McCLELLAN. He is simply running this large estate and looking after the interests of the owner.

Mr. STRONG. And fighting anything that would tend to take any part of the Government land from him?

Mr. McCLELLAN. Well, he has shown that the taking away of these particular lands would decrease very materially the taxation values for the Territory and the county, and that it would on the whole be a semipublic loss to have those taken.

Mr. STRONG. But you are not representing the public?

Mr. McCLELLAN. No; I am not pretending to represent the public.

Mr. RANKIN. I suggest that he be allowed to finish his statement.

Mr. DRIVER. I am rather interested in that question. Let me ask you this, Mr. McClellan: It was stated that there are 28,000 acres, approximately, I believe, of sugar lands leased to the sugar interests?

Mr. McCLELLAN. Yes, Mr. Driver.

Mr. DRIVER. Is there anything in the provisions of the bill that you are aware of that will use these lands for the rehabilitation of the natives—the sugar lands which are leased?

Mr. McCLELLAN. No; that is what I was undertaking to say a while ago when I was interrupted.

Mr. DRIVER. I just want to place you properly before the committee if I can. I understand that you are representing a selfish interest as a paid counsel?

Mr. McCLELLAN. I am representing a private interest, but am arguing that the bill is wrong from a public standpoint.

Mr. DRIVER. And if this bill goes through, the probabilities are that this selfish interest will lose some of the benefits from their leases. Now, this bill does not go that far with the man who has the sugar land, does it?

Mr. McCLELLAN. I did not quite understand the question.

Mr. DRIVER. I say that same thing is not true of these people who have the sugar lands under lease; they do not lose any of their lands, do they?

Mr. STRONG. No; because the sugar lands could not be used for the purpose for which we are passing this bill.

Mr. DRIVER. No; but grazing lands could. I say they are all open; it is the same thing.

Mr. McCLELLAN. I tried to make it clear—

Mr. DRIVER (interposing). Do you not pay something for the leases of these lands, these grazing lands?

Mr. McCLELLAN. I am trying to present to the committee reasons based on public policy, which ought to speak for themselves, and I am a believer myself in the fact that a truth is exactly the same whether a plumber or a preacher tells it to you; if a statement is true it does not make any difference whether the man who tells it is a philanthropist or a paid counsel.

Mr. STRONG. But it makes a difference how you use the truth.

Mr. McCLELLAN. I take it that this committee wants to get the facts in regard to this matter.

Mr. STRONG. We certainly do.

Mr. McCLELLAN. What I wanted to say when I was interrupted, Mr. Driver, was that these two questions of policy are not interdependent, because it is not proposed to take the cultivated sugar lands for the Hawaiian rehabilitation purposes. Consequently, whether you vote the 1,000-acre clause up or down, that does not affect that phase of supplying lands for the Hawaiian native rehabilitation; it does not affect the fund which you expect to loan to those Hawaiians, because that is to be derived from these sugar lands. And certainly,

if these lands are to be set aside for the Hawaiians, \$1,000,000 loaned them, and \$2,000,000 or \$3,000,000 additional spent for water systems, etc., provisions must be made from other sources to replenish that fund, because you can not squeeze blood out of a turnip.

Mr. DRIVER. It takes money derived from the sugar lands to rehabilitate these other lands; that is what it amounts to, is it not?

Mr. McCLELLAN. It takes only 30 per cent of the money.

Mr. DRIVER. I mean the money from the leased sugar lands.

Mr. McCLELLAN. Yes; that is correct.

Mr. RANKIN. As to these lands that you have leased from the Government, is there not what is known as a withdrawal clause in the leases? Has the Government not the right to terminate those leases?

Mr. McCLELLAN. I can not answer that question accurately until the data that I have sent for comes in, but my impression is that a part of them can be withdrawn and a part of them can not.

Mr. H. W. RICE. Every acre can be withdrawn.

Mr. RANKIN. And as a matter of fact, is that not one of the reasons that they have sent you here to protest against this measure? If this bill passes, these leases can be canceled and these lands used for this rehabilitation purposes; is that not correct?

Mr. STRONG. Why, certainly; that is why he is here.

Mr. DOWELL. You have located it. I have one short question, Mr. McClellan. How much is your client paying to the Government for the acreage that you are leasing now from the Government?

Mr. McCLELLAN. The chairman asked that question, and I told him that I had written for all of that data and it had not reached me.

Mr. DOWELL. Do you know about how much?

Mr. McCLELLAN. I could not even give a close approximation of the amount.

The CHAIRMAN. I think Mr. Wise can answer that question.

Mr. WISE. There are more than 83,000 acres that would be taken from the Parker ranch if this bill passed.

Mr. DOWELL. How many acres?

Mr. WISE. About 83,000.

Mr. STRONG. How much are they paying the Government for that?

Mr. WISE. Less than \$16,000.

Mr. STRONG. Per annum?

Mr. WISE. Yes, per annum.

Mr. STRONG. How many of those leases are about to expire?

Mr. WISE. On 53,000 acres, the leases will expire in seven years; the others have expired, and they are waiting now for a renewal of those leases.

Mr. DOWELL. Assuming that those leases were cancelled to-day, what is the renewal value of those 83,000 acres now controlled by this estate?

Mr. WISE. About \$50,000.

Mr. MOORE. If your statement is correct, those lands are leased for about 16½ cents an acre?

Mr. WISE. Yes; some of it 15 cents; some 20 and some 30.

Mr. STRONG. Cents per acre?

Mr. WISE. Yes.

Mr. RANKIN. What does this land grow—corn and wheat?

Mr. WISE. Corn, wheat, and potatoes. It will raise two and a half crops of corn in a year.

Mr. RANKIN. Then in two years, it would raise five?

Mr. WISE. It will grow five crops of corn in two years, provided the seasons are good and the cut-worms do not bother them.

Mr. RANKIN. When you say "corn" do you mean what we call in the United States "Indian corn?"

Mr. WISE. Yes, Indian corn.

Mr. RANKIN. Now, you said it made so many tons per acre; about how many bushels is that?

Mr. WISE. We figure a ton at 2,000 pounds.

Mr. RANKIN. 2,000 pounds. You cut your corn green, do you?

Mr. WISE. No, dry usually.

Mr. H. W. RICE. It will average about 60 bushels to the acre.

Mr. RANKIN. Both crops?

Mr. H. W. RICE. No; I mean one crop. I do not believe that the statement of Mr. Wise that it will produce 2½ crops a year of corn is quite correct, because the Parker Ranch is only taking out one crop; and it averages about 60 bushels per acre.

Mr. RANKIN. Do you mean to say the vast amount of land covered by this lease will make 60 bushels of corn per acre a year?

Mr. H. W. RICE. I think it is some of the finest farming land in the territory.

Mr. RANKIN. I understand that.

Mr. H. W. RICE. It will produce 60 to 80 bushels an acre if properly cultivated.

Mr. RANKIN. Well, how many bushels will it average? You say it will produce that if properly cultivated.

Mr. H. W. RICE. It will average at least 60 bushels of corn per acre per year.

Mr. RANKIN. All of it?

Mr. H. W. RICE. No; not all of it.

Mr. RANKIN. About what would it average?

Mr. H. W. RICE. That would be hard to say, because the land is so cut up; it is hard to judge the waste land.

Mr. McCLELLAN. Five per cent of it would produce that.

Mr. H. W. RICE. No; I should say 50 per cent of it would produce 60 bushels per acre.

Mr. McCLELLAN. Do you mean of the whole 80,000 acres?

Mr. H. W. RICE. Yes.

Mr. RANKIN. How much of this 83,000 acres is tillable and could be cultivated in corn?

Mr. H. W. RICE. That, roughly, 50 per cent of it is tillable.

Mr. RANKIN. And how many bushels an acre would you say it would average?

Mr. H. W. RICE. I should say it would average about 60 bushels per acre; some places would average more than that.

Mr. RANKIN. Do you know that land?

Mr. H. W. RICE. I am familiar with the land.

Mr. RANKIN. Do you know the Humuula land?

Mr. H. W. RICE. Yes, sir.

Mr. McCLELLAN. How many acres, Senator Rice, are cultivated in corn?

Mr. H. W. RICE. At Humuula?

Mr. McCLELLAN. Yes.

Mr. H. W. RICE. I do not think there is an acre cultivated there now that I know of.

Mr. RANKIN. What do you say as to that statement, Mr. Wise?

Mr. WISE. As to Humuula?

Mr. RANKIN. Yes.

Mr. WISE. That is the largest part of the Parker ranch.

Mr. McCLELLAN. I asked how many acres of it was cultivated.

Mr. RANKIN. That is not what I asked. I asked how many acres could be cultivated in corn.

Mr. WISE. I have been on that land from one end to the other. I know the boundaries. Most of the land is up on the mountain. I should judge that 10 to 15 per cent of that land could be cultivated.

Mr. RANKIN. From 10 to 15 per cent?

Mr. H. W. RICE. Fifty per cent of the 83,000 acres could be cultivated. That is counting Waimea.

Mr. WISE. As to the Waimea tract, every acre of that 50,000 acres could be cultivated.

Mr. DOWELL. That is grass land, is it?

Mr. WISE. That is grass land.

Mr. RANKIN. What is the rainfall?

Mr. WISE. About 30 inches a year; probably a little more.

Mr. H. W. RICE. I should like to say that the Parker ranch had under cultivation, if I am not mistaken, 4,000 acres at Waimea; that is right this side of Humuula. That was last year; and I understood from the Government man who has charge of the experimental division, Mr. Krause, that they averaged about 60 bushels of corn an acre, and that is what I am basing my estimate on.

Mr. RANKIN. Is that part of this Humuula land?

Mr. H. W. RICE. No; that is not part of the same tract, but it is similar land.

Mr. MOORE. I would like to ask you this question: Did the Parker ranch people oppose this legislation in the senate in any way?

Mr. WISE. The heir is a child of possibly 10 years of age now.

Mr. MOORE. I mean, did the representatives of that child oppose this in the senate?

Mr. WISE. Mr. McClellan is employed to come here by the trustees of that child.

Mr. MOORE. You do not get my question. Did they oppose this measure out in Hawaii?

Mr. WISE. They did not say a word; they reserved that for this country; they said nothing there.

Mr. McCLELLAN. I will say in that connection that I will read a statement from Judge Robertson, former chief justice of the Territory of Hawaii, who was counsel for the Parker ranch last year. He says, "They put the bill through the House at Washington upon a clear misrepresentation of facts, and it was passed without an opportunity to be heard."

Mr. STRONG. Whom does he mean by "they"?

Mr. McCLELLAN. The advocates of the bill.

Mr. STRONG. Do you mean this Committee on Territories of the House of Representatives?

Mr. McCLELLAN. No; he is talking about the people in Hawaii.

Mr. STRONG. Well, this Committee on Territories is the body that put it through the House. Does he mean that the Committee on Territories got it through the House "by a clear misrepresentation of the facts"?

Mr. McCLELLAN. "When the matter was before the local legislature"—this is the statement of Judge Robertson—"no public hearing was had. And when the matter was being considered in the committee of the whole of the house, the delegate and governor were invited to address the committee; but again the opponents of the bill were not given a hearing; and the decision was made in a little cabal behind closed doors.

Mr. CHILLINGWORTH. Mr. Chairman, I will have to challenge that statement. There was a public hearing. There was a hearing by the committee of the whole of the senate; and Senator Charles Rice was appointed by me as chairman. And I challenge that statement as untrue. There was a public hearing held in the house, in the committee of the whole, at which the Delegate in Congress appeared; and in both instances either Judge Robertson or Mr. McClellan, or any other person interested, could have appeared and presented their side of the case. We invited any constructive criticism, and none came from the Parker ranch or any of its representatives.

Mr. McCLELLAN. Mr. Chairman, I was not in Hawaii at that time.

Mr. CHILLINGWORTH (interposing). I am not correcting you, but I am correcting Judge Robertson's statement, which is not based on facts; and the senator who was chairman of the committee of the whole is now present, Mr. Charles Rice.

Mr. IRWIN. I know the statement made by Senator Chillingworth is entirely correct. There is no question that the whole thing was open and above-board in Hawaii; the public was invited to attend; it was a public hearing; and the thing was discussed publicly. And now he says it was a cabal behind closed doors; and I say that man is not telling the truth.

The CHAIRMAN. I have no doubt, Mr. Attorney General, that your statement is entirely correct. I was in Washington, and I knew the hearing was being held; and I think there are quite a number of others knew of it.

Mr. STRONG. I am glad to have my position substantiated.

The CHAIRMAN. I will say to those who are opposed to this bill that this committee wants information, and wants to act honestly and earnestly for the best interests of the people of Hawaii. We want to have definite information, and accurate information, and truthful information. I think that we received that information at the last session; and I think we are receiving it at this session; and so far as I am concerned I think Mr. McClellan is not responsible for what is written to him. But the fact is that those who are opposed to this bill are just about the same at this session as they were at the last.

Mr. McCLELLAN. I want to state some historical facts which controvert some of the statements made to this committee last year, and which this committee accepted as true.

Mr. STRONG. That is perfectly agreeable.

Mr. McCLELLAN. First, in regard to the statements that the common Hawaiians were entitled to one-third of the lands under the Great Mahele, and that they were cheated out of those lands by King

Kamehameha III, and consequently the common people had an equitable claim to the Crown lands. Now, that statement was made distinctly to this committee as a basis for its action, that these people had an equitable right; that they were cheated out of that right, and consequently that they had an equitable claim to those lands. I believe that that is a fair statement of the representation that was made to this committee last year. Am I wrong in that, Mr. Chairman?

Mr. WISE. I will repeat that statement, that the common people were promised one-third of those lands, and they never got them. I will repeat that.

Mr. McCLELLAN. Then we establish the fact that that statement was made to the committee and the committee accepted it.

The CHAIRMAN. The statement was not only made to the committee by Senator Wise—

Mr. RICE (interposing). Mr. Dole made the same statement.

The CHAIRMAN (continuing). But ex-President Dole, the first president of the Hawaiian Republic, and who was president at the time of the annexation, wrote an article on the Evolution of Hawaiian Land Tenures, and that was included in the hearings at the last session of Congress, at page 301, and in that article he made the same statement.

There was also a statement of the land tenures by Attorney General Irwin, at page 287 of the hearings; and at one or two other places in the hearings (such as at page 261) there were not only the statements of witnesses appearing before the committee, but also historical statements were included. Now, President Dole certainly knew what the land tenures were, and his written statement of those land tenures has never been controverted by anybody until you questioned without denying it.

Mr. McCLELLAN. Well, does Judge Dole say that—

The CHAIRMAN (interposing). Judge Dole does say that that was true, and that is included in last year's hearings; it appears in an article he wrote for the Overland Monthly.

Mr. McCLELLAN. I never heard that Judge Dole had made that statement. The historical records are very complete about the Great Mahele; there need not be much question about it.

The CHAIRMAN. That statement is included in last year's hearings.

Mr. McCLELLAN. The facts are certainly well known to all, that under the old monarchy they had a feudal system in which the king was the only landowner; he held title to all of the land. Now, at that time the king was persuaded to distribute the title to the lands and to grant the privilege of ownership of land to his subjects, and he set to work it out on the basis of possession, of what the men actually held at that time. And after those assignments were made, what was left became Crown or Government lands, whatever those remainders were.

Now, the essential point of that division of the lands was that men were granted allodial rights of ownership in the land, on the basis of their occupation and use of what they held at that time. A man would come in and appear before this board—and the very name of the board, "The Board of Commissioners to Quiet Land Titles," showed what its purpose was—men would come before that board and show that they had been holders and occupants under the feudal system

of a certain piece of land, of which the boundaries were so-and-so; and the distribution and the awards of this commission, which ran from 8 to 10 years, were based on that; their decisions were made on the basis of what these different men came in and proved.

The larger areas were held by the chiefs—outside of the king. And surveys and descriptions were prepared. They made their showing of occupation, and grants and patents were made to them of what they had previously held. The common people hold their little holdings—"kuleanas," they were called—in those larger tracts; and in time they were given patents to some 11,000 of these tracts.

Now, I want to call your attention to the fact that the statement made that one-third of the lands were to be given to the common people, is based, so far as I have ever been able to find, solely on one statement made by the land commission after it had been appointed; and that statement was to this effect, that—

"If the king should allow his chiefs one-third, allow the tenants, or common people, one-third, and keep one-third, he would injure no one but himself."

Now, that, so far as I know historical records in Hawaii, is the only basis for the claim that the common people of Hawaii were equitably entitled to one-third of those lands. In other words, the land commission in Hawaii was empowered to establish in these individuals, whether chiefs or common people, the feudal rights which they had already acquired; and I find no basis for the contention that one-third of the lands were to go to the common people.

The CHAIRMAN. Well, at that time was there any such thing as a proclamation issued on the subject?

Mr. RANKIN. When was that edict supposed to have been issued?

The CHAIRMAN. The Great Mahele was in 1847; you will find a statement of that on page 287 of the hearings of last year.

Mr. RANKIN. That was when this division took place?

The CHAIRMAN. When this division took place.

Mr. RANKIN. And the common people were to get one-third?

The CHAIRMAN. They got 28,000 acres.

Mr. WISE. Yes; 28,000 acres.

Mr. RANKIN. And how much should they have got?

Mr. WISE. Over a million acres.

Mr. IRWIN. Let me ask you this question, Mr. McClellan: Did you ever read this in the proceedings of the land commission:

The commission also decided that there were but three classes of vested or original rights in land, which were in the king or government, the chiefs, and the people, and these three classes of interest were about equal in extent.

Did you ever read that in the principles adopted by the land commission, which were afterwards approved by the king and privy council?

Mr. McCLELLAN. That does not mean extent, necessarily, in area.

Mr. IRWIN. Well, it does not say "equal in value"; it says "equal in extent"; that means area, does it not?

Mr. McCLELLAN. Well, if the division by the land commission was to be on the basis of dividing those lands in that way, how does it come that they never started on any basis of calculating those areas as to one-third?

Mr. IRWIN. They did, in announcing these principles.

Mr. STRONG. You had never come across this record before?

Mr. McCLELLAN. I had read that pronouncement, yes.

Mr. STRONG. And yet you tell this committee that there was never anything of the kind?

Mr. McCLELLAN. I am telling this committee what was the basis of their procedure. I did not recall that particular statement; but the action of that commission through that eight years of action was to show what the basis was to award lands as already held and occupied under the feudal system.

Mr. STRONG (interposing). But you now admit that that action of the land board, which has just been read, was had?

Mr. McCLELLAN. That action was had; that is perfectly true.

Now, I want to call your attention to this fact: That all through these years since annexation, and up to the time that this bill came up, or up until recent times, the former monarch of Hawaii was making claims to having an equitable right in those crown lands, and efforts were made to have Congress recognize those equitable rights. And in all of those years when those claims were presented, and they were presented here by the present Delegate and other friends of Hawaii—nobody that I have ever heard of ever brought forward the claim that the common people were entitled to those lands, but it was only that the ex-queen of Hawaii had a right to them; there was no claim made at all until this bill came up and Senator Wise made this claim; that is the first time that anybody ever heard of such a thing, that the common people were entitled to those lands.

Mr. STRONG. Well, that can hardly be true, when the records of your land board shows that they made a different ruling.

Mr. McCLELLAN. Well, that was a statement of the—

Mr. STRONG (interposing). Of the land board—a decision.

Mr. McCLELLAN. A statement of the board at that time.

Mr. STRONG. Then you should not say that nobody here ever heard of it before Mr. Wise made the statement.

Mr. McCLELLAN. I want to go on and show you that the individuals at that time—

Mr. STRONG (interposing). Well, the only thing I am suggesting is that I understand that you claim that until Senator Wise came here and made that statement, it never had been heard of, and yet the records have been produced and read to you, showing that long before Senator Wise made that statement to us, the land board had decided the same thing.

Mr. McCLELLAN. Well, you have this thing confused. What was read from just now is the announcement of the program that they proposed to carry out in 1847.

Mr. IRWIN. That is not entirely correct. Those were the declared principles of the land commission, and those declared principles were adopted by the king and privy council later on.

Mr. McCLELLAN. How much later on?

Mr. IRWIN. Next year.

Mr. McCLELLAN. Well, I say it was at that period—

Mr. IRWIN (interposing). So that it was the official announcement.

Mr. STRONG. So that Senator Wise did not originate it.

Mr. McCLELLAN. What I say is that you could not, previous to this statement by Senator Wise, find any natives who would say they were entitled to one-third of the crown lands. Nobody ever went to the Hawaiian monarch, or the Hawaiian legislature, and claimed that

they were entitled to a division of those lands. The present Delegate, who was a partial beneficiary of the estate of the former king, never made the contention that those lands belonged to the common people of Hawaii, that I ever heard of.

Mr. DOWELL. Can you explain why the record was made that has just been read?

Mr. McCLELLAN. No, I can not; I did not live at that time. The record speaks for itself.

Mr. DOWELL. The record, however, is here.

Mr. McCLELLAN. I am not questioning the record.

Mr. DOWELL. You are not questioning the correctness of it?

Mr. McCLELLAN. No; but I am going on to show you—

Mr. DOWELL (interposing). One minute. Your statement was that the action of the House had been procured through misrepresentation. Now, in view of the record that you say you are not questioning, do you mean to say now that it was done through misrepresentations?

Mr. McCLELLAN. I do not understand, nor believe, that it has ever been understood in Hawaii, that the Hawaiian common people had a vested interest in one-third of the lands.

Mr. DOWELL. Irrespective of the understanding, the record is here before you, and you know of no reason why the record is not correct, do you?

Mr. McCLELLAN. Not at all. And if the committee regards that as conclusive, then it is conclusive to them.

Mr. DOWELL (interposing). Well, I am asking you the question.

Mr. McCLELLAN. Well, I say that in the light of what occurred, and in the light of the difficulty, which I am going to cite to the committee, that they had in getting the Hawaiians to come in and take the lands, I do not think that is true. I mean, I do not think the implication follows that they had these lands taken away from them; and I want to show the committee why.

When this land commission was established, with the power to confirm in these individual owners the house lots, the taro patches, and the homesteads, they had the utmost difficulty in getting the Hawaiians to claim those lands and take ownership of them. The following is from Blackman's History, page 158:

Partly on their own motion, but largely through the urgency of the missionaries and others, the natives in considerable numbers—some 11,000 in the course of time—put in claims and secured awards to the lands they occupied in areas averaging from 2 to 4 acres.

And let it be understood always that the basis of assignment was lands occupied by those who claimed them.

Now, quoting from Coan's "Life," page 124, Blackman gives this statement regarding the difficulties that they had in persuading these Hawaiians to take title to these lands:

Many thought it to be a ruse to tempt them to build better houses, fence the lands, plant trees, and make such improvements in cultivation as should enrich the chiefs, who are the hereditary owners of the soil, while to the old tenants no profit would accrue.

In other words, these common people were subtenants of the chiefs; and when the commission and the missionaries and others said to those men, "Come up and get your title to these lands and build

your fences around them and have them for your own," they said, "Kanalua" about that—meaning "doubtful." They said, "We think it is just a trick to get us to put in better fences, and when we get it done the chief will take it, and we will get nothing out of it." And they had difficulty in persuading them to take title to the lands.

Mr. KALANIANA'OLE. Are you in favor of a system of land tenures which would be similar to the old feudal system?

Mr. McCLELLAN. Certainly not, Mr. Delegate. I do not sympathize with anything that savors of a feudal system; it is a painful process to get out of.

Mr. KALANIANA'OLE. In those days, when a man raised a hog or cow the chief would come along and say, "That is all mine," and take it; and perhaps the people had the feeling that that would happen at that time.

Mr. WISE. They did; and that is the reason they did not get the lands.

The CHAIRMAN. Mr. Kalaniana'ole, the Delegate from Hawaii, would have been King of Hawaii if it had not been for the revolution. And he probably knows as much about the land tenures and the evolution of the land tenures as anybody in Hawaii or the United States. Now, as the representative of the race, he is trying to do what he can to correct a wrong that was done to the common people.

Mr. McCLELLAN. Well, to that extent, Mr. Chairman, I think great credit should be given to the Delegate, so far as that purpose goes. But I can not refrain from pointing out to the committee that the correcting of unhappy wrongs of the past, inflicted upon native Hawaiians by their own people, by special taxation burdens on another class of the population who are there now, is a very different question from the generous impulse of trying to correct the wrong.

The CHAIRMAN. Well, he is not trying to correct the evil by interfering with any vested right; he is simply trying to correct the evil by returning some of the public lands, the Government lands, to the Hawaiians.

Mr. STRONG. The Government got those lands from these people.

The CHAIRMAN. The Government owns the lands, and he is trying, out of these Government lands—

Mr. STRONG (interposing). Which came from the people.

The CHAIRMAN (continuing). To return to the Hawaiians some of these Government lands, which came from the people.

Mr. BROOKS. He wants to do for the Hawaiians what we are allowing our people in this country to do—to homestead lands.

Mr. McCLELLAN. I want to say in that connection that the homestead privilege has been open to Hawaiians for a great many years. They have had an opportunity of getting homesteads either on the ordinary homestead basis or on the 99-year lease basis. And they have the privilege of borrowing money from the farm-land board and establishing themselves. But those means have not been availed of by the Hawaiians except to a very limited extent.

And I want to point out to the committee this self-evident fact, that you have only a certain amount of resources of income in the Territory, and funds which we have been taking for the very urgent need of our schools are proposed to be taken now; 20 per cent of those funds have been taken already, I believe, for the farm-loan board, have they not?

Mr. C. A. RICE. You made the statement that some of these funds were taken for what purpose?

Mr. McCLELLAN. I say that the funds are taken which now go to support the schools.

Mr. C. A. RICE. Nothing whatever of the land revenues goes to the schools. We have a taxation law there, and the schools are the first charge against the taxes. They levy the amount, and the treasurer of the Territory states the rate necessary to raise for the schools each year on property tax. The governor was one of the commission on school matters, and we had that law passed by the legislature.

Mr. RANKIN. I want to ask you a question on this racial proposition again. In 1832 there was a population of 130,313, and that gradually diminished or rapidly diminished up to the time that the United States Government took charge of the islands. That is a fact, is it not?

Mr. McCLELLAN. Yes.

Mr. RANKIN. And it continued to diminish, but not so rapidly, until in the last decade; is that correct?

Mr. McCLELLAN. Yes; the rate of decrease, I think, has been slightly diminishing for some decades.

Mr. RANKIN. Well, did I not correctly understand you in one of your statements to say that now the population was on the increase?

Mr. McCLELLAN. What I said was that the group as described in the bill last year, which included the part Hawaiians, as well as the Hawaiians of the full-blood—that the group as a whole were actually increasing in numbers, instead of their being a dying race. And also that that portion of the group represented by the part Hawaiians are increasing in numbers more rapidly than the northern Caucasian race.

Mr. RANKIN. So that this destruction of the Hawaiian race has practically ceased, has it not, under the plans, I imagine, of sanitation and hygiene that have been adopted and put in practice in the Territory in the last 10 or 20 years?

Mr. McCLELLAN. Yes; and I think that the Hawaiians, or the part that have remained, have become more nearly adapted to the new type of living, which is quite different from the life they led a hundred years ago; and, consequently, they will maintain themselves better. But after all, there is no reason why something should not be done to rehabilitate them, if the method proposed will serve the purpose.

The CHAIRMAN. You have said that several times. Will you please proceed with your statement?

Mr. McCLELLAN. Now, I will proceed, Mr. Chairman, to address myself to the question of why we feel that this method will not assist the Hawaiian race.

To this question, Mr. Chairman, I want to apply the test of experience; because I believe there is more guidance to be found in the experience of the past than there is in the theories of any group of men.

The fact of the matter is that the Hawaiians to-day are not natural farmers. This is a proposition to put the Hawaiians back on the land. The Hawaiians were on the land in their own fashion in the early days. But the Hawaiian of to-day is not a natural farmer, in that he does not desire to do that work, and he not only is not seeking an opportunity to go on the land, but he is leaving the land he already has.

Mr. DOWELL. Your position is that he will not avail himself of this opportunity to go on the land, is it?

Mr. McCLELLAN. And to the extent that he does go on it he will not succeed, because his natural bent does not include, and his natural qualifications are not such as to carry through, the strenuous demands of pioneering on virgin lands of this sort. Some of us have been through the process of pioneering and know what it requires.

Mr. DREWRY. Let me ask one question: These native Hawaiians are fishermen and outdoor people, are they?

Mr. McCLELLAN. I am trying to answer that question now. The fact of the matter is that the Hawaiians are not natural farmers any more. They are very much more fond of fishing, fonder of mechanical occupations, even as carpenters and machinists. They would rather work as stevedores on the docks. They would rather do almost anything than farm, outside of raising their own cows and taro—taro being their staple food—but so far as farming in the sense in which we think of it is concerned, the average Hawaiian would rather do anything else than farm.

Mr. BROOKS. I can say the same thing of the farmers in my community.

Mr. DOWELL. Yes; that would apply to a great many people.

Mr. RANKIN. I will say that that is true of farmers all over the country, when they are getting such a "cold deal."

Mr. MOORE. Were not the original Hawaiians farmers?

Mr. McCLELLAN. They would cultivate a patch of taro 40 feet square. That would raise a family. It grows in running water.

Mr. MOORE. It has to be planted and cultivated, however?

Mr. McCLELLAN. About all the cultivation required is the planting.

Mr. DRIVER. What is your best estimate of those who would take advantage of this legislation?

Mr. McCLELLAN. A negligible percentage. The part Hawaiians are those who are going most into business and commercial lines and mechanical lines. And they have a special school of their own, the Kamehameha School, which is the best technical school, I suppose, in the islands.

The CHAIRMAN. How long since you have been in the islands?

Mr. McCLELLAN. Last September.

The CHAIRMAN. How long were you there in September?

Mr. McCLELLAN. I was there about six weeks.

The CHAIRMAN. About six weeks; how long since you were there before that?

Mr. McCLELLAN. It was about two years and a half.

Mr. KALANIANA'OLE. Do you know if there has been a successful farming colony in Hawaii other than sugar growing by the Hawaiians or by other races?

Mr. McCLELLAN. It is very unfortunate, Mr. Delegate, that there has been very little success in general farming in Hawaii.

Mr. KALANIANA'OLE. Then, not only the Hawaiians have failed, but other races have failed?

Mr. McCLELLAN. Other races have failed also; but I think it is fair to say, Mr. Delegate, that on the whole the Hawaiians have been less successful than, for example, the Portuguese.

Mr. KALANIANA'OLE. Well, the nonsuccess of the Hawaiians—

Mr. McCLELLAN (interposing). Generally speaking, they have not been successful.

Mr. DOWELL. Well, is it not apparent to you that if they had been successful there we would not have had this bill before us?

Mr. McCLELLAN. Entirely so; but I am trying to show to the committee that this large experiment will be a failure, although, so far as I am concerned, I would be willing to see the experiment made on this scale if it is limited to five years; although it will cost from \$3,000,000 to \$5,000,000 to make it, I am willing to see it spent for what I believe will be a failure.

But it does not seem to me to be sound to make this open authorization for the future before you try it. If you are determined to try what bids fair to be a failure, it seems to me you should make a definite provision limiting it. I believe it is a reasonable proposition that, when the prospects are poor for a thing, an experiment which can be carried on indefinitely to the extent of the designated area should be tried for five years, to see how it comes out, before you commit the Territory to this tremendous expense beyond that.

Mr. IRWIN. That is what the bill provides for now.

Mr. McCLELLAN. I beg your pardon; I believe it does not limit it to that.

Mr. IRWIN. Absolutely to five years; and we can not go any further unless we get the approval of the Secretary of the Interior.

Mr. McCLELLAN. Yes; but my suggestion is that that should also require the approval of Congress.

Mr. DOWELL. Is it not apparent to you that if there is such a failure as you believe there will be, after five years the Secretary of the Interior will not approve any further expenditure for what is then known to be a complete failure?

Mr. McCLELLAN. My reason for making the point, Mr. Dowell, is that the matter is of so much importance to Hawaii that it is a question of policy that Congress ought to pass on, and not delegate to an executive officer. That is the point I make.

Mr. STRONG. Might it not be inferred that your position would be a selfish one for the benefit of your clients, in that it would be much more difficult to get the matter through Congress than it would to present the matter to the Secretary of the Interior?

Mr. McCLELLAN. I do not think, Mr. Strong—I am trying to answer your question sincerely—that if you could show a reasonable amount of success; if the Delegate or his successor comes here and shows to this committee, or the successors of this committee, a reasonable amount of success achieved in that experiment—I do not think anything could stop Congress from going on and extending it.

Mr. STRONG. Well, the same thing would be true of the Department of the Interior, would it not?

Mr. McCLELLAN. Well, our point is that representations might be made to the Secretary of the Interior—"Here is this piece over on the other island, outside of this area." The Secretary of the Interior passes on the thing in a more or less pro forma way, because it comes up from the governor; and it would not actually be considered on its merits, as it would if Congress considered. The representatives would come up to Congress and say, "We have tried this thing for years"; they would come up before the expiration of five years, and Congress would say, "Now you have had this for four years; and we

are just going to look the record over, and see whether that has earned the right to be carried on."

Mr. STRONG. It does not seem to me that you are consistent. You now take the position that this could be better conserved by going to Congress at the end of five years, and not to the Secretary of the Interior; while a short time ago you said this committee had put the matter through the House by misrepresentation.

Mr. McCLELLAN. I beg your pardon; I did not say that.

Mr. STRONG. Well, you said it was put through the House by misrepresentation.

Mr. McCLELLAN. It is my contention that some of the essential facts were not presented to convey the actual situation to the committee.

Mr. STRONG. The appealing fact to me in this whole matter is this: Before other races went to Hawaii this race of Hawaiians prospered among themselves, owning all the land of the Islands of Hawaii, and were a great race of people. Now, that we have gone there with our Christianity and our civilization, they have become demoralized; we have taken possession of the islands and are profiting by it, and it seems to me that if we have any land left that they once owned and which this annexation came to us without cost to us or compensation to them, we should use that land to try to give those people an opportunity to build their race up again. Now, that is the thing that appeals to me in this whole proposition. I want to be frank with you. I can not have any sympathy with your client's estate, that is coming here protesting doing this thing, because of the very apparent fact that your client's estate does not want this land, that you are now renting for this ridiculously low rental, to be taken from it.

Mr. McCLELLAN. Now, Mr. Strong, let us test your interest in this Hawaiian matter a little bit.

Mr. STRONG. All right, sir.

Mr. McCLELLAN. If the strategic value of Hawaii to the United States were paid for by the United States on the basis that you paid for the Danish West Indies, it would cost the United States, at the least calculation, a quarter of a billion dollars; but the United States got the Hawaiian Islands for nothing.

Mr. STRONG. From the Hawaiians.

Mr. McCLELLAN. Now, then, Mr. Strong, the United States Government was the main beneficiary of whatever happened.

Mr. STRONG. Yes.

Mr. McCLELLAN. And I want to ask you how much you are willing to tax the people of your congressional district in Kansas to rehabilitate the Hawaiians, which people of your district, and the district in which I was born, were benefited by taking over the Hawaiian Islands from the Hawaiians.

Mr. STRONG. Yes, and those people of the district I represent would be glad, if the facts were correctly presented to them, to have their Government, which took these great tracts of land from the Hawaiians return, to them some small portion of those lands, in order to benefit that race of people from whom we took them, and they would be glad to have me as their Representative help to do that.

Mr. DOWELL. At the expense of your client.

Mr. STRONG. At the expense of your client.

Mr. McCLELLAN. But how much would it take out of the Federal Treasury?

Mr. STRONG. It would not take a dollar out of the Federal Treasury.

The CHAIRMAN. This argument is getting away from the main issue. Now, we are not trying to take any land from anybody; this bill does not propose to take any land from anybody, and it is not going to take any land from anybody.

Mr. DOWELL. Oh, yes; it cancels the lease of 83,000 acres of land of this estate.

The CHAIRMAN. That land under these leases does not belong to that estate, and in those leases there is a withdrawal clause. Those lands are leased at a ridiculously low figure, and that clause is in the lease, so that it can be withdrawn. Now, I would not interfere with any vested right; I would not hurt any vested interest, and I would not take away any money from any people it belonged to.

Mr. STRONG. Neither would I.

The CHAIRMAN. But when you say we are taking any land from anybody, I say this bill does not do that.

Now, I would like if possible to get through these hearings this evening, so I will ask you to proceed, Mr. McClellan.

Mr. McCLELLAN. I am endeavoring to do that.

Mr. WISE. I just want to ask you one question, Mr. McClellan.

Mr. McCLELLAN. You can ask me all the questions you want when I get through.

Now, gentlemen, I would not come up here and do so foolish a thing as to ask this committee, or any committee of Congress, to withhold its approval of a bill merely because it inconvenienced my client. While I am representing my client, I am attempting to show you, from reasons of public policy, that you are proposing to do a thing which will not help the Hawaiians, and at the same time are going to dissipate a large amount of public funds.

The CHAIRMAN. That is what I want to hear about. You have said that several times. Now, let us know why you say it will do that.

Mr. McCLELLAN. All right. Now, to go on with this statement as to the Hawaiians and why they will not succeed in this work.

I was making the statement that the Hawaiians are not an agricultural people; and the test of the last 20 years of experience in homesteading different types of land in different parts of the Territory shows that there are almost no successful Hawaiian homesteaders, while there are very successful Hawaiian mechanics, teachers, book-keepers, stenographers, and lawyers—everything but farmers; everything but successful homesteaders.

Yet you are proposing to spend \$4,000,000 or \$5,000,000 in trying to establish these people in something that they have the least bent for. How can Congress expect that an effort to put men on raw land and subsidize them there will be a real means of reviving a race who have not been able in an experience of 20 years to succeed in their efforts as homesteaders? It has been said that that was because there were no means available for those men in their efforts to homestead; that they lacked the money, and that this \$3,000 apiece will carry them through.

Now there was an actual test of placing Hawaiians on homesteads with a subsidy made some years ago. An effort was made some years ago to place a group of Hawaiian homesteaders in Waimea; and

Mrs. Samuel Allen, a philanthropic Hawaiian lady, put up \$25,000 in money to subsidize 10 homesteaders on these Waimea lands. They went on these lands, which are better than the average lands set aside in this bill; and Senator Wise, the proponent of this bill, was the man who was in charge of that matter in behalf of Mrs. Allen; and I quote from an editorial in a local paper in regard to that effort:

Some six or seven years ago, Government lands at Waimea, Hawaii, were thrown open to homesteaders, in order that an attempt might be made to get the Hawaiians "back to the land." The Waimea lands were far superior to any that it is proposed to use for the Kuhio-Wise rehabilitation scheme. They were rich and favorably situated, with a delightful climate.

Ten homesteads were taken up by Hawaiian families. Being intensely interested in Hawaiian rehabilitation, Mrs. Samuel Allen gave a fund of \$25,000 with which to start the Waimea homesteaders in business. John Wise was placed in complete charge.

The Waimea homesteaders, it will be seen, had just about the same proposition as that contemplated by the Hawaiian rehabilitation bill, except that they had better and more favorably located lands. They had an average of \$2,500 with which to set each of them up in business—and \$2,500 then had more purchasing power than \$3,000 now.

Yet to-day the Waimea homestead experiment is only a bitter memory. The homesteaders have gone and the Waimea experiment in Hawaiian rehabilitation, under the direction of John Wise, has proved a dismal and complete failure.

In view of his connection with the Waimea experiment, we can hardly say that John Wise is uninformed regarding Hawaiian rehabilitation along such lines.

And so on. I cite that to you gentlemen because there was an opportunity in that case, when these men were in a group, for them to cooperate; they had the money furnished them; and they had very much better lands than the average of the lands under this bill; and yet not one of those Hawaiians remained on the lands; it was a 100 per cent failure.

Mr. WISE. There are five of them there now.

Mr. MOORE. What paper are you quoting from?

Mr. McCLELLAN. That quotation was from the Pacific Commercial Advertiser of Honolulu, of October 6, 1920.

Mr. STRONG. Who owns the Commercial Advertiser?

Mr. McCLELLAN. It is generally supposed to be controlled by Mr. L. A. Thurston.

Mr. WISE. A man who fought this bill?

Mr. McCLELLAN. Now, I want to call the attention of the committee to the fact that on some of the other islands, where Hawaiians have in recent years been living on their own lands, which were already under cultivation and yielding them a living, they have left those lands and gone to the cities voluntarily.

Mr. DRIVER. Did they own those lands that they abandoned?

Mr. McCLELLAN. In these cases that I am citing they were living on lands that they and their ancestors had owned for generations.

Mr. DRIVER. Did they have title to them?

Mr. McCLELLAN. They had title to the lands.

Mr. DRIVER. What became of the lands when they abandoned them?

Mr. McCLELLAN. They would sell to the adjoining owner, or perhaps go away and leave them idle.

Mr. DRIVER. They were absorbed?

Mr. McCLELLAN. They were generally absorbed by the owner of the adjoining lands.

Mr. WISE. How large are these tracts of land?

Mr. H. W. RICE. Generally, they were small holdings, about a quarter of an acre, a half acre, or 1 or 2 acres.

Mr. McCLELLAN. These are wet lands, and irrigated taro lands, and are very much superior to the lands it is proposed to give under this bill.

Mr. RANKIN. Is his statement correct as to the size of these tracts?

Mr. McCLELLAN. Yes, sir; but in many cases they are able to support a family on that, and have for generations.

Mr. RANKIN. On a quarter of an acre?

Mr. McCLELLAN. Yes, sir; a quarter of an acre of those lands is worth more than hundreds of acres of some other lands.

Mr. RANKIN. You do not mean to tell this committee that a quarter of an acre will support a family?

Mr. McCLELLAN. A quarter of an acre of taro land will; at least, it is supposed to. The statement has been made to this committee that it will.

Mr. WISE. If you are contented to stay there and eat taro and nothing else, and not have your children educated; certainly. A quarter of an acre was sufficient for a man and wife, and probably two children.

Mr. RANKIN. Is that what you call bread fruit?

Mr. WISE. No; it is the root that is eaten.

Mr. McCLELLAN. The fact of the matter is—and I think the committee will not understand the situation unless they grasp this fact: The children of these Hawaiians who are living in those little kuleanas and valleys go to Honolulu, Hilo, and other towns for schooling, and they receive that schooling, and then they do not want to go back to their homes; they want to stay in town; and there is a gradual impulse, of course, for their parents to go to the towns also.

Mr. STRONG. Well, the same thing happens on the farms in America, does it not?

Mr. McCLELLAN. Yes; the same thing happens here.

Mr. KALANIANA'OLE. There would not be much incentive to go back to a farm of a quarter of an acre.

Mr. McCLELLAN. Certainly not. But they will not go back to the homestead. If the proponents of this bill have confidence that the proposed experiment will show that it is a good thing and want to try it out on that basis, I say, go ahead and loan the money. I do not believe it will go very far at that; possibly the sentiment of Hawaii will be in favor of spending that amount of money, but certainly not of committing the Territory to so large a program beyond that.

Mr. BROOKS. Suppose they try it out for five years, and it proves a failure, do you not think it would end there?

Mr. McCLELLAN. I have attempted to show, Mr. Brooks, why I think the matter should come back to Congress for decision, and that there should not be an authorization now that would commit you—

The CHAIRMAN (interposing). Well, that is your opinion and you have expressed it a number of times; and that is something for the committee to take up and consider when we are considering the bill section by section. The experiment is confined to five years. After that, it goes to the Secretary of the Interior for authorization; and there is a question whether that is best, or whether it should come to Congress. Now, you have explained your view of that a number of

times. If you have anything additional to say in reference to the bill, I wish you would present it, because it is getting late.

Mr. McCLELLAN. Yes, Mr. Chairman, I am trying to get at that.

Now, I want to cite for your consideration the opinion of a man of part Hawaiian blood, who was mayor of Honolulu, Mayor Wilson, of Honolulu, which was published in September last.

Mr. KALANIANA'OLE. Did you say Mayor Wilson?

Mr. McCLELLAN. Yes, sir.

Mr. KALANIANA'OLE. Is he Hawaiian?

Mr. McCLELLAN. I said partly Hawaiian.

Mr. KALANIANA'OLE. Is he partly Hawaiian?

Mr. McCLELLAN. I think so.

Mr. KALANIANA'OLE. He is part Tahitian.

Mr. RANKIN. Mr. Chairman, we are not getting anywhere with this hearing. We are just about where we started at 8 o'clock.

The CHAIRMAN. Yes; that is true.

Mr. RANKIN. And I would suggest that the witness just insert that opinion of somebody else in the record and I will read it.

The CHAIRMAN. I think that is a good suggestion. What is that statement that you have?

Mr. McCLELLAN. He cites the fact that the question is not one merely of developing the land——

The CHAIRMAN (interposing). Who is it?

Mr. McCLELLAN. Mayor Wilson, of Honolulu.

The CHAIRMAN. You have something there that he has stated on this subject?

Mr. McCLELLAN. Yes, sir.

The CHAIRMAN. You can insert it in the record.

Mr. McCLELLAN. Very well.

(The statement referred to is as follows:)

[Views of Mayor Wilson, of Honolulu (a part-Hawaiian) published Sept. 24, 1920.]

MAYOR SCORES DELEGATE FOR ASSERTING THAT HAWAIIANS WHO OPPOSE REHABILITATION ARE TRAITORS TO RACE.

"The only vital issue in this campaign is the rehabilitation bill. And any Hawaiian who opposes me in this matter is a traitor to his race."—Delegate Kalaniana'ole to the voters of Kakaako last night.

"Any Hawaiian or any citizen with Hawaiian blood in his veins who does not take offense at what the delegate is reported to have said on rehabilitation last night," declared Mayor Wilson to-day, "lacks brains and backbone.

"This is supposed to be a free country, under the constitution of which we all have equal rights. Kuhio is not the only man who is trying to put the Hawaiian people back on the land. The Democrats have been trying to do it for years, and if we see that Kuhio is going the wrong path to the same goal, we don't have to follow him. To call us traitors because we choose to follow our own judgment merely shows that the prince is narrow minded.

"What we need is not more laws, but application and enforcement of those we already have. Section 360 of the existing land laws—the so-called 25-citizen clause gives any American citizen the right to take up any land, not merely second-class land.

"Section 395 permits him to lease lands, if he does not wish to buy, for 999 years, not merely 99, as does the rehabilitation bill.

"If he wants to borrow \$3,000, he can do so from the territorial farm loan board. Hundreds already have.

"WANT RECLAMATION.

"What we want is extension of the United States reclamation laws to this Territory. If Kuhio is so much interested in putting the Hawaiian back on the land, why hasn't he done something in all the years he has been at Washington to make the land fit to live on?

"The Federal reclamation service has at its disposal a revolving fund of 200 millions. If it had been applied to development of arable lands in this Territory which now are waste merely for lack of water which could be obtained, much of our barren land would now be under cultivation.

"But the question is not merely one of entering upon and developing the land; transportation is a vital factor. I know of 50 Hawaiian families who have left Molokai—families who own their own land with water on it and their own houses with furniture in them—because they couldn't make a living. Why? Because they could not get their produce to market. There is lying idle enough good privately owned land on Molokai that I know of personally to support at least 250 families for this and no other reason.

"TRANSPORTATION NEEDED.

"If there is a real desire to rehabilitate the Hawaiian by making it possible for him to till the soil, something must be done to get his produce to market. If necessary, a sampan line could be subsidized. I'm losing money on one that I'm running right now and have been running for years, just to help out the small farmer on Molokai. And I expect to keep on losing money for years to come, but with any real development of diversified agriculture such a line ultimately will pay for itself.

"As for Ioela Keakahi's proposal that the canal lands of Waipahu, Aiea, and Ewa be set aside for homesteading, it isn't so humorous as it might seem. Under sections 366 and 375 of the land laws the governor is permitted, with the concurrence of the land board, to buy any lands outright for the purpose of opening them for homesteading. The legislature can apply the law at any time it wishes by making an appropriation.

"I repeat that what we need is not more laws, but application right here of the laws we already have."

Mr. IRWIN. That was a political document issued at the time of the last election in the Territory of Hawaii, was it not, by Mr. Wilson, who is a Democrat—as I am?

Mr. RANKIN (interposing). You do not mean that fellow from Haiti, do you? [Laughter.]

Mr. IRWIN. He was not from Haiti; he was a Hawaiian, born in Hawaii.

Mr. McCLELLAN. A Tahitian, he was said to be.

Mr. IRWIN. And it was issued at the time of the last campaign; and it was issued on this particular question, the Democratic Party having opposed the rehabilitation bill—at least, most of them did; I did not. And the Republican Party, headed by Delegate Kalaniano'ole, having espoused the rehabilitation bill, that was the issue in the campaign; and this letter which Mr. McClellan now puts in the record was a part of that political campaign.

The CHAIRMAN. Well, if it does not have any more effect on the committee than it did on the election, it will not accomplish much. [Laughter.]

Mr. IRWIN. Is that not correct?

Mr. McCLELLAN. His statement is a statement of fact having a direct bearing on this question of Hawaiians living on the land.

Mr. RANKIN. I would just like to enter a demurrer to that statement as to the gentleman from Haiti, because I know Haiti and I know that nobody from Haiti ever had authority to speak for the Democratic Party of America. [Laughter.]

Mr. IRWIN. Where did you get that Haiti idea from?

Mr. RANKIN. He said he was part Haitian.

Mr. IRWIN. No; he said he was part Tahitian.

Mr. RANKIN. Well, I am not sure I am not right even if he comes from the place you mention. [Laughter.]

Mr. McCLELLAN. I want to call the attention of the committee to a fact, which I think ought to have some bearing in the consideration

of this bill: It is, that this revision and change which has been made in the form of the bill since last year, does not conform to the ideas expressed by the two members of the Senate committee who were most favorable to the bill. I do not know whether this committee cares to consider that fact or not; but it is a matter of record, and if the committee cares, I will cite the expressions of the men who did most to favor the bill on the Senate side.

Mr. STRONG. What argument would that be, if a majority, a large majority, of the legislative body over there indorsed the bill?

Mr. McCLELLAN. I am merely trying to point out that the revised bill was not revised—as the statement has been made to this committee that it was revised to meet the objections made against it—I am prepared to show this committee that it was not even revised to meet the objections of its friends.

The CHAIRMAN. Now, Mr. McClellan, you know the procedure of the House, and you know the procedure of the Senate, and you know that it is not only opposed to the rules, but is opposed to good taste, to criticize the Senate in the House or criticize the House in the Senate; the Senate is responsible for its own acts, and we are responsible for ours.

Mr. McCLELLAN. I am quite aware of that, Mr. Chairman. But the statement has been made to the committee——

The CHAIRMAN (interposing). There is no statement here, however, in reference to the attitude of the Senate, or any member of the Senate, with the exception of the public records of the Senate. And the Senate is on record in these hearings to the effect that the bill was reported favorably out of the Senate committee and was not acted on by the Senate. And so far as the action of an individual Senator is concerned, or so far as his individual opinion is concerned, or whether you telegraphed to him, that is not in the hearings, and is not going to be in the hearings. That is a matter for you to discuss with the Senate when you go before the Senate. You know that.

Mr. McCLELLAN. I think my statement has covered as much ground as the committee is interested in hearing; and I thank you for the opportunity of being heard.

Mr. WISE. I want to ask Mr. McClellan one question: It seems that he was basing all of his argument on the fact that the experiment at Molokai had been tried and had failed for \$1,500,000, and that it had been stated that \$2,000,000 more would be required to get the water on the land; he based his argument on the theory that the Hawaiians who would go over there to live on that land were going to raise sugar cane, which would require \$3,500,000 to make the plan successful.

Now, the fact is that those who are interested in this matter do not wish to go there to raise sugar cane. And the \$3,000 to each farmer which the committee has allowed in the bill, although somewhat small, would certainly go a great way toward helping us get on those lands and rehabilitate the people in that way.

There is one other matter I wish to bring up: Mr. McClellan said that the taxes were being paid by the Caucasians, and that they would be deprived of the use of that money if the Hawaiians went on these lands and used up that money.

We are asking for 30 per cent of the rentals of the Government lands, the very lands that we claim belong to the Hawaiians. We are

asking 30 per cent of the rentals of those lands to go toward assisting the people and make the fund from which they can borrow \$3,000 apiece. Consequently, the Caucasian taxpayers are not going to spend one cent toward the helping in the rehabilitation of the people on those lands.

Mr. RANKIN. Let me ask you this question: Are practically all the Hawaiians—I mean the real Hawaiians—in favor of this rehabilitation scheme?

Mr. WISE. There were some who were opposed to it, not to the scheme itself or the principles of the bill, but they were opposed to the kind of lands that they were to be given.

Mr. KALANIANAOLE. Also some of them had a belief that this might put them in the same category as the Indians. That question came up.

Mr. WISE. And the democrats used that to advantage against Mr. Kalanianaole in the last campaign; that we were trying to make the Hawaiians like the Indians, a dependent race, and that the best lands were given to the plantations, and the poor lands given to the Hawaiians. Those arguments were the strongest arguments the Democrats made against Mr. Kalanianaole.

The CHAIRMAN. Well, I know that the people were not divided as Democrats and Republicans on that issue, because I know a whole lot of Republicans voted against Mr. Kalanianaole, and a whole lot of Democrats voted for him.

Mr. WISE. And I know that my statement will be confirmed by Mr. McClellan; we were not getting the best lands.

Mr. RANKIN. I have not had time to go over this bill as carefully as I wanted to. Do you propose to give these people these lands as homesteaders, in fee simple?

Mr. WISE. No.

Mr. RANKIN. Why not?

Mr. WISE. Because the opponents of the bill claim that if we were to give the title at first, right off the bat, we would go to work and dispose of them, and rather than come before the people and come before you and try to get the fee-simple title of lands that we might dispose of as soon as we got that title, we preferred to come here and ask for something that our opponents will not be able to raise that objection against. We want to come here and ask for the use of these lands while we are trying to make a success of farming them; and if we fail, every cent that we spend on those lands for improvements will go back to the Government, because those lands will certainly be improved with the money advanced to the settlers. Of course, in case of failure we will walk off of those lands poor; but that is nothing new to us.

Mr. DRIVER. Pardon me for interrupting, but what are your annual rentals?

Mr. WISE. For these lands now?

Mr. DRIVER. Yes; these Government lands that are leased.

Mr. WISE. Very small; something like \$300,000, including the water rights and everything.

Mr. DRIVER. Including the cane lands?

Mr. WISE. Including the cane lands. Only within the last two years, under the presidential proclamation, the leases of these lands

were extended; and instead of getting rentals by the acre, as they used to do, they got them by a certain percentage of the profits, and in that way they had the highest rental that they ever had from those Government sugar lands.

Mr. McCLELLAN. I am very glad that Senator Wise brought up the question of whether or not the money will come from the Treasury, and I want to point out the fallacy of his statement.

Mr. WISE. All right; point it out.

Mr. McCLELLAN. Mr. Strong, being good at figures, will be able to follow this: There is a provision in the bill that this \$1,000,000 that is to be provided out of the funds from leases of sugar lands and from water licenses, etc., as the Senator has stated, shall be placed in this revolving fund and loaned to these people. Provision is also made for the authorization of construction work, and the issuance of bonds therefor under legislative authority, which may run anywhere from \$2,000,000 to \$5,000,000.

Mr. WISE. Yes.

Mr. McCLELLAN. And provision is made in this bill that the sinking fund and the interest on all of those bonds shall be paid for out of this revolving fund, the same fund which has already been loaned out and already been spent; but the provision—the paper provision—is that it shall be paid out of that same fund.

Now anybody, who is not a Ponzi financier, knows that the result of that is that you have committed the Territory of Hawaii to an indebtedness which the Territorial treasury, or the Territorial taxpayer, has to meet.

Mr. IRWIN. How can the Territorial treasury pay for those bonds if the act of Congress specifically provides that the payment must come out of a specific fund? Will you answer that?

Mr. McCLELLAN. Because they are Territorial bonds and an obligation the Territory is pledged to pay.

Mr. IRWIN. Well, they are issued under a specific act of Congress, which provides a specific method of payment, and they can not be paid in any other way.

Mr. H. W. RICE. As a matter of fact, the governor told me before I left if this bill was enacted into law they could reduce the Territorial taxes at least one-half of 1 per cent. Do you know that?

Mr. McCLELLAN. I have heard statements of that sort made.

Mr. WISE. So I still claim that my statement is perfectly true.

Mr. STRONG. It is very obvious that I do not need to figure the matter, as Mr. McClellan suggested.

Mr. McCLELLAN. Statements of that sort as to the taxes are made because of the fact that lands which were leased 40 or 50 years ago had only a nominal value at that time; and everybody knows that they are going to be leased at a greatly increased price; and the governor knows that a great deal of that increased income is going to be credited to this bill.

Mr. RANKIN. Well, you live in Hawaii, and you know——

The CHAIRMAN (interposing). No; he lives here.

Mr. McCLELLAN. My permanent residence is in Hawaii. I have been here most of the time representing Hawaii.

The CHAIRMAN. I would like to get this into the record correctly about your residence. Of course you do not retain a residence in

Hawaii and you have not lived in Hawaii for 15 or 20 years. When you left Hawaii you went up to Seattle, did you not?

Mr. McCLELLAN. I was in Seattle four years.

The CHAIRMAN. You lived in Seattle a few years and from Seattle you came here and represented the chamber of commerce?

Mr. McCLELLAN. First I went back to Honolulu and reestablished my residence there.

The CHAIRMAN. And you have not been in Honolulu altogether a year in 10 or 15 years, have you?

Mr. McCLELLAN. I have not been in Honolulu continuously for a year in 15 years, but during all of that time I have been constantly in touch with what is going on there and for most of that time have been representing public interests of Hawaii solely.

The CHAIRMAN. So are we all; but I am talking about residence in Hawaii.

Mr. McCLELLAN. Well, my residence is there, Mr. Chairman. Do you mean my citizenship?

The CHAIRMAN. No; I mean your residence.

Mr. KALANIANA'OLE. When I asked you that question in the Senate committee you said your residence was in Hawaii, and you afterwards corrected that and said that your residence had been Hawaii; which is true?

Mr. McCLELLAN. No; my residence was reestablished in Hawaii in the fall of 1917.

Mr. DOWELL. Where do you vote?

Mr. McCLELLAN. The only place I can vote is Hawaii.

Mr. DOWELL. Where did you last vote?

The CHAIRMAN. When did you last vote in Hawaii?

Mr. McCLELLAN. I have not voted in Hawaii for years.

The CHAIRMAN. When did you register in Hawaii?

Mr. McCLELLAN. I have not registered in Hawaii for years, because I did not happen to be there at a registration period.

The CHAIRMAN. Then your residence is not there, because you are not representing the Territory or the city or the Federal Government and you can not maintain a residence in Hawaii after a year's absence. Did you vote in Seattle?

Mr. McCLELLAN. Yes; I voted once in Seattle.

The CHAIRMAN. You have voted in Seattle since you have voted in Hawaii, have you not?

Mr. McCLELLAN. Yes, sir.

The CHAIRMAN. Then how can you claim a residence in Hawaii?

Mr. McCLELLAN. Because I went back to Hawaii, and reestablished my permanent residence there.

The CHAIRMAN. Have you ever registered in Hawaii since that time when you voted in Seattle?

Mr. McCLELLAN. Well, I think that the question of a man's legal residence is where he—

The CHAIRMAN (interposing). Certainly; the question of a man's legal residence is where he votes, or where he voted last. You voted last in Seattle, did you not? And how can you claim a residence in Hawaii?

Mr. McCLELLAN. I have stated my reasons; I do not see that the question is material to the merits of the bill.

The CHAIRMAN. That cuts no figure, so far as your evidence regarding this bill is concerned; and it cuts no figure so far as the committee is concerned. But I do not think you ought to put it in the record that your legal residence is Hawaii, when you have not been there for 15 years, except on business trips, and your last voting place was Seattle.

Mr. KALANIANAOLE. When I asked you that question before the Senate committee, you said you were a resident of Hawaii, and then you corrected that and said that you had been a resident of Hawaii.

Mr. McCLELLAN. Do you know of any law in Hawaii, Mr. Delegate, that requires that a man to establish his legal residence must be a registered voter?

Mr. KALANIANAOLE. So far as that is concerned, I do not care to go into it; but I want to bring out the truth. You said you were a resident of Hawaii when I asked you that question.

Mr. McCLELLAN. Yes, and I have told you the facts.

Mr. KALANIANAOLE. And you afterwards revised that answer and said that you had been a resident of Hawaii between the years so-and-so. Surely, you can not be a resident of Hawaii now?

Mr. McCLELLAN. Well, I surely can be, if I am correct in the statement that a man has a right to establish his legal residence wherever he goes.

The CHAIRMAN. Well, a man has not a right to establish his legal residence wherever he goes; he has to establish his legal residence according to the Constitution and according to the laws; not wherever he wishes.

Mr. RANKIN. There is a difference also between residence and citizenship. Now, you might be a citizen of Hawaii, and not go there for 40 years; but you would not be a resident of Hawaii. And if you will permit me, you are not a resident of Hawaii unless you reside there; unless you live there physically. If you have been away from Hawaii as long as has been said here, you are a resident of somewhere else, although you may be a citizen of Hawaii.

Mr. McCLELLAN. Well, the question the Delegate is trying to get at is whether I am a citizen of Hawaii; is that correct?

Mr. KALANIANAOLE. Yes; that is the question I asked you.

The CHAIRMAN. How can you be a citizen of Hawaii, when you registered and voted in Seattle, Wash., the last time, and you have not been in Hawaii since that time long enough to establish a residence?

Mr. McCLELLAN. Well, my understanding is that I was, Mr. Chairman.

The CHAIRMAN. Well, you have to reside in Hawaii one year—365 days. Have you ever been in Hawaii 365 days since you voted in Seattle?

Mr. McCLELLAN. Do you mean that I have to be physically there a year?

The CHAIRMAN. You have to be physically there; yes.

Mr. McCLELLAN. Well, I have not.

The CHAIRMAN. Is that all?

Mr. WISE. Those are all the questions I wanted to ask him.

STATEMENT OF HON. CHARLES F. CHILLINGWORTH, PRESIDENT OF THE SENATE OF THE TERRITORY OF HAWAII.

The **CHAIRMAN**. Mr. Chillingworth, we would like to hear a few words from you as to how this bill was treated in the Legislature of Hawaii. But first, please, give your full name and position for the record.

Mr. CHILLINGWORTH. My name is Charles F. Chillingworth; president of the senate of Hawaii the last four sessions and two special sessions.

The resolution was introduced originally in the senate, and subsequently referred to a committee of the whole for a hearing on the matters set out in the resolution.

As president of the senate, I appointed Senator Charles Rice as chairman of the committee of the whole. There was a full and complete hearing on this bill. There was some misunderstanding as to some of the features of it; some of the members of the senate did not quite understand it, some of those present; and after a hearing and an explanation made by the governor, by our Delegate, and by other officials and residents who were present, the senate passed the resolution.

It went down to the house; was held there, if my memory serves me right, about a week; and then it was referred to the committee of the whole, of which Hon. A. M. Cristy, a very able young attorney, who was a member of the house of representatives from the fourth district, was made chairman. A very extended hearing was had by that committee, and numerous amendments, which have been cited here by Senator Wise, were made to the bill. The additional amendments were made a part of the rehabilitation scheme.

Both of those hearings were public hearings. They were matters of common knowledge, and were printed and published in our newspapers in Honolulu; so that whoever could read must have read them.

After the hearing in the house and the insertion of the amendments which were made, the resolution came back to the senate, as I remember it, on the 28th or 29th of April.

Mr. WISE. The legislature adjourned the 27th; it must have been the 26th of April.

Mr. CHILLINGWORTH. And it was held over pending a report by a special committee, of which I think Senator Rice and Senator Wise were members, if I remember correctly, and that committee recommended that the amendments made by the house be concurred in by the senate. That was done; and later on, a commission was appointed to come here to Washington to present the Territory's side of the matter.

Mr. RANKIN. Do you remember the majorities received by the resolution in the senate and house?

Mr. CHILLINGWORTH. In the senate it was a unanimous vote.

Mr. RANKIN. How many members are there in the senate?

Mr. CHILLINGWORTH. Fifteen.

Mr. RANKIN. How much of a majority was received in the house?

Mr. CHILLINGWORTH. I think it was 26 to 4.

Mr. RANKIN. There are 30 members in the house?

Mr. CHILLINGWORTH. Yes, sir.

The CHAIRMAN. You are a member of the senate of Hawaii?

Mr. CHILLINGWORTH. Yes, sir.

The CHAIRMAN. And you are attached to the interests of the people of Hawaii?

Mr. CHILLINGWORTH. Yes, sir.

The CHAIRMAN. Is it your opinion that the people of Hawaii wish this bill to be enacted?

Mr. CHILLINGWORTH. I firmly believe that to be so, Mr. Chairman; otherwise, as I have no particular axes to grind, or anything of the kind, I would have opposed it. I have served 16 years in the senate, and if it was not the popular wish of the people I certainly would not have encouraged it as much as I did.

Mr. RANKIN. How many Hawaiians were in that senate?

Mr. CHILLINGWORTH. Seven.

Mr. RANKIN. How many were in the house?

Mr. CHILLINGWORTH. I could not say.

Mr. RANKIN. About how many?

Mr. KALANIANA'OLE. They had a big majority of Hawaiians in the house.

Mr. CHILLINGWORTH. It was very nearly 18 to 12, I think.

Mr. RANKIN. And you say a vast majority of them voted for this resolution?

Mr. CHILLINGWORTH. Yes, sir.

Mr. RANKIN. The chairman asked you if you thought a majority of the people of Hawaii desired to have this bill passed. I wish to ask you if you think it is the desire of the majority of the Hawaiians of Hawaii to have it passed?

Mr. CHILLINGWORTH. I think the petition signed by the Hawaiians was overwhelmingly in favor of it.

Mr. DRIVER. What opposition to it was offered in the senate and the house, if you know?

Mr. CHILLINGWORTH. There was no opposition at all to the bill in the senate; in fact, the hearing before the senate was a very tame affair. We waited for constructive criticism; I had read with a good deal of interest the testimony taken here. I had heard of Mr. McClellan for a number of years, and knew of Judge Robertson's position. For a while the contention of Judge Robertson was that it was class legislation, and I thought that there might be a constitutional question in the minds of the legislature. But on the return of our delegates to Hawaii, explaining the position taken by the solicitors who had been asked to pass an opinion upon this question, we were confident that the bill was not class legislation; and any doubt that might have been in the minds of any of the gentlemen of the legislature was eradicated.

The CHAIRMAN. Did Judge Robertson appear before the legislature?

Mr. CHILLINGWORTH. He did not. And I am very much surprised at the statement which has been read here purporting to have been signed by Judge Robertson. I know Judge Robertson well; I know him as well as I know any member of my family. And I will say that I am astonished that he made any such statement as that purporting to have been made by him to Mr. McClellan; it is astonishing, to say the least.

The CHAIRMAN. Was he present at any of the hearings?

Mr. CHILLINGWORTH. He was not.

The CHAIRMAN. He knew the hearings were to be held?

Mr. CHILLINGWORTH. He had every reason to.

The CHAIRMAN. He never made any effort to appear before either of the committees?

Mr. CHILLINGWORTH. He did not, sir.

Mr. IRWIN. Did any representative of the Parker ranch appear in opposition to the measure?

Mr. CHILLINGWORTH. None of them.

Mr. MOORE. Did Judge Robertson's statement go into the record, Mr. Chairman?

The CHAIRMAN. Yes; it went in the record.

Now, do you think that a proportion of the increased revenue that would be derived from the sugar lands under the provisions of this bill would be sufficient to finance the rehabilitation scheme?

Mr. CHILLINGWORTH. I think it would be sufficient, Mr. Chairman. I have talked it over with Gov. McCarthy, our present governor, who is very friendly to this bill.

The CHAIRMAN. And Gov. McCarthy came here at his own expense last year to support it before this committee?

Mr. WISE. At the expense of the Territory.

Mr. IRWIN. Partly at his own expense.

Mr. CHILLINGWORTH. The governor was very much interested in it, and spent a good deal of his time in assisting in the passage of the resolution. Under the scheme of leasing out these highly cultivated lands to the highest bidder, I think it netted the Territory very nearly half a million dollars, if my memory serves me right.

The CHAIRMAN. No vested interest will be injured by the passage of this bill?

Mr. CHILLINGWORTH. I can not see that it would.

I might say that this land at Molokai, which the resolution sets out as the first tract of land to be attempted to be used for this rehabilitation purpose, is good land, and particularly ideal for pineapple cultivation. I have, as attorney for a company in Hawaii, taken up nearly all of the lands other than the Government lands on Molokai for pineapples; and there the companies will advance at least \$100 an acre to any grower of pineapples.

The CHAIRMAN. Well, this land on Molokai is Government land?

Mr. CHILLINGWORTH. Which land?

The CHAIRMAN. The land which is to be used for rehabilitation.

Mr. CHILLINGWORTH. It is the land at Kalamaula and Palaau, and no better land exists anywhere.

The CHAIRMAN. They are Government lands?

Mr. CHILLINGWORTH. Yes, sir.

Mr. RANKIN. If these people moved on these lands and engaged in that industry, would these interests advance them \$100 an acre?

Mr. CHILLINGWORTH. I am positive they would.

Mr. RANKIN. That is on the crop, and not on the land?

Mr. CHILLINGWORTH. That is on the basis of so much per acre.

Mr. RANKIN. That is on the crop of pineapples, I mean, and not on the land?

Mr. CHILLINGWORTH. Not on the land; on the crop. That, of course, is subject to the approval of the commission and the expert, as I understand it, of the Territory, who passes on these contracts.

Mr. RANKIN. How much would the pineapples net?

The CHAIRMAN. Of course, under this bill you understand that they can not mortgage the lands.

Mr. RANKIN. No; but what would the gross selling price of the pineapples amount to per acre?

Mr. CHILLINGWORTH. That land at Kalamaula should bring 15 to 18 tons an acre, and I understand that \$2.75 a case is going to be the price of pineapples—I have just been informed that it is going to be \$2.25; they were talking of \$2.75 when I was there. At \$2.25 it would net about \$25 a ton.

Mr. STRONG. How many tons will they raise to the acre?

Mr. CHILLINGWORTH. That land would produce from 15 to 18 tons an acre.

Mr. H. W. RICE. It will not average that; it will average nearer 10 tons.

Mr. CHILLINGWORTH. I think for the first crop it will average 15 to 18 tons.

Mr. H. W. RICE. It may for the first crop; but you do not want to take the land on its first crop valuation.

Mr. MOORE. Are the Japanese raising pineapples?

Mr. CHILLINGWORTH. The Japanese are raising pineapples; they are going heavily into pineapples.

Mr. STRONG. There is one question I would like to ask you, Mr. Chillingworth. The question has been raised here by the representative of the estate which is opposing this bill to the effect that the Hawaiian people will not avail themselves of the opportunity for homesteading if it is given to them. What have you to say as to that?

Mr. CHILLINGWORTH. Well, all I can base any opinion on is the number who made application for homestead lands at the last drawing.

Mr. STRONG. How many made application?

Mr. CHILLINGWORTH. I have forgotten the exact figures; the attorney general might have them.

Mr. IRWIN. I have not the figures.

Mr. CHILLINGWORTH. But I know there were over a hundred.

Mr. H. W. RICE. I would like to say as to the Waimea homesteads that there was only one Portuguese, and the others were all Hawaiians.

Mr. CHILLINGWORTH. And that was further away than Molokai.

Mr. STRONG. And your information is that the Hawaiians are anxious to get these homesteads?

Mr. CHILLINGWORTH. I think so.

Mr. RANKIN. This bill applies only to people of Hawaiian descent does it not?

The CHAIRMAN. Pure-blood Hawaiians and half-blood Hawaiians.

Mr. STRONG. It seems to me, Mr. Chairman, that Senator Wise should be asked to make some statement about the bill.

The CHAIRMAN. Senator Wise will be given an opportunity to make a statement, but I suggest that we hear Mr. Rawlins first, and then hear Mr. Wise.

STATEMENT OF MR. WILLIAM T. RAWLINS, FORMER MEMBER OF THE HOUSE OF REPRESENTATIVES OF HAWAII.

Mr. STRONG. What is your position, Mr. Rawlins?

Mr. RAWLINS. I am a resident of the Territory of Hawaii, and I am in the East primarily through ill health of my wife, and secondly, on some official business that I have here in Washington and in New York. I am not a member of the commission. I was a year ago a member of the Hawaiian commission that appeared before the committee with the governor of the Territory at the time this bill was introduced.

The CHAIRMAN. You were a member of the legislature?

Mr. RAWLINS. I was a member of the house of representatives and the chairman of the public lands committee, into whose hands this bill came in the house of representatives.

The CHAIRMAN. Were you born in Hawaii?

Mr. RAWLINS. I was born in Hawaii.

There has been a great deal said here by Judge Ballou with reference to the cane lands on the islands and their location. I would like to call the committee's attention to the governor's report to the Secretary of the Interior for the year 1906. In that report are very fine maps of every island, with the cane areas shown in red; and the committee can get better information there, and they can more clearly understand what Judge Ballou and others were saying about the cane lands, than from any other source.

The CHAIRMAN. That is the report for 1906?

Mr. RAWLINS. That is in the report for 1906, from the governor of Hawaii to the Secretary of the Interior; those maps are all there; and that report is doubtless on file in your office.

There are one or two things that I want to correct in the statement of Mr. McClellan about this rehabilitation. As I said before, I was born in Hawaii, and I have lived there all my life, and have been a member on several occasions of the legislature; and I have been a close student of the history and the development of Hawaii and particularly of the history of Hawaiian land matters. I first started studying land matters some years ago, when I was assistant United States district attorney in Hawaii and it became necessary for the Federal Government to acquire lands for lighthouse sites, fortifications, and public buildings; and I paid very close attention to it; in fact, I made a very close study of it.

Now, on this question of rehabilitation, Mr. McClellan said, and he quotes Blackman to the effect that never in the history of the world has a successful attempt been made to rehabilitate a people.

Mr. KALANIANA'OLE. Right there, is it not true that the Maoris were rehabilitated?

Mr. RAWLINS. I was just going to say that in New Zealand, which, as we all know, is a British dominion, the Maoris are the same race as the Hawaiians; they are Polynesians; and the theory is that the Maoris migrated from Samoa, or the Marquesas Islands or Tahiti; and the Hawaiians migrated from the Marquesas Islands or Samoa to Hawaii. The language is almost the same, and they came to the Pacific in the same migration, practically.

The Maori race was a dying race, just as the Hawaiian race is a dying race. The British government took those people out of the

cities and put them in what were called "pas" or settlements; and the statistics show that the Maoris are increasing; and they are the only Polynesian race who are increasing. The New Zealand government has assisted in securing for them implements and animals for farming, and, as I have said, they are on the increase.

Now, locally in Hawaii, it is amply demonstrated that by putting Hawaiians back on the soil, the race will live and increase.

The Mormon Church has a very strong footing in Hawaii, and on the island of Oahu, on the north end of the island, they have a large tract of land. On that tract of land they have placed a number of Hawaiians. They have tried the experiment also in the State of Utah, in a place in Skull Valley, 70 miles outside of Salt Lake City. I visited the location some years ago; there was a large settlement of Hawaiians there. They did not know anything about farming when first taken there, any more than the other Hawaiians do. They went on this land in Skull Valley in Utah and made a success of it, and increased in numbers. Some of you gentlemen probably remember last year when we were here that a dinner was given at the Shoreham Hotel, when there was a young gentleman who amused you with a hula dance; he was one of those Hawaiians that was born in Utah, and had never seen the Hawaiian Islands, his parents migrated to Utah through the efforts of the Mormon Church. In Laie, in Oahu, where they have farms they have succeeded and have increased in numbers. Get them away from the cities and get them back to the land, that is the thing that will save this race.

Mr. McCLELLAN. I want to ask whether those who did succeed at Laie, as they have, did not do so without any government subsidy whatever?

Mr. RAWLINS. They may not have had a Government subsidy, but they had the subsidy of the Mormon Church back of them; and it does not make any difference whether the money comes from the Territory of Hawaii or from private individuals; the effort has demonstrated that those people if put back on the soil can succeed and can increase in numbers.

Mr. KALANIANA'OLE. And they are among the most prosperous Hawaiians in the Territory.

Mr. RAWLINS. They are the most prosperous Hawaiians in the Territory. The Mormons have erected a temple for them in their town. And a good many of the men who went to Salt Lake City were men who had worked on the streets and on the docks, and they did not know anything about farming. One man who was employed by my father as a stable man went to Salt Lake City and took up land in Skull Valley and got a knowledge of farming; and I had the pleasure in 1917 of going from San Francisco to Honolulu with him on the boat, and he showed me a bank account that was certainly a surprise to me.

The CHAIRMAN. Well, the Mormon Church does help people to start farming, whether it is in Hawaii or in Utah.

Mr. RAWLINS. Yes; they have started by giving these Hawaiians assistance and putting them on the land; and the Mormon Church has demonstrated that this proposition of rehabilitating the Hawaiian people is feasible. So that we have the same people in New Zealand who have been rehabilitated, and we have the successful experiments by the Mormon Church.

Now, on this question of the population of Hawaii, as I said a little while ago, I think that the figures of Capt. Cook were erroneous; and nobody who knows anything about the history of the country and of his arrival there can place any credence in them. As I said before, when Capt. Cook's ships appeared there they had never seen ships before, and the supposition was that this was the return of a god to Hawaii; and naturally everybody flocked to the seashore when these three vessels arrived, just as I said before, like boys would flock together to see a circus. After that the novelty of the thing had worn off; so that when Vancouver came the people in the interior, away from the seashore, did not take as much interest in it; and his calculation may have been pretty nearly accurate.

Now, after Vancouver's voyage and the conquest of all the islands by King Kamehameha I, which was in 1795, according to history, it is calculated that at least 16,000 men lost their lives in this series of wars that started after the death of the king Kalaniopuu, who was reigning on the Island of Hawaii, and ended in the conquest of Oahu in 1795. In 1805 there was an epidemic of disease which swept the islands known as the "mai okuu," and it is recorded that the king was starting to the island of Oahu with an army, and his army was so depleted by the ravages of the disease that he gave up the idea.

Now, white men came there in large numbers before the missionaries arrived. I even have a book in my library which was published in 1812, which describes a theatrical performance in Honolulu in 1810, 10 years before the missionaries arrived there. The white man was coming in then an bringing his diseases, and the Hawaiians were passing them on; and in 1853 smallpox came and killed them by thousands; and in 1881 we had the smallpox again.

And this rehabilitation is not a new scheme. Some months ago, in going through the records of the privy council, I discovered that King Kamehameha III had tried to stay the decrease of the Hawaiian race; also King Kalakaua; all of them had a theory about it.

Now, as to these lands that are sought to be rehabilitated, I would like to make a brief statement as to how they got into Government control.

As stated by Mr. McClellan, in the early days land was held practically under the feudal system, which corresponded almost to the feudal system existing in Europe in the Middle Ages. And after the conquest of the islands by King Kamehameha I for a long period of years the Hawaiians were very jealous about giving the foreigners any rights to the lands. It is recorded that a Capt. Hinekley got a piece of land from King Kamehameha III, who gave these lands to the common people, and the validity of that claim was denied by Kaaluunauu; and the ship of Hinekley, which was in the port of Honolulu, was held in that port until the captain decided that land back. They were jealous of giving the lands to foreigners.

As I say, the thing went on under the feudal system until 1830, when there was a recognition that the man who tilled the soil had some claim to the land, and the bill of rights was passed, which recognized that he had some rights. In 1840 the first constitution came along, and those rights were again recognized. In 1845 the Government of Hawaii was organized. A man by the name of John Richards, a young lawyer from New York, drafted the acts which created the different departments of the government. And in

one of these organic acts which he drafted, and which was adopted by the legislature, there was a provision for a land commission or board to adjudicate the titles in the lands, the interests in the lands.

That board went into existence, and before they ever started their labors, early in 1846, they announced the principles upon which they were to make these awards. In those principles was the statement that you heard the attorney general of Hawaii read. They have the force of law.

And then the division was made between the king, the chiefs, and the people; and then the common people, and everybody who claimed any interest in the land, filed before the commission their claims for the land, and they were adjudicated.

Now, as quoted by Mr. McClellan from the "Life of Titus Coan," the Hawaiians did not realize what their opportunities were; and also from other records which are available in Hawaii it is very evident that a man who made an application before this commission was at the mercy of the surveyors, because he had to make application, and with that application there was a description of the property he had, and in numerous instances they were not given what they were entitled to.

Now, there was reserved to the king what was known as the crown lands, the theory being that the income from those lands was to support the king in his private purse. That went along in that way, and the kings could dispose of those lands until in 1864, when the legislature (which was all Hawaiian at that time, with a Hawaiian king) passed a bill declaring that the crown lands of the kingdom of Hawaii were inalienable; that their monarch could not sell those lands.

And later on, the commissioner of crown lands was appointed, and these lands were leased.

Now, when the overthrow of the monarchy came in 1893, these lands were taken over by the provisional government; they claimed that they were entitled to them. And when the Republic of Hawaii was established they had a constitutional provision inserted that "all lands heretofore known as crown lands of the kingdom of Hawaii are hereby declared to be public lands of the Republic of Hawaii, free and clear of all trusts, etc."

Upon annexation, that same language was used in the joint resolution of annexation and also in section 99 of the organic act; and those crown lands then became public lands of the Territory. Now, those public lands which were originally crown lands have been the lands which have been homesteaded, and which have been leased, and upon which the leases have now expired. The land that was allotted to the government in the first instance was put up and sold, and it did not take very many years before it was entirely disposed of.

On this proposition of leasing these lands, the lands in Waimanalo, and the land in Kakaha, which was originally public lands; and this bill provides that these cane lands, instead of being disposed of—and they can be disposed of now if this bill is amended or does not pass—any 25 citizens of the Territory can sign an application to have all of those lands homesteaded, and it is mandatory under the act that they shall be homesteaded. It is the same as to the lands that Mr. McClellan spoke about on this Parker ranch.

I can not see where the objection of the Parker ranch can come in on this proposition, because if the Parker ranch wants to hold these lands for ranch purposes, it seems to me that the safest way for them to hold the lands is not to oppose this bill, because this bill provides that for five years there is to be an experiment on the Island of Molokai, and if that is successful, then, subject to the approval of the Secretary of the Interior, they can take the other lands. It goes along for years: it may be for 10, 15, or 20 years that the Parker ranch will not be disturbed in the leasing of this property, except in this way: They may have to pay the full rental value instead of a mere pittance, as they are paying now; whereas, if this bill does not pass, this may be the result: That I could go there with 25 people and sign a petition to the government and immediately the lands that the Parker ranch are fighting for now and opposing the passing of this bill for, could be taken and divided up.

The CHAIRMAN. Yes; but you and the 24 other people could not be sure of getting allotments of the land.

Mr. RAWLINS. No, sir; I was coming to that. Then the lands would be taken away from the Parker ranch, and not one Hawaiian might get a piece of land. And I can not see the reason why the clients of Mr. McClellan should oppose this bill.

The CHAIRMAN. What is the income of the Parker ranch?

Mr. RAWLINS. I could not say as to that; it is an enormous income.

The CHAIRMAN. Do you know, Mr. McClellan?

Mr. McCLELLAN. I have not the information; it is a large sum.

Mr. WISE. After paying everything, the net income was \$275,000 before prices were so high.

Mr. H. W. RICE. The gross income must have been \$750,000.

Mr. KALANIANA'OLE. What year?

Mr. H. W. RICE. Last year.

Mr. RAWLINS. If this rehabilitation proposition does not go through, that matter can result in just what I have said. So that it seems to me that their opposition to the bill is ill-advised.

The CHAIRMAN. Well, if this bill goes through, they will lose nearly 30,000 acres on which the leases have expired?

Mr. RAWLINS. Yes, sir.

The CHAIRMAN. But there is about 60,000 acres more on which the leases will not expire for seven years?

Mr. RAWLINS. Yes, sir; but after seven years they could be put through the same process.

The CHAIRMAN. Those leases contain a withdrawal clause, do they not?

Mr. RAWLINS. Yes, sir.

The CHAIRMAN. So that they could be withdrawn at any time; it could be withdrawn inside of five years, but might not be withdrawn within seven years?

Mr. RAWLINS. Yes, sir.

Now as to the taxpayers and one group being taxed for the benefit of another group, I can not see the justice of that claim. Now, take the Kikalia lands; there are 4,300 acres of cultivated cane land there, part of which 3,000 acres is on the seashore; and then at an elevation of 600 feet there is another area of 1,600 acres. Those lands are bringing a small revenue to the Government to-day. If that was put

up at public auction, it would bring in at least \$250,000 revenue to the Territory, 30 per cent of which would go to this Hawaiian home fund, and 70 per cent to the general funds of the Territory. And the result would be that the Territory would get a large sum of money that it is not getting now, and could not get if this land was homesteaded; so that it seems to me that the fund of \$1,000,000 does not come out of the taxpayers' pockets; this fund comes from the income from water rights and the rental of other government lands.

Mr. STRONG. And these lands belonged originally to the Hawaiian people?

Mr. RAWLINS. They were originally Hawaiian lands, and were originally crown lands, and by the force of circumstances were declared to be public lands of the Territory.

Mr. STRONG. And this Government never paid a cent for them?

Mr. RAWLINS. Not a cent. We knocked at the door and were admitted as part of the Union.

The CHAIRMAN. Is there anything further you desire to say?

Mr. RAWLINS. No; unless there are some questions you gentlemen desire to ask.

The CHAIRMAN. Then we will hear Senator Wise.

STATEMENT OF HON. JOHN H. WISE, MEMBER OF THE SENATE OF THE TERRITORY OF HAWAII.

Mr. STRONG. Senator Wise, a statement was made by the representative of the Parker estate regarding the failure of the Hawaiians to avail themselves of the opportunity of homesteading lands, and that when a homestead settlement was made under your management it was a failure, and I think you ought to make a statement about it.

Mr. WISE. I will be glad to do so.

I was called on to manage this proposition after the articles of agreement had been made by Mrs. Allen, who was a Hawaiian woman, with 10 people. Among the 10 there were 4 part Hawaiians and 2 full-blooded Hawaiians; the rest of them were Caucasians. I had to control over their way of spending the money; all the orders I got from Mrs. Allen were to see that her money was spent on the land.

In the first place, they went and spent \$15,000 out of the \$25,000 for machinery. We succeeded in fencing 100 acres and plowed 60 acres and put up six houses. They were not contented with houses costing \$350 to \$400, as I advised; they wanted \$1,000 houses, and some of them \$1,800 houses. So that inside of six months the \$25,000 was spent.

However, 5 of the original 10 are still on the land—2 part Hawaiians, 2 Hawaiians, and 1 Caucasian. Consequently, quite a fair percentage of the Hawaiian people succeeded and they are still there to-day.

Mr. STRONG. The percentage of those who did succeed was in favor of the Hawaiian race?

Mr. WISE. Yes. Now, furthermore, in 1904, the then governor of Hawaii thought that the government lands should be homesteaded by Americans; that the Hawaiians were not fitted for it because they were not agriculturists; and that the people of the Hawaiian Islands could not succeed.

They imported 12 or 15 men from Nevada, Oregon, Washington, and California. They came down there, occupied 200 acres apiece, near the Federal reservation at Leilehua. They did not succeed; every one of those men came back to the United States after they had sold those lands. The Hawaiians were not allowed to make the experiment; not one Hawaiian application was accepted.

Again, in 1913 or 1914, another tract of land was opened, on the island of Maui, for a settlement association. No Hawaiian was allowed to come in; only white people were allowed to go there; and to-day only one of them is left; the rest of them disposed of their holdings.

So that it is not only Hawaiians that have failed in homesteading; the best farmers of the United States have failed also.

And when we ask that we be given a trial on some lands not being cultivated to-day—not to go into sugar-cane growing, which we know requires large capital to start with, but into something where we might start a little ranch, probably a little pineapple patch—are we going to be denied because of the failure of some of us? Where would this great United States have been if all the failures that were on record had kept others from going in and taking their chances? Can not we figure that it was the failures that others had that made this great country of the United States? Can not we figure the same way for the Hawaiians?

It has been stated that the Hawaiians are not agriculturists. I want to ask you gentlemen to consider this question: Before Capt. Cook came to the islands, suppose there were 150,000 or 200,000 people there, who raised their food, who furnished their meat? Not a pound was imported from the United States to any part of the islands. To-day, with 250,000 people in the Hawaiian Islands, they spend over \$50,000,000 on the mainland for food, clothing, and other purposes. There must have been farmers, and there must have been ranchmen, in order for them to live in those days. And if we fail to become good farmers in these days, it is possibly because of the education that we have got (laughter); and because of the lack of opportunity that our people have. They say we are unfitted for agriculture. Why not give us a chance? Mr. McClellan says we are a failure. Give the Hawaiian a chance to show that he is not a failure.

Mr. DESHA. Would you mind telling the committee about the Hawaiians at Waimanu?

Mr. WISE. Yes, I will do so. That piece of land is included in the bill—about 200 acres. It is a little valley on the north side of Wapio; those of you who went down there with the congressional party will remember it. It is government land. It was originally leased to a Chinaman, who made his sublease so high that he drove the people away from that locality. A few years ago, a Hawaiian succeeded in getting the lease of that piece of land. Two families of your people started in that valley some 20 years ago. To-day over 32 people of Hawaiian full blood are there; they have rehabilitated themselves, starting from those two families.

Mr. McCLELLAN. Did they require any government subsidy to do that?

Mr. WISE. They did not get any government subsidy. And you will find hundreds of us Hawaiians who will take the opportunity to

go to Molokai, or any other place, without asking for one cent from any body. But we are asking for \$3,000 apiece for those Hawaiians who are not able to go there with their own money; there will be hundreds of us who will be able to go there with their own funds. I am one of them.

Mr. DESHA. And I am one of them.

Mr. WISE. The question came up during Mr. McClellan's discussion, "Why rehabilitate the part Hawaiians? Why not restrict this bill to the pure-blood Hawaiians?"

I do not know whether you gentlemen have studied the way of rehabilitating the people, but I have; and there is a professor in Michigan who has been in communication with the secretary of our Hawaiian Society, who believes that the only way to rehabilitate a people is to intermarry the part blood with the full blood. Why? Statistics show that the part Hawaiians have increased, and the full-blood Hawaiians have decreased. So the best method is to mingle the part Hawaiians, who have increased, with the full-blood Hawaiians, who have decreased. [Laughter.] And that is not anything to be laughed at, either.

The CHAIRMAN. Are you a man of family?

Mr. WISE. I have 10 children.

Mr. STRONG. Then you have done your share of rehabilitating. [Laughter.]

Mr. WISE. And I am part Hawaiian; and I believe that the only salvation of our people is to intermarry the part Hawaiians with the full-blood Hawaiians. I speak of this seriously, because unless we do, that noble race of people will surely die out in a very few years.

Why, the people of the United States have interested yourselves with the rehabilitation of certain races and people in Europe; why can you not extend us the same help? I can not see why. And if the Hawaiians have a moral right, a legal right, an equitable right, to these lands, I can not see, gentlemen, why the part Hawaiians, the three-quarters blood, the one-quarter blood, or the two-sixteenths blood, should be cut out and only the people of the full blood or the half blood get the benefit of it; I can not see why. But I am not going to oppose this bill that was——

Mr. RANKIN (interposing). You are in favor, then, of including in this bill every one who has Hawaiian blood in his veins; is that correct?

Mr. WISE. If you agree that the Hawaiians have an equitable right to these lands, I can not see how you can get away from that.

Mr. RANKIN. I rather think you are right, myself. I have not heard that phase of it discussed.

Mr. WISE. But if you feel, in line with the argument advanced by the counsel of that great estate, that it is unconstitutional—and yet he argues for a part Hawaiian—I can not see how he reconciles his argument. If it is unconstitutional as to the one thirty-second Hawaiian, I think it will be unconstitutional as to the full-blooded Hawaiian.

The CHAIRMAN. I do not think it will be necessary to argue the question of constitutionality; we have some pretty good lawyers on this committee.

Mr. WISE. I know you have.

The CHAIRMAN. And we have had some pretty good advice from the attorney general of Hawaii; he filed his opinion at the hearings last session. The Department of the Interior also filed an opinion which is in the hearing, and, so far as I am concerned, I think it is constitutional. I have looked into the matter, and I made some statements during the hearing last year and some other members of the committee also discussed its constitutionality, and I do not think the question of the constitutionality of the bill needs to be argued before this committee, because I have not heard a member of the committee express a doubt as to the constitutionality of the bill.

Mr. WISE. Mr. McClellan has.

Mr. McCLELLAN. I assumed that the committee's mind was made up on that point.

The CHAIRMAN. The committee never makes up its mind on a legal proposition until after a careful investigation of the facts and the law.

Mr. McCLELLAN. I understand that.

Mr. RANKIN. Mr. Chairman, a similar law was passed as to the Indians.

The CHAIRMAN. Yes. And we enact laws for reclamation and irrigation projects; we give preference to certain people to go on those projects. We open up certain tracts of land and people go in and draw lots for those lands. It has been the established policy of the Government to settle land in that manner; also by homestead and by preemption.

And if there is any class legislation in it, why it is an established policy of the Government that has been enacted into legislation time after time, and has been held to be constitutional by the courts time after time.

I was out a few years ago upon a reservation of the Blackfeet Indians. I was out on the Crow Indian Reservation. When I was a boy those Indians were bloodthirsty. They were not farmers; they were hunters, fishers, and warriors. They have some of the best farms in the west at the present time. They do not care much about raising grain and fruit on the land. They raise enough feed at home for their cattle, horses, sheep, and hogs; and they do cultivate the land and raise crops, truck and fruit, for home consumption. And those races were dying out; now they are being rehabilitated.

In the hotel where I live at the present time, there is an Indian woman whose grandfather was on the warpath, and who with her husband is now worth probably several hundred thousand dollars. Last year there were some Indians there from Oklahoma whose income from oil wells was from \$100,000 to \$200,000 a year. And their grandfathers were a dying race.

The United States Government has supported those people and helped them along; now they are in such a position that they can take care of themselves. And we can do that for the Indians. Why? Because we came to this country and took their land away from them, and treaty after treaty has been violated. And if we can afford to do that for the Indians—and we have done it and it is constitutional—why can we not do that same thing for the Hawaiians whose land has been taken away from them—particularly when we are not interfering with any vested right? The land in the Territory

that is in fee-simple ownership we are not touching at all; the only land we are touching in this bill is public land, which is leased to private individuals and corporations; and the bill affects those lands only when the lease has expired. The leases have expired on 30,000 acres of the Parker ranch, and the leases have expired in other places; and there are leases on 60,000 or 70,000 acres of the Parker ranch that have not expired. But we are not going to interfere with vested right, or interfere with the Parker ranch leases until the expiration under the terms of the lease. The Parker ranch people knew what they were doing when they signed the lease and took the lands; that withdrawal clause was in the lease.

Mr. RANKIN. Well, where they have made permanent improvements on these lands, I think that should be considered. For my part, I am in favor of taking all the public lands.

The CHAIRMAN. If there were any permanent improvements on the lands, I believe in paying for them; but there are no permanent improvements on the lands that we are going to take. The lands that we are going to take, the leases have expired on; and there is no intention of touching the Parker ranch excepting when the leases have expired; and those lands will probably then be leased to the Parker people at a reasonable rental, if not needed for the purpose of the bill.

Mr. STRONG. This land that belongs to the Government came from the Hawaiians without any payment to them.

Mr. RANKIN. Where there was a lease accepted by the lessee with that withdrawal clause in it, and he has made no permanent improvements, for my part, I do not think the Government would be doing anything wrong in revoking it at the end of any year, if it needed it for the rehabilitation of these people, or for any other lawful purpose. I do not think there is anything morally wrong, legally wrong, or ethically wrong in that.

Mr. WISE. There are a good many thousands of acres of land leased to that ranch outside of the lands that would be taken under the bill.

Mr. McCLELLAN. I want to make a statement in regard to the contention that anyone of part Hawaiian blood should be allowed to participate.

I just want to call attention to the fact that it is admitted on all sides that there will not be enough of these funds to extend aid to all the Hawaiians of the pure blood. In other words, every part Hawaiian you send upon the land—that is, you send them there in the sense that you start this peculiar arrangement for the Hawaiians—you send there at the expense of the full-blood Hawaiians. Now, I maintain that if you are going to make this experiment in the interest of the Hawaiian race, it should be limited to the pure Hawaiians, because there is not enough to go around for even them, and that the pure Hawaiians should be given precedence over the part Hawaiians, who have shown that they are sufficiently virile to maintain themselves.

Mr. MOORE. Well, they are not all going to want to take up homesteads at once.

Mr. McCLELLAN. But the point is, in this arrangement under the bill as now submitted, here is what happens: Here is a Hawaiian intermarried with a Chinese, so that a man of half Chinese blood and

half Hawaiian blood is given special privileges which are denied to a full-blooded American. We do not object to that, as far as the Hawaiian part of it is concerned, but in doing that we are extending special privileges to people of Chinese blood, which does not seem to me desirable.

The CHAIRMAN. If there is any question in the mind of any member of the committee as to the constitutionality of the act, I will have a further statement put in the hearings.

Mr. DRIVER. No; I think the question of constitutionality is purely a question for Congress.

**STATEMENT OF HON. J. KUHIO KALANIANAOLE, A DELEGATE
IN CONGRESS FROM THE TERRITORY OF HAWAII.**

The CHAIRMAN. Will you say a few words for the record, Mr. Kalanianaole? I want it put in the record so that the record will show that this bill is the bill that you sent to the people of Hawaii.

Mr. KALANIANAOLE. About the last week in March I received a cablegram from the governor to the effect that the legislature wanted me to return home and give the reason or reasons why this bill had failed of passage in Congress. Before that I had appeared before the Senate committee urging the reporting out of this bill. And there was no vote taken, but the expression of each individual Senator was asked as to whether they would report this bill out or not. And three or four Senators refused to vote on it, because they did not know anything about the bill. But the majority at that time were in favor of reporting this bill. And in deference to the wishes of the Senators who did not want to vote, the chairman, of course, refused to put the vote.

And I asked, owing to the fact that the bill was of such importance to the Territory of Hawaii and the people that it was due them, that the Senators, either there or by letter to me, give their reasons why they would not vote on this bill.

Those who were opposed to this bill promised to give their objections to me in writing, or give them to the chairman in writing so that he could give them to me. And the chairman called on these Senators three or four different times, and they said they would do so; but they never did up until the time I left. And the chairman told me, "I tried my best to get their views, and they will not do it," and he said: "Here are my views," and he gave me his views in writing, and that was all I had to go to the people of Hawaii with. He was opposed to this bill on the question of its constitutionality; he did not think the benefits of this bill should go to other than the full-blood Hawaiians.

I reported to the legislature, and the legislature in their deliberations inserted a clause that it was nothing but just that part Hawaiians should be included.

And so I came back with that bill, which is not my bill; and these men of the legislature are now presenting that bill to you. And as their Delegate in Congress, I am in favor of it, because I am only here to do the wishes of the people, and the wishes of the people are represented by these men that the legislature of the Territory has sent here.

Mr. Brooks. And you favor the bill?

Mr. KALANIANA'OLE. I favor the bill as it is, although there may be a few amendments I would like to make. When the committee is ready to go over the bill, I would like to suggest some amendments. One of those amendments is about unirrigated lands.

Mr. BROOKS. Will you explain that?

Mr. KALANIANA'OLE. Mr. Wise just told me of that to-day, and I think that amendment ought to be considered. It was put in by a member of the House.

Mr. WISE. The amendment to the provision in the original bill that all highly developed lands were to be left without the withdrawal clause, at the discretion of the governor and two-thirds of the land board; they made that amendment, changing it to irrigated lands, because some of this cane land is unirrigated, and when you strike that out it reduces the number of acres that are to be leased to plantations, and also reduces the rental and the receipts. That amendment we did not have the chance to strike out, because of lack of time; so we had to concur in the amendment made by the House to that effect.

Mr. H. W. RICE. I wish to concur in that, and with the view of the Delegate that that should be stricken out, and all the highly cultivated land should be on the same basis.

Mr. WISE. It will reduce the area to be leased.

The CHAIRMAN. Do the members wish to hear any further evidence in reference to this bill? Is there anyone who wishes to appear who has not appeared? If not, there is another bill, a proposed amendment to the organic act, that we can consider in connection with this bill, and if approved include it as an amendment to the rehabilitation bill.

Mr. KALANIANA'OLE. I want to call your attention to H. R. 6210, which is a bill giving the right to the board of harbor commissioners of the Territory to levy certain tolls. This is an amendment of the organic act, and I thought it might be well to consider this bill when we are discussing the rehabilitation bill. This bill passed the House in the last Congress.

Mr. IRWIN. It was our thought that we could, perhaps, incorporate this bill as a part of the rehabilitation bill, and in that way it might stand a better chance of being enacted into law. It is essential that it be passed as soon as possible, because we do not get enough revenue from the public docks to maintain them.

Senator H. W. RICE. This bill (H. R. 6210) is one of the most important bills that has ever been presented to Congress in the interest of the Territory of Hawaii as a whole. It is a short bill, and I personally introduced the resolution in the Hawaiian Senate asking Congress to change the organic act to allow us to levy a toll upon the use of our wharves, so that our wharves would be thoroughly self-sustaining, and to enable us to have revenue enough to go ahead with the large improvements necessary, both harbor and wharf improvements.

We are situated quite differently from a good many places. We have enormous wharf and harbor investments in the Territory. As it is now, all the revenue, you might say, is from wharfage charged to the ships, and that amounted last year to only about \$80,000, which does not go very far.

Mr. JOHNSON. And what you want now——

Senator H. W. RICE (interposing). Is to allow us to levy a tonnage toll, so that we will have the same arrangement that is in force in San Francisco now. By that arrangement the man who uses the wharf will pay a certain amount of tonnage toll, which will be used for improvements, upkeep, and running expenses of the wharf, and a certain amount will also be used for interest and a sinking fund.

Mr. JOHNSON. That is, you want to levy a toll on all tonnage coming in and going out?

Senator H. W. RICE. Yes.

Mr. JOHNSON. Do you make demurrage charges now?

Senator H. W. RICE. We do make certain demurrage charges now. We feel that this bill is a very essential measure.

Mr. JOHNSON. Does the amendment provide for a tonnage toll to be regulated by the Board of Harbor Commissioners?

Senator H. W. RICE. By the Board of Harbor Commissioners.

Mr. ALMON. What is the law on the subject now, and what change is made by the proposed amendment?

Senator H. W. RICE. In our organic act it is written into law that we are not allowed to charge any tonnage tolls over our wharves. One little word was changed in the original draft somewhere between the Territorial legislature and Congress, in the harbor commissioners act, changing the word "included" to "excepted," and the change of that one little word between the time the act passed the Territorial legislature and the time when it was presented to Congress threw the whole act out.

Mr. JOHNSON. It changed the intent of the act?

Senator H. W. RICE. Yes.

Mr. JOHNSON. It has resulted in giving Honolulu free wharfage except for charges to ships that tie up there?

Senator H. W. RICE. Yes, and it is helping to wreck the Territory financially, because it does not give enough income from the wharves, so the Territory has continued borrowing money for the upkeep as well as for improvements.

Mr. JOHNSON. Have you any figures as to what those charges are at other principal ports in the United States?

Senator H. W. RICE. No; I have not.

Mr. JOHNSON. Are these wharves and docks municipal wharves and docks?

Senator H. W. RICE. Thoroughly so.

Mr. JOHNSON. You have no figures at hand as to the charges made for the use of any other city-owned or State-owned docks or wharves?

Senator H. W. RICE. No, we have not. But it has been suggested that if this bill were enacted into law that the probable tonnage toll would be between 10 and 15 cents per ton.

The CHAIRMAN. That is reasonable.

Senator H. W. RICE. We want this put under the control of the Board of Harbor Commissioners. We are very anxious to get this bill through, if possible.

Mr. KALANIANA'OLE. This bill was passed by the House at the last session. It simply provides for giving the officials of the Territory the power to levy these tonnage tolls.

The CHAIRMAN. Was this bill favorably reported by the committee in the last Congress?

Mr. KALANIANA'OLE. It was; and it passed the House, but could not get through the Senate because of the congestion.

Mr. ALMON. Are you in favor of it?

Mr. KALANIANA'OLE. Yes; we should have the power to levy these tolls.

The CHAIRMAN. What does the attorney general of the Territory think about it?

Mr. IRWIN. The governor and the administration have been advocating this measure for some years and are entirely behind it.

The CHAIRMAN. What does the governor think about it?

Governor FARRINGTON. I think it will help very much, Mr. Chairman. It will clarify the situation and give us additional needed revenue.

The CHAIRMAN. If there is nothing further to come before the committee, and if there is no objection, I will declare the hearings closed; and after the hearings have been printed we will have an executive session and go over the bill section by section.

(Thereupon, at 12.30 o'clock a. m., June 11, 1921, the committee adjourned.)

(The following bill was reported in lieu of H. R. 6207 and H. R. 6210:)

(67th Cong., 1st Sess., H. R. 7257.)

A bill to amend an act entitled "An act to provide a government for the Territory of Hawaii," approved April 30, 1900, as amended, to establish a Hawaiian Homes Commission, granting certain powers to the board of harbor commissioners of the Territory of Hawaii, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE 1.—DEFINITIONS.

SECTION 1. That this act may be cited as the "Hawaiian Homes Commission act, 1920."

SEC. 2. That when used in this act the term "Hawaiian organic act" means the act entitled "An act to provide a government for the Territory of Hawaii," approved April 30, 1900, as amended.

TITLE 2.—HAWAIIAN HOMES COMMISSION.

SEC. 201. (a) That when used in this title—

- (1) The term "commission" means the Hawaiian Homes Commission;
- (2) The term "public land" has the same meaning as defined in paragraph (3) of subdivision (a) of section 73 of the Hawaiian Organic Act;
- (3) The term "fund" means the Hawaiian home loan fund;
- (4) The term "Territory" means the Territory of Hawaii;
- (5) The term "Hawaiian home lands" means all lands given the status of Hawaiian home lands under the provisions of section 204 of this title;
- (6) The term "tract" means any tract of Hawaiian home lands leased, as authorized by section 207 of this title, or any portion of such tract; and
- (7) The term "native Hawaiian" means any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778.

(b) Any term defined or described in section 347 or 351 of the Revised Laws of Hawaii of 1915, except a term defined in subdivision (a) of this section, shall, whenever used in this title, have the same meaning as given by such definition or description.

SEC. 202. (a) There is hereby established a commission to be known as the "Hawaiian Homes Commission" and to be composed of five members, as follows:

- (1) The governor of the Territory, and
 - (2) Four citizens of the Territory to be appointed by the governor, by and with the advice and consent of the senate of the legislature of the Territory. At least three of the appointed members of the commission shall be native Hawaiians.
- (b) Any vacancy in the office of an appointed member shall be filled in the same manner and under the same limitations as the original appointment.

(c) The governor of the Territory shall be the chairman of the commission. The commission shall designate one of its members to serve as the executive officer and secretary of the commission. The executive officer and secretary shall receive such annual salary, not to exceed \$6,000, as the commission may determine. The members of the commission, except the executive officer and secretary, shall receive an annual salary of \$500. Of the original appointed members of the commission, one shall be appointed for a term of one year, one for two years, one for three years, and one for four years. Their successors shall hold office for terms of four years, except that any member appointed to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. A member may after due notice and public hearing be removed by the governor for neglect of duty or malfeasance in office, but for no other cause.

SEC. 203. All public lands of the description and acreage, as follows, excluding (a) all lands within any forest reservation, (b) all cultivated sugar-cane lands, and (c) all public lands held under a certificate of occupation, homestead lease, right of purchase lease, or special homestead agreement, are hereby designated, and hereinafter referred to, as "available lands":

(1) On the island of Hawaii: Kamaea-Puueo (11,000 acres, more or less), in the district of Kau; Puukapu (12,000 acres, more or less), Kawaihae I (10,000 acres, more or less), and Pauahi (750 acres, more or less), in the district of South Kohala; Kamoku-Kapulona (5,000 acres, more or less), Waimanu (200 acres, more or less), and Nienlo (7,350 acres, more or less), in the district of Hamakua; 63,000 acres to be selected by the commission from the lands of Humuula Mauka, in the district of North Hilo; Panaewa, Waiakea (2,000 acres, more or less), Waiakea-kai, or Keaaukaha (2,000 acres, more or less), and 2,000 acres of agricultural lands to be selected by the commission from the lands of Pihonua, in the district of South Hilo; and 2,000 acres to be selected by the commission from the lands of Kaohu-Makuu, in the District of Puna;

(2) On the island of Maui: Kahikimui (25,000 acres, more or less), in the district of Kahikimui, and the public lands (6,000 acres, more or less), in the district of Kula;

(3) On the island of Molokai: Palauu (11,400 acres, more or less), Kapaakea (2,000 acres, more or less), Kalamaula (6,000 acres, more or less), Hoolehua (3,500 acres, more or less), Kamiholo I and II (3,600 acres, more or less), and Makakupaia (2,200 acres, more or less), and Kalaupapa (5,000 acres, more or less);

(4) On the island of Oahu: Nanakuli (3,000 acres, more or less), and Lualualei (2,000 acres, more or less), in the district of Waianae; and Waimanalo (4,000 acres, more or less), in the district of Koolau-poko, excepting therefrom the military reservation and the beach lands; and

(5) On the island of Kauai: Upper land of Waimoa, above the cultivated sugar-cane lands, in the district of Waimoa (15,000 acres, more or less); and Moloaa (2,500 acres, more or less), and Anahola and Kamalomalo (5,000 acres, more or less).

SEC. 204. Upon the passage of this act all available lands shall immediately assume the status of Hawaiian home lands and be under the control of the commission to be used and disposed of in accordance with the provisions of this title, except that—

(1) For a period of five years after the first meeting of the Hawaiian Homes Commission only those lands situate on the island of Molokai, which are particularly named in paragraphs 1 and 3 of section 203 hereof; Waimanu, in the district of Hamakua; Keaaukaha, in the district of South Hilo; and Panaewa, Waiakea, in the district of South Hilo, island of Hawaii, shall be available for use and disposition by said commission under the provisions of this title and none of the remaining available lands named in said section 203 shall, after the expiration of the said five-year period, be leased, used, or otherwise disposed of by the commission under the provisions of this title, except by further authorization of Congress and with the written approval of the Secretary of the Interior of the United States.

(2) In case any available land is under lease at the time of the passage of this act such land shall not assume the status of Hawaiian home lands until the lease expires or the commissioner of public lands withdraws the lands from the operation of the lease. If the land is covered by a lease containing a withdrawal clause as provided in subdivision (d) of section 73 of the Hawaiian organic act, the commissioner of public lands shall withdraw such lands from the operation of the lease whenever the commission with the approval of the Secretary of the Interior gives notice to him that the commission is of the opinion that the lands are required by it for leasing as authorized by the provisions of section 207, or for a community pasture as provided in section 211 of this title. Such withdrawal shall be held to be for a public purpose within the meaning of that term as used in subdivision (d) of section 73 of the Hawaiian organic act.

(3) In case any land is to be selected by the commission out of a larger area of available lands, such land shall not assume the status of Hawaiian home lands until

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the commission, with the approval of the Secretary of the Interior makes the selection and gives notice thereof to the commission of public lands. The commission shall give such notice within three years after the expiration of the five-year period referred to in paragraph 1 of this section. Any such notice given thereafter shall be deemed invalid and of no effect.

SEC. 205. Available lands shall be sold or leased only (1) in the manner and for the purposes set out in this title, or (2) as may be necessary to complete any valid agreement of sale or lease in effect at the time of the passage of this act; except that such limitations shall not apply to the unselected portions of lands from which the commission has made a selection and given notice thereof, or failed so to select and give notice within the time limit, as provided in paragraph (3) of section 204 of this title.

SEC. 206. The powers and duties of the governor, the commissioner of public lands, and the board of public lands, in respect to lands of the Territory, shall not extend to lands having the status of Hawaiian home lands, except as specifically provided in this title.

SEC. 207. (a) The commission is authorized to lease to native Hawaiians the right to the use and occupancy of a tract of Hawaiian home lands within the following acreage limits:

- (1) Not less than 20 nor more than 80 acres of agricultural lands; or
- (2) Not less than 100 nor more than 500 acres of first-class pastoral lands; or
- (3) Not less than 250 nor more than 1,000 acres of second-class pastoral lands.

(b) The title to lands so leased shall remain in the United States. Applications for tracts shall be made to and granted by the commission, under such regulations not in conflict with any provision of this title, as the commission may prescribe. The commission shall, whenever tracts are available, enter into such a lease with any applicant who, in the opinion of the commission, is qualified to perform the conditions of such lease.

SEC. 208. Each lease made under the authority granted the commission by the provisions of section 207 of this title and the tract in respect to which the lease is made shall be deemed subject to the following conditions, whether or not stipulated in the lease:

- (1) The lessee shall be a native Hawaiian;
- (2) The lessee shall pay a rental of \$1 a year for the tract and the lease shall be for a term of 99 years;
- (3) The lessee shall occupy and commence to use or cultivate the tract as his home or farm within one year after the lease is made;
- (4) The lessee shall thereafter, for at least such part of each year as the commission shall by regulation prescribe, so occupy and use or cultivate the tract on his own behalf;
- (5) The lessee shall not in any manner transfer to, or mortgage, pledge, or otherwise hold for the benefit of, any other person, except a native Hawaiian, and then only upon the approval of the commission, or agree so to transfer, mortgage, pledge, or otherwise hold his interest in the tract. Such interest shall not, except in pursuance of such a transfer, mortgage, or pledge to or holding for or agreement with a native Hawaiian, be subject to attachment, levy, or sale upon court process. The lessee shall not sublet his interest in the tract or improvements thereon. Upon the death of the lessee his interest in the tract and improvements thereon shall vest under the limitations provided for homesteads in section 403 of the Revised Laws of Hawaii of 1915;
- (6) The lessee shall pay all taxes assessed upon the tract and improvements thereon within 60 days after they become delinquent. If the lessee fails so to pay, the commission shall thereupon pay the taxes and have a lien therefor as provided in section 216 of this title;
- (7) The lessee shall perform such other conditions, not in conflict with any provisions of this title, as the commission may stipulate in the lease: *Provided, however,* That the lessee shall be exempt from all taxes for the first five years from date of lease.

SEC. 209. All successors, whether by agreement or process of law, to the interest of the lessee in any tract, shall be deemed to receive such interest subject to the conditions which would rest upon the lessee, if he then were the party holding the interest in the tract: *Provided,* That a successor receiving such interest by inheritance shall not, during the two years next following his inheritance, be deemed to have violated any of the conditions enumerated in section 208 of this title, even though he is not a native Hawaiian and does not on his own behalf occupy and use or cultivate the tract as a home or farm for such part of the year as the commission requires in accordance with the regulations prescribed by it under paragraph (4) of section 208 of this title.

SEC. 210. Whenever the commission has reason to believe that any condition enumerated in section 208, or any provision of section 209, of this title has been violated,

the commission shall give due notice and afford opportunity for a hearing to the lessee of the tract in respect to which the alleged violation relates, or to the successor of the lessee's interest therein, as the case demands. If upon such hearing the commission finds that the lessee or his successor has violated any condition in respect to the leasing of such tract the commission may declare his interest in the tract and all improvements thereon to be forfeited and the lease in respect thereto canceled, and shall thereupon order the tract to be vacated within a reasonable time. The right to the use and occupancy of the Hawaiian home lands contained in such tract shall thereupon revert in the commission, and the commission may take possession of the tract and the improvements thereon.

SEC. 211. The commission shall, when practicable, provide from the Hawaiian home lands a community pasturo adjacent to each district in which agricultural lands are leased, as authorized by the provisions of section 207 of this title.

SEC. 212. The commission may return any Hawaiian home lands not leased as authorized by the provisions of section 207 of this title to the control of the commissioner of public lands. Any Hawaiian home lands so returned shall, until the commission gives notice as hereinafter in this section provided, resume and maintain the status of public lands in accordance with the provisions of the Hawaiian organic act and the revised laws of Hawaii of 1915, except that such lands may be disposed of under a general lease only. Each such lease, whether or not stipulated therein, shall be deemed subject to the right and duty of the commission of public lands to terminate the lease and return the lands to the commission whenever the commission, with the approval of the Secretary of the Interior, gives notice to him that the commission is of the opinion that the lands are required by it for leasing as authorized by the provisions of section 207 of this title or for a community pasture.

SEC. 213. There is hereby established in the treasury of the Territory a revolving fund, to be known as the "Hawaiian home loan fund." The entire receipts derived from any leasing of public lands under the provisions of section 212 of this title and 30 per cent of the Territorial receipts derived from the leasing of cultivated sugar-cane lands under any other provision of law or from water licenses shall be covered into the fund until the total amount of the moneys paid therein equals \$1,000,000.

SEC. 214. The commission is hereby authorized to make loans from the fund to the lessee of any tract or the successor to his interest therein. Such loans may be made for the following purposes:

(1) The erection of dwellings on any tract and the undertaking of other permanent improvements thereon;

(2) The purchase of live stock and farm equipment; and

(3) Otherwise assisting in the development of tracts.

SEC. 215. Each contract of loan with the lessee or the successor to his interest in the tract shall be held subject to the following conditions, whether or not stipulated in the contract of loan:

(1) The amount of loans to any one borrower outstanding at any one time shall not exceed \$3,000.

(2) The loans shall be repaid upon an amortization plan by means of a fixed number of annual installments sufficient to cover (a) interest on the unpaid principal at the rate of 5 per cent per annum, and (b) such amount of the principal as will extinguish the debt within an agreed period not exceeding 30 years. The moneys received by the commission from any installment paid upon such loan shall be covered into the fund. The payment of any installment due shall, with the concurrence therein of at least three of the five members of the commission, be postponed in whole or in part by the commission for such reasons as it deems good and sufficient and until such later date as it deems advisable. Such postponed payments shall continue to bear interest at the rate of 5 per cent per annum on the unpaid principal and interest.

(3) In case the borrower's interest in his tract or his successor's interest therein is transferred to or mortgaged, pledged, or otherwise held for the benefit of any native Hawaiian, or agreed so to be transferred, mortgaged, pledged, or otherwise held, as permitted by paragraph (5) of section 208 of this title, the commission may at its option declare all annual installments upon the loan immediately due and payable or permit the successor to the borrower's interest in the tract to assume the contract of loan. In case of the borrower's death, the commission shall permit the successor to the borrower's interest in the tract to assume the contract of loan.

(4) No part of the moneys loaned shall be devoted to any purpose other than those for which the loan is made.

(5) The borrower or the successor to his interest in the tract shall comply with such other conditions, not in conflict with any provision of this title, as the commission may stipulate in the contract of loan.

(0) The borrower or the successor to his interest in the tract shall comply with the conditions enumerated in section 208 and with the provisions of section 209 of this title in respect to the lease of the tract.

Sec. 210. The commission may require the borrower to insure, in such amount as the commission may by regulation prescribe, all live stock and dwellings and other permanent improvements upon his tract, purchased or constructed out of any moneys loaned from the funds; or in lieu thereof the commission may directly take out such insurance and add the cost thereof to the amount of the annual installments payable under the amortization plan. Whenever the commission has reason to believe that the borrower has violated any condition enumerated in paragraphs (2), (4), (5), or (6) of section 215 of this title, the commission shall give due notice and afford opportunity for a hearing to the borrower or the successor to his interest in the tract, as the case demands. If upon such hearing the commission finds that the borrower has violated the condition, the commission may declare all annual installments immediately due and payable, notwithstanding any provision in the contract of loan to the contrary. The commission shall have a lien upon the borrower's or lessee's interest in his tract, dwellings and other permanent improvements thereon, and his live stock to the amount of all annual installments due and unpaid and of all taxes upon such tract and improvements paid by the commission. Such liens shall have priority over any other obligation for which the tract, dwellings, other improvements, or live stock may be security.

The commission may, at such time as it deems advisable, enforce any such lien by declaring the borrower's interest in his tract or his successor's interest therein, as the case may be, together with the dwellings and other permanent improvements thereon and the live stock, to be forfeited and the lease in respect to such tract canceled, and shall thereupon order the tract to be vacated and the live stock surrendered within a reasonable time. The right to the use and occupancy of the Hawaiian home lands contained in such tract shall thereupon revert in the commission, and the commission may take possession of the tract and the improvements thereon: *Provided*, That the commission shall pay to the borrower any difference in his favor between (1) the fair value of the live stock and any improvements in respect to the tract made by the borrower or any predecessor to his interest in the tract, and (2) the amount of the lien.

Sec. 217. In case the lessee or borrower or the successor to his interest in the tract, as the case may be, fails to comply with any order issued by the commission under the provisions of section 210 or 216 of this title, the commission may (1) bring action of ejectment or other appropriate proceeding, or (2) invoke the aid of the circuit court of the Territory for the judicial circuit in which the tract designated in the commission's order is situated. Such court may thereupon order the lessee or his successor to comply with the order of the commission. Any failure to obey the order of the court may be punished by it as contempt thereof. Any tract forfeited under the provisions of section 210 or 216 of this title may be again leased by the commission as authorized by the provisions of section 207 of this title, except that the value, in the opinion of the commission, of all improvements made in respect to such tract by the original lessee or any successor to his interest therein shall constitute a loan by the commission to the new lessee. Such loan shall be subject to the provisions of this section and sections 215, except paragraph (1), and 216 to the same extent as loans made by the commission from the Hawaiian loan fund.

Sec. 218. No lessee of any tract or any successor to his interest therein shall be eligible to receive in respect to such tract any loan made under the provisions of the act of the legislature of the Territory entitled "the farm loan act of Hawaii" approved April 30, 1919.

Sec. 219. The commission is authorized to employ agricultural experts at such compensation and in such number as it deems necessary. The annual expenditures for such compensation shall not exceed \$8,000. It shall be the duty of such agricultural experts to instruct and advise the lessee of any tract or the successor to the lessee's interest therein as to the best methods of diversified farming and stock raising and such other matters as will tend successfully to accomplish the purposes of this title.

Sec. 220. The commission is hereby authorized directly to undertake and carry on general water and other development projects in respect to Hawaiian home lands. The legislature of the Territory is authorized to appropriate out of the treasury of the Territory such sums as it deems necessary to provide the commission with funds sufficient to execute such projects. The legislature is further authorized to issue bonds to the extent required to yield the amount of any sum so appropriated. The commission shall pay from the Hawaiian home loan fund into the treasury of the Territory:

(1) Upon the date when any interest payment becomes due upon any bond so issued the amount of the interest then due; and

(2) Commencing with the first such date more than one year subsequent to the issuance of any bond, and at each interest date thereafter, an amount such that the aggregate of all such amounts which become payable during the term of the bond, compounded annually at the rate of interest specified therein, shall equal the par value of the bond at the expiration of its term.

Sec. 221. (a) When used in this section—

(1) The term "water license" means any license issued by the commissioner of public lands granting to any person the right to the use of Government-owned water; and

(2) The term "surplus water" means so much of any Government-owned water covered by a water license or so much of any privately owned water as is in excess of the quantity required for the use of the licensee or owner, respectively.

(b) All water licenses issued after the passage of this act shall be deemed subject to the condition, whether or not stipulated in the license, that the licensee shall, upon the demand of the commission, grant to it the right to use, free of all charge, any water which the commission deems necessary adequately to supply the live stock or the domestic needs of individuals upon any tract.

(c) In order adequately to supply live stock or the domestic needs of individuals upon any tract the commission is authorized (1) to use, free of all charge, Government-owned water not covered by any water license or covered by a water license issued after the passage of this act, or covered by a water license issued previous to the passage of this act but containing a reservation of such water for the benefit of the public, and (2) to contract with any person for the right to use or to acquire, under eminent domain proceedings similar, as near as may be, to the proceedings provided in respect to land by sections 607 to 678, inclusive, of the Revised Laws of Hawaii of 1915, the right to use any privately owned surplus water or any Government-owned surplus water covered by a water license issued previous to the passage of this act, but not containing a reservation of such water for the benefit of the public. Any such acquisition shall be held to be for a public use and purpose. The commission may institute the eminent domain proceedings in its own name.

(d) The commission is authorized, for the additional purpose of adequately irrigating any tract, to use, free of all charge, Government-owned water upon the island of Molokai and Government-owned surplus water tributary to the Waimea River upon the island of Kauai, not covered by a water license or covered by a water license issued after the passage of this act. Any water license issued after the passage of this act and covering any such Government-owned water shall be deemed subject to the condition whether or not stipulated therein, that the licensee shall, upon the demand of the commission, grant to it the right to use, free of all charge, any of the water upon the island of Molokai, and any of the surplus water tributary to the Waimea River upon the island of Kauai, which is covered by the license and which the commission deems necessary for the additional purpose of adequately irrigating any tract.

(e) All rights conferred on the commission by this section to use, contract for, or acquire the use of water, shall be deemed to include the right to use, contract for, or acquire the use of any ditch or pipe line constructed for the distribution and control of such water and necessary to such use by the commission.

Sec. 222. The commission may make such regulations and, with the approval in writing of the governor of the Territory, may make such expenditures, including salaries, and appoint and remove such employees and agents as are necessary to the efficient execution of the functions vested in the commission by this title. All expenditures of the commission shall be allowed and paid, and all moneys necessary for loans made by the commission in accordance with the provisions of this title advanced, from the Hawaiian home loan fund upon the presentation of itemized vouchers therefor approved by the chairman of the commission. The commission shall make a biennial report to the legislature of the Territory upon the first day of each regular session thereof and such special reports as the legislature may from time to time require. The executive officer and secretary shall give bond in the sum of \$25,000 for the faithful performance of his duties. The sureties upon the bond and the conditions thereof shall be approved annually by the commission.

Sec. 223. The Congress of the United States reserves the right to alter, amend, or repeal the provisions of this title.

TITLE 3.—AMENDMENTS TO HAWAIIAN ORGANIC ACT.

Sec. 301. Section 26 of the Hawaiian organic act is hereby amended to read as follows:

"Sec. 26. That the members of the legislature shall receive for their services, in addition to mileage at the rate of 20 cents a mile each way, the sum of \$1,000 for each regular session, payable in three equal installments on and after the first, thirtieth,

and fiftieth days of the session, and the sum of \$500 for each special session: *Provided*, That they shall receive no compensation for any extra session held under the provisions of section 54 of this act."

Sec. 302. Section 55 of the Hawaiian organic act is hereby amended by deleting therefrom that portion thereof which reads: "*Provided*, That no corporation, domestic or foreign, shall acquire and hold real estate in Hawaii in excess of 1,000 acres, and all real estate acquired or held by such corporation or association contrary hereto shall be forfeited and escheat to the United States, but existing vested rights in real estate shall not be impaired," and by amending so much of section 55 as reads, "and the total indebtedness of the Territory shall not at any time be extended beyond 7 per cent of such assessed value of property in the Territory," to read as follows: "and the total indebtedness of the Territory shall not at any time be extended beyond 10 per cent of such assessed value of property in the Territory."

Sec. 303. Section 66 of the Hawaiian organic act is hereby amended to read as follows:

"Sec. 66. That the executive power of the government of the Territory of Hawaii shall be vested in a governor, who shall be appointed by the President, by and with the advice and consent of the Senate of the United States, and shall hold office for four years and until his successor shall be appointed and qualified, unless sooner removed by the President. He shall be not less than 35 years of age, shall be a citizen of the Territory of Hawaii, shall have resided therein for at least three years next preceding his appointment, shall be commander in chief of the militia thereof, and may grant pardons or reprieves for offenses against the laws of the said Territory and reprieves for offenses against the laws of the United States until the decision of the President is made known thereon."

Sec. 304. The first, second, and third paragraphs of section 73 of the Hawaiian organic act are hereby amended to read as follows:

"Sec. 73. (a) That when used in this section—

"(1) The term 'commissioner' means the commissioner of public lands of the Territory of Hawaii;

"(2) The term 'land board' means the board of public lands, as provided in subdivision (1) of this section;

"(3) The term 'public lands' includes all lands in the Territory of Hawaii classed as Government or Crown lands previous to August 15, 1895, or acquired by the Government upon or subsequent to such date by purchase, exchange, escheat, or the exercise of the right of eminent domain, or in any other manner; except (1) lands designated in section 203 of the Hawaiian homes commission act, 1920, (2) lands set apart or reserved by Executive order by the President, (3) lands set aside or withdrawn by the governor under the provisions of subdivision (g) of this section, (4) sites of public buildings, lands used for roads, streets, landings, nurseries, parks, tracts reserved for forest growth or conservation of water supply, or other public purposes, and (5) lands to which the United States has relinquished the absolute fee and ownership, unless subsequently placed under the control of the commissioner and given the status of public lands in accordance with the provisions of this act, the Hawaiian homes commission act, 1920, or the Revised Laws of Hawaii of 1915; and

"(4) The term 'person' includes individual, partnership, corporation, and association.

"(b) Any term defined or described in section 347 or 351 of the Revised Laws of Hawaii of 1915, except a term defined in subdivision (a) of this section, shall, when used in this section, if not inconsistent with the context or any provision of this section, have the same meaning as given it by such definition or description.

"(c) The laws of Hawaii relating to public lands, the settlement of boundaries, and the issuance of patents on land commission awards, except as changed by this act, shall continue in force until Congress shall otherwise provide. Subject to the approval of the President, all sales, grants, leases, and other dispositions of the public domain, and agreements concerning the same, and all franchises granted by the Hawaiian government in conformity with the laws of Hawaii, between the 7th day of July, 1898, and the 28th day of September, 1899, are hereby ratified and confirmed. In said laws 'land patent' shall be substituted for 'royal patent'; 'commissioner of public lands' for 'minister of the interior,' 'agent of public lands,' and 'commissioners of public lands,' or their equivalents; and the words 'that I am a citizen of the United States,' or 'that I have declared my intention to become a citizen of the United States, as required by law,' for the words 'that I am a citizen by birth (or naturalization) of the Republic of Hawaii,' or 'that I have received letters of denization under the Republic of Hawaii,' or 'that I have received a certificate of special right of citizenship from the Republic of Hawaii.'

"(d) No lease of agricultural lands or of undeveloped arid public land which is capable of being converted into agricultural land by the development, for irrigation purposes, of either the underlying or adjacent waters, or both, shall be granted, sold, or renewed by the government of the Territory of Hawaii for a longer period than 15 years. Each such lease shall be sold at public auction to the highest bidder after due notice as provided in subdivision (h) of this section and the laws of the Territory of Hawaii. Each such notice shall state all the terms and conditions of the sale. The land, or any part thereof so leased, may at any time during the term of the lease be withdrawn from the operation thereof for homestead or public purposes, in which case the rent reserved shall be reduced in proportion to the value of the part so withdrawn. Every such lease shall contain a provision to that effect: *Provided*, That the commissioner may, with the approval of the governor and at least two-thirds of the members of the land board, omit such withdrawal provision from the lease of any lands suitable for the cultivation of sugar cane whenever he deems it advantageous to the Territory of Hawaii. Land so leased shall not be subject to such right of withdrawal.

"(e) All funds arising from the sale or lease or other disposal of public lands shall be appropriated by the laws of the government of the Territory of Hawaii and applied to such uses and purposes for the benefit of the inhabitants of the Territory of Hawaii as are consistent with the joint resolution of annexation, approved July 7, 1898.

"(f) No person shall be entitled to receive any certificate of occupation, right of purchase lease, cash freehold agreement, or special homestead agreement who, or whose husband or wife, has previously taken or held more than 10 acres of land under any such certificate, lease, or agreement made or issued after May 27, 1910, or under any homestead lease or patent based thereon; c. who, or whose husband or wife, or both of them, owns other land in the Territory the combined area of which and the land in question exceeds 80 acres; or who is an alien, unless he has declared his intention to become a citizen of the United States as provided by law. No person who has so declared his intention and taken or held under any such certificate, lease, or agreement shall continue so to hold or become entitled to a homestead lease or patent of the land, unless he becomes a citizen within five years after so taking.

"(g) No public land for which any such certificate, lease, or agreement is issued after May 27, 1910, or any part thereof, or interest therein or control thereof, shall, without the written consent of the commissioner and governor thereafter, whether before or after a homestead lease or patent has been issued thereon, be or be contracted to be in any way, directly or indirectly, by process of law or otherwise, conveyed, mortgaged, leased, or otherwise transferred to, or acquired or held by or for the benefit of, any alien or corporation; or before or after the issuance of a homestead lease or before the issuance of a patent to or by or for the benefit of any other person; or, after the issuance of a patent, to or by or for the benefit of any person who owns or holds or controls, directly or indirectly, other land or the use thereof the combined area of which and the land in question exceeds eighty acres. The prohibitions of this paragraph shall not apply to transfers or acquisitions by inheritance or between tenants in common."

SEC. 305. The fourth and fifth paragraphs of section 73 of the Hawaiian organic act are hereby amended by inserting "(h)" at the beginning of the fourth paragraph and "(i)" at the beginning of the fifth paragraph.

SEC. 306. The sixth paragraph of section 73 of the Hawaiian organic act is hereby amended to read as follows:

"(j) The commissioner, with the approval of the governor, may give to any person (1) who is a citizen of the United States or who has legally declared his intention to become a citizen of the United States and hereafter becomes such, and (2) who has, or whose predecessors in interest have, improved any parcel of public lands and resided thereon continuously for the ten years next preceding the application to purchase, a preference right to purchase so much of such parcel and such adjoining land as may reasonably be required for a home, at a fair price to be determined by three disinterested citizens to be appointed by the governor. In the determination of such purchase price the commissioner may, if he deems it just and reasonable, disregard the value of the improvements on such parcel and adjoining land. If such parcel of public lands is reserved for public purposes, either for the use of the United States or the Territory of Hawaii, the commissioner may, with the approval of the governor, grant to such person a preference right to purchase public lands which are of similar character, value, and area, and which are situated in the same land district. The privilege granted by this paragraph shall not extend to any original lessee or to an assignee of an entire lease of public lands."

SEC. 307. The seventh paragraph of section 73 of the Hawaiian organic act is hereby amended by inserting "(k)" at the beginning thereof.

Sec. 308. The eighth paragraph of section 73 of the Hawaiian organic act is hereby amended to read as follows:

"(1) No sale of lands for other than homestead purposes, except as herein provided, and no exchange by which the Territory shall convey lands exceeding either forty acres in area or \$5,000 in value shall be made. No lease of agricultural lands exceeding forty acres in area, or of pastoral lands exceeding two hundred acres in area, shall be made without the approval of two-thirds of the board of public lands, which is hereby constituted, the members of which are to be appointed by the governor as provided in section 80 of this act; and until the legislature shall otherwise provide said board shall consist of six members and its members be appointed for a term of four years: *Provided, however,* That the commissioner shall, with the approval of said board, sell to any citizen of the United States, or to any person who has legally declared his intention to become a citizen, for residence purposes, lots and tracts not exceeding three acres in area, and that sales of Government lands may be made upon the approval of said board whenever necessary to locate thereon railroad rights of way, railroad tracks, sidetracks, depot grounds, pipe lines, irrigation ditches, pumping stations, reservoirs, factories, and mills and appurtenances thereto, including houses for employes, mercantile establishments, hotels, churches, and private schools; and all such sales shall be limited to the amount actually necessary for the economical conduct of such business or undertaking: *Provided further,* That no exchange of Government lands shall hereafter be made without the approval of two-thirds of the members of said board, and no such exchange shall be made except to acquire lands directly for public uses."

Sec. 309. The ninth paragraph of section 73 of the Hawaiian organic act is hereby amended by inserting "(m)" at the beginning thereof.

Sec. 310. The tenth paragraph of section 73 of the Hawaiian organic act is hereby amended to read as follows:

"(n) It shall be the duty of the commissioner to cause to be surveyed and opened for homestead entry a reasonable amount of desirable agricultural lands and also of pastoral lands in the various parts of the Territory for homestead purposes on or before January 1, 1911, and he shall annually thereafter cause to be surveyed for homestead purposes such amount of agricultural lands and pastoral lands in various parts of the Territory as there may be demand for by persons having the qualifications of homesteaders. In laying out any homestead the commissioner shall include in the homestead lands sufficient to support thereon an ordinary family, but not exceeding 80 acres of agricultural lands and 260 acres of first-class pastoral lands or 500 acres of second-class pastoral lands; or, in case of a homestead including pastoral lands only, not exceeding 500 acres of first-class pastoral lands or 1,000 acres of second-class pastoral lands. All necessary expenses for surveying and opening any such lands for homesteads shall be paid for out of any funds of the Territorial treasury derived from the sale or lease of the public lands, which funds are hereby made available for such purposes.

"(o) The commissioner, with the approval of the governor, may by contract or agreement authorize any person who has the right of possession, under a general lease from the Territory, of agricultural or pastoral lands included in any homestead to continue in possession of such lands after the expiration of the lease until such time as the homesteader takes actual possession thereof under any form of homestead agreement. The commissioner may fix in the contract or agreement such other terms and conditions as he deems advisable."

Sec. 311. The eleventh and twelfth paragraphs of section 73 of the Hawaiian organic act are hereby amended by inserting "(p)" at the beginning of the eleventh paragraph and "(q)" at the beginning of the twelfth paragraph.

Sec. 312. The fourth paragraph of section 80 of the Hawaiian organic act is hereby amended to read as follows:

"All officers appointed under the provisions of this section shall be citizens of the Territory of Hawaii and shall have resided therein for at least three years next preceding their appointment."

Sec. 313. Section 80 of the Hawaiian organic act is hereby amended to read as follows:

"Sec. 80. (a) That there shall be established in the said Territory a district court, to consist of two judges, who shall reside therein and be called district judges, and who shall each receive an annual salary of \$7,500. The said court while in session shall be presided over by only one of said judges. The two judges shall from time to time, either by order or rules of the court, prescribe at what times and in what class of cases each of them shall preside. The said two judges shall have the same powers in all matters coming before said court.

"(b) The President of the United States, by and with the advice and consent of the Senate of the United States, shall appoint two district judges, a district attorney, and a marshal of the United States for the said district, all of whom shall be citizens of the

Territory of Hawaii and shall have resided therein for at least three years next preceding their appointment. Said judges, attorney, and marshal shall hold office for six years, unless sooner removed by the President.

"(c) The said court shall have, in addition to the ordinary jurisdiction of district courts of the United States, jurisdiction of all cases cognizable in a circuit court of the United States, and shall proceed therein in the same manner as a circuit court; and the said judges, district attorney, and marshal shall have and exercise in the Territory of Hawaii all the powers conferred by the laws of the United States upon the judges, district attorneys, and marshals of district and circuit courts of the United States.

"(d) Writs of error and appeals from the said district court shall be had and allowed to the circuit court of appeals for the ninth judicial circuit in the same manner as writs of error and appeals are allowed from circuit courts to circuit courts of appeal as provided by law, and appeals and writs of error may be taken to the Supreme Court of the United States from said district court in cases where appeals and writs of error are allowed from the district and circuit courts of the United States to the Supreme Court, and the laws of the United States relating to juries and jury trials shall be applicable to said district court. The laws of the United States relating to appeals, writs of error, removal of causes, and other matters and proceedings as between the courts of the United States and the courts of the several States shall govern in such matters and proceedings as between the courts of the United States and the courts of the Territory of Hawaii. Regular terms of said court shall be held at Honolulu on the second Monday in April and October and special terms may be held at such times and places in said district as the said judges may deem expedient. The said district judges shall appoint a clerk of said court at a salary of \$4,200 per annum and shall appoint a reporter of said court at a salary of \$3,000 per annum. The clerk of the district court with the approval of the judges thereof may appoint two deputy clerks at salaries of \$2,500 each per annum."

SEC. 314. Section 92 of the Hawaiian organic act is hereby amended to read as follows:

"SEC. 92. That the following officers shall receive the following annual salaries, to be paid by the United States: The governor, \$10,000; the secretary of the Territory, \$5,400; the chief justice of the supreme court of the Territory, \$7,500; the associate judges of the supreme court, \$7,000 each; the judges of the circuit courts, \$6,000 each; the United States district attorney, \$5,000; the United States marshal, \$5,000. The governor shall receive annually from the United States, in addition to his salary, (1) the sum of \$1,000 for stationery, postage, and incidentals, and (2) his traveling expenses while absent from the capital on official business. The governor is authorized to employ a private secretary who shall receive an annual salary of \$3,000, to be paid by the United States."

SEC. 315. The Hawaiian organic act is hereby further amended by adding at the end thereof three additional sections to read as follows:

"SEC. 105. That no person shall be employed as a mechanic or laborer upon any public work carried on in the Territory of Hawaii by the Government of the United States, whether the work is done by contract or otherwise, unless such person is a citizen of the United States or eligible to become such a citizen.

"SEC. 106. The board of harbor commissioners of the Territory of Hawaii shall have and exercise all the powers and shall perform all the duties which may lawfully be exercised by or under the Territory of Hawaii relative to the control and management of the shores, shore waters, navigable streams, harbors, harbor and water-front improvements, ports, docks, wharves, quays, bulkheads, and landings belonging to or controlled by the Territory, and the shipping using the same, and shall have the authority to use and permit and regulate the use of the wharves, piers, bulkheads, quays, and landings belonging to or controlled by the Territory for receiving or discharging passengers and for loading and landing merchandise, with a right to collect wharfage and demurrage thereon or therefor, and, subject to all applicable provisions of law, to fix and regulate from time to time rates for services rendered in mooring vessels, charges for the use of moorings belonging to or controlled by the Territory, rates or charges for the services of pilots, wharfage or demurrage, rents or charges for warehouses or warehouse space, for office or office space, for storage of freight, goods, wares, and merchandise, for storage space for the use of donkey engines, derricks, or other equipment belonging to the Territory, under the control of the board, and to make other charges, including toll or tonnage charges on freight passing over or across wharves, docks, quays, bulkheads, or landings. The board shall likewise have power to appoint and remove clerks, wharfingers and their assistants, pilot and pilot-boat crews, and all such other employees as may be necessary, and to fix their compensation; to make rules and regulations pursuant to this section and not inconsistent with law; and generally shall have all powers necessary fully to carry out the provisions of this section.

156 PROPOSED AMENDMENTS TO ORGANIC ACT OF HAWAII.

"All moneys appropriated for harbor improvements, including new construction reconstruction, repairs, salaries, and operating expenses, shall be expended under the supervision and control of the board, subject to the provisions of law. All contracts and agreements authorized by law to be entered into by the board shall be executed on its behalf by its chairman.

"The board shall prepare and submit annually to the governor a report of its official acts during the preceding year, together with its recommendations as to harbor improvements throughout the Territory.

"Sec. 107. That this act may be cited as the 'Hawaiian organic act.'"

TITLE 4.—MISCELLANEOUS PROVISIONS.

Sec. 401. All acts or parts of acts, either of the Congress of the United States or of the Territory of Hawaii, to the extent that they are inconsistent with the provisions of this act, are hereby repealed.

Sec. 402. If any provision of this act, or the application of such provision to certain circumstances, is held unconstitutional, the remainder of the act and the application of such provision to circumstances other than those as to which it is held unconstitutional shall not be held invalidated thereby.

