

EIGHTH DAY

Friday, January 27, 1984

The Senate of the Twelfth Legislature of the State of Hawaii, Regular Session of 1984, convened at 11:30 o'clock a.m., with the President in the Chair.

The Divine Blessing was invoked by Sister Marcella Maglinte, B.V.M., Sisters of Charity of the Blessed Virgin Mary, after which the Roll was called showing all Senators present.

The Chair announced that he had read and approved the Journal of the Seventh Day.

The following introductions were then made to the members of the Senate:

Senator Young introduced family members of Sister Marcella Maglinte, who were seated in the gallery, Pat Mendonca and her son Roland; and family friend, Jean Kikuchi.

Senator Machida then introduced the following dignitaries and stated as follows:

"Mr. President and members of the Senate, we have with us this morning some very distinguished guests on the floor of the Senate. I would like to first of all introduce His Excellency Marut Bunnag, Minister of Public Health, Government of Thailand, who just attended a meeting to establish a collaborative Consortium of Schools of Public Health on Kauai; Mrs. Marut Bunnag; Dr. Among Nondasuta, Under-Secretary of State for Public Health, Government of Thailand; accompanied by the Honorary Consul General of Thailand and Dean of the Consular Corps of Hawaii, Sunao Miyabara."

Leis were presented on the behalf of the Senate by Senators Fernandes Salling, Solomon, Young and Machida.

At 11:41 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:44 o'clock a.m.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 2 and 3) were read by the Clerk and were disposed of as follows:

A communication from the House

(Hse. Com. No. 2), returning Senate Bill No. 1192, S.D. 2, which passed Third Reading in the House of Representatives on January 27, 1984, in an amended form, was placed on file.

Senator Yamasaki then moved that the Senate agree to the amendments proposed by the House to S.B. No. 1192, S.D. 2, seconded by Senator B. Kobayashi.

Senator Yamasaki explained that "the House merely returned the bill in the original form of S.B. 1192 as we sent it to them last year. The date of the Crime Commission was changed back to June 30, 1984, as in the Senate draft, and the term of office, four years."

Senator Carpenter rose to speak in favor of the bill and stated:

"Mr. President, I have no objection to this bill so essentially I'd like to speak in favor. However, I have some concerns that I'd like to share with this body.

"I believe the 'guts' of the Crime Commission, when it was first created, was the charge that it had and that was to investigate crime in the State of Hawaii. Since that initial formation and formulation of the Commission, language was changed in the charge, essentially relegating this body to a research, evaluating and recommending or advisory body to the Legislature and to the State of Hawaii. And I believe that in so doing, the Legislature emasculated the worth of this Commission, notwithstanding the good work of the present chairman and existing members of the Commission and the new executive director, Mr. Keith Kaneshiro, whom I know to be very competent people.

"I believe the extension of life to June 30th is okay because there is no additional commitment on behalf of the taxpayers of the State of Hawaii, but I think if there is another bill to follow that will extend the life to another point in time in the future, this body must address the real value that this Commission can give the people of the State of Hawaii, and that is to reinstate its charge to investigate crime, rather than being another body that recommends with advisory opinions -- that again is duplicated throughout our judicial

system. Thank you very much."

Senator Kawasaki also rose to speak in favor of the bill and stated:

"Mr. President, I, too, rise in favor of the Senate agreeing to the House's position, I think, to the portion that we continue the Crime Commission.

"I, to use the vernacular, had some jaundiced views about some of the appointments to the Crime Commission. I thought that was a defect in the program, but hopefully, good appointments could be made in the future and as Senator Carpenter has stated, perhaps we could give the Crime Commission the right to investigate, instead of letting it become another 'research' arm.

"As you well know, Mr. President, you were the principal sponsor of the Crime Commission idea, and we supported it very strongly. I think it could work; I think it could add materially to the community's unending quest for reducing crime -- the more serious category of crimes. I do hope that this body will unanimously agree with the House."

The motion was put by the Chair and carried, and the Senate agreed to the amendments proposed by the House to S.B. No. 1192, S.D. 2, and in accordance with Article III, Section 15, of the Constitution of the State of Hawaii, the 48-hour notice was given on the Final Reading of S.B. No. 1192, S.D.2, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII CRIME COMMISSION."

A communication from the House (Hse. Com. No. 3), transmitting House Bill No. 1638-84, H.D. 1, which passed Third Reading in the House of Representatives on January 27, 1984, was placed on file.

On motion by Senator Cobb, seconded by Senator Soares and carried, H.B. No. 1638-84, H.D. 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS TO PROVIDE FOR THE EXPENSES OF THE LEGISLATURE, THE LEGISLATIVE AUDITOR, THE LEGISLATIVE REFERENCE BUREAU, AND THE OMBUDSMAN," passed First Reading by title and was referred to the Committee on Ways and Means.

Senator Cayetano then rose to inquire on H.B. No. 1638-84 as follows:

"Mr. President, it is my understanding that this bill will be heard on Monday, or somewhere around Monday.

"Not being a member of the Ways and Means Committee, I would like to ask if the President or his Ways and Means Committee would provide those of us who are not on the committee with the detailed information as to the expenses of the Legislature.

"As a former Ways and Means chairman, Mr. President, I think you are familiar with the process which applies to all other state agencies. Usually, testimony is submitted and that testimony breaks down for us the expenses in terms of equipment, supplies, positions, etc.

"What I'm asking is, will that information be made available to us who are not on the committee. I'd like to see this bill or this matter dispatched with as soon as possible because I think that our staff has to be paid and the expenses of the Senate and the House have to be met.

"But during these times when money is scarce, I think the budget of the Legislature should be subject to the same kind of scrutiny that we will be subjecting the other agencies through this session. Therefore, I think this information is very important. I'm asking whether it will be made available to us and maybe to the press, and anybody else who wants to see it, prior to the vote on Monday or whenever the bill is voted on next week."

The Chair replied: "In answer to your question, Senator Cayetano, I think with reference to the legislative support agencies, I don't think that's too much of a problem because that's all a matter of public record and it has already been heard by the Ways and Means Committee about two weeks ago.

"If you're talking specifically about the Senate records, I think there was a memo that was mailed out some time in November asking each Senator that if he or she had any specific concerns he was interested in, he or she was to contact the President's office. In answer to your question, perhaps you and I could talk about it and the kinds of information you want."

Senator Cayetano then said: "Mr. President, I'm certainly willing to talk

to you about this matter, but the question that I have is that if any member of the public who is attending the hearing on the bill wants information, will that information be available."

The Chair then replied: "My answer will be 'yes' depending on the information requested. If the general public wants to know specifically about the State Senate and its expenditures, they can come and talk to me and I'll determine whether or not that information should be given to them."

Senator Abercrombie rose and asked: "Mr. President, for purposes of understanding what you just said, are you telling us that you will give out information on the expenses of the Senate on a selective basis?"

The Chair answered: "Whoever wants it. It's always been available."

Senator Abercrombie further inquired: "I mean the information. Will the information be selective?"

The Chair replied: "No, why should it be selective?"

Senator Abercrombie then asked: "It will be the expenses of the Senate that will be made available to members on their request?"

The Chair answered: "On request to my office, the President will make the determination."

Senator Abercrombie inquired: "As to whether the request will be granted?"

The Chair replied: "That's right."

Senator Abercrombie continued: "So, in other words, we may not have the information if you decide otherwise?"

The Chair answered: "Well, nobody has ever asked me for it specifically over the last five years. This will be the first request and I think I'll have to weigh the decision very heavily."

Senator Abercrombie then remarked: "Mr. President, there may be a lot of firsts coming up."

At this time, Senator Abercrombie rose on a point of personal privilege and stated:

"Mr. President, I rise on a point of personal privilege. Mr. President, I attended a meeting last evening of the

Kaka'ako Businessmen's Association at McKinley High School.

"Mr. President, as you know there's been some concern -- more than some concern -- as to whether or not the Senate was moving in terms of having a package of proposals, a program to address the problem that exists, right now, not next year, right now.

"One of the things that we attempted to deal with previously was the Kaka'ako development. This Legislature (no thanks to me) created something called the Hawaii Community Development Authority (HCDA). It has complete powers with respect to zoning and other activities ordinarily associated with the powers and responsibilities and authority of the City Council and the Mayor of the City and County of Honolulu.

"This group of people now say it has no power at all. It has the power to announce in one of its many newsletters and many of its expensive brochures that they can put forward a \$300 million development in Kaka'ako, which includes a penthouse to be sold for \$3 million, 'Marketing a new level of luxury.' It's almost the kind of luxury that exists by having a newspaper preservation act.

"What it fails to mention, of course, is that a hundred-plus businesses are going to be kicked out. Questions were raised last night as to whether the approval of the HCDA was a financing scheme for the developer. The developer was not there. Those questions were not answered. The HCDA could not answer.

"Yet in their newsletter of December 1982 they called the proposed Ironworks development an 'exemplary' project. The Hawaii Community Development Authority at its December meeting approved the planned development permit for the developer to proceed with his plans, right down here on South Street. Now, we can sit here in this Senate and go through all these arguments, but boy, we'd better have some answers. And whoever's in charge better have some answers. We passed this macabre plan. I've got it right here.

"I'm not like Councilman Narvaes who walks in and says, 'Gee, I've been away for a few days, can somebody fill me in?' I don't know if we've got enough centuries to fill him in.

"Here's the relocation plan: 'Displacement is any direct or indirect action, public or private, which forces households or businesses to move as a result of the acquisition or imminence of acquisition of real property. It may be either temporary or permanent.'

"Senator Young, I'm sure, is familiar with all the hard work that was undertaken to acquire what is called the makai area in Kaka'ako and added to the HCDA authority. We worked very hard to get this put in. That is there and it is stated by the Hawaii Community Development Authority by its acting executive director in a letter to Donald Keeter, who is president of the Businessmen's Association, and I quote: 'We have tried to more clearly indicate that relocation facilities will be provided as Kaka'ako redevelops with respect to the 133 acre makai facility.

"I said to the executive director last night, 'You sit here and tell me and these people that there's nothing you can do. What do we need you for?'

"As one of the business people said yesterday, 'I'm not sure if my next paycheck is going to come. I'm not sure if I can give my next paycheck to the employees I have, but we know your paycheck's coming. We know you're going to collect.'

"Now, we have 133 acres there, and in the Hawaii Community Development Authority's Sixth Year Annual Report, July 1, 1982 - June 30, 1983, page 11, they have a picture of John Orsini, who is president of the Businessmen's Association, looking at the 133 acres and a statement, 'Since 90 percent of the makai area land is owned by the state, the HCDA also held small workshops with members of various government agencies and the area's landowners.' etc., etc. You've seen this guy's picture to promote themselves as being able to take care of all these problems we say we're going to deal with in Kaka'ako as that's where development is going to be concerned.

"Members of the Governor's cabinet were there -- silent; other legislators were there -- silent, while these people poured out their hearts that they're not sure they're going to be able to make a living, not next year -- right now. Our problems can't be put off till next year. Mr. Brodie stood up and read a letter from Wayne Yamasaki, the proposed director for the Department

of Transportation. When the HCDA made a request as to the utilization of part of this 133 acres for relocation purposes, as stated in the law, they simply said: 'No, that maybe sometime in the future they might want to use that land to give more services to people that are utilizing land that the Department of Transportation already controls on the waterfront.'

"Any of those businesses, including parking cars, can be put anywhere on this island. It can be put out at the airport. It can be put on all kinds of places -- Mapunapuna -- all kinds of places. No offer of help, mind you, nothing; zero; just no; get stuck; who cares what you think; who cares what's going to happen to these people.

"Now, what's needed is for the Legislature to make it very clear, right now; and people who have the responsibility in the Senate, make it clear right now to the Governor and his administration... 'You make that land available to these people when they need it.' That's what this law was passed for.

"The Attorney General didn't come down here and say when he took that bill up to the Governor for his signature and when the Governor signed the plan... 'I've got the plan right here'... that these people were going to have to wish and hope and pray that maybe they will be able to make a living. What's needed right now is for the state administration and for the Legislature to make it absolutely clear that they meant it when they approved that law; that the Legislature meant it when it sent the law forward to acquire the 133 acres for relocation purposes.

"The statement made last night by a deputy in the Attorney General's office that under Chapter 111, it has to be public action. The HCDA in itself is public action. Those people would not be facing this situation if they were not under czarist capacities of the HCDA created by the Legislature of the state and approved by the Governor.

"The Council people there, like Mrs. Bornhorst last night, absolutely powerless to do anything because all jurisdiction and authority and responsibility have been removed from them by us.

"Ninety percent of the 133 acres is under the control of the state; that's why we put it there. I'm sure Senator Young will confirm that,

because that is the responsible way for the state to respond to what we've done by creating the HCDA and the vast powers that it has. They're trying to claim that unless it is direct public action, direct governmental action . . . I don't know what could be more direct than having the zoning capacity and the ability to say to somebody you can take so many acres down at the end of South Street to develop a \$300 million development and sell penthouses for \$3 million on top of it...what's more direct than that?

"The law says clearly 'Increased supply of housing for residents of lower/moderate income shall be required as a condition of redevelopment and residential use.' There is no low or moderate income housing in this project. They feel perfectly capable of granting Mr. Stark that kind of capacity. But when people come in there, people who are working for a living, who are going from month to month trying to exist...they come in and ask, not for money; they're only asking for the possibility of relocating their businesses at their own expense in the 133 acres we provided...the state administration says 'no.'

"What's more, the HCDA director said, 'It's up to the Legislature.' That's what they said last night. They said, 'Ask Abercrombie.' I didn't know I was the czar. Pay me the \$45,000 and I'll run it. I'll run it without all those clowns that are making all that money in the HCDA. I can tell you that. Now, if that is the case, then we have to address it.

"Mr. President, I'm urging this body right now, which includes, obviously, your Housing Committee, once again we've got to meet with the AG; we've got to get the Governor's people down here and find out once and for all, do they intend to carry out the purposes and intent of this law as it was passed and as it was signed. And if not, then we have to put in some kind of language that will alter and make even more clear what it is that they're supposed to do. And will the Governor, will the administration, and will this Legislature require the administration to carry through on what is fundamentally necessary for people in our City of Honolulu to exist economically today. This is not something that can be put off.

"So, Mr President, the burden of my remarks is when the HCDA says to me and says in public last night

that it's up to us to do something about it right now, then I think we're going to have to respond. We have to get rid of the HCDA. As far as I am concerned, we ought to get rid of it. Maybe we ought to abolish it and give it right back to the City because at least people can get back at politicians. If for no other reason, they can vote them out of office. They can't vote the HCDA out of office. They've got their pictures in the front. They're all appointed. They're there forever. Nothing can be done to them. So we have to do it. That's what they said last night. And I think that we have to deal with it immediately, and our Labor Committee has got to deal with it; our Human Resources Committee has got to deal with it. These people are paying taxes right now. They're employing people right now and they have to have an answer right now. Thank you."

At this point, Senator Young responded:

"Mr. President, on a point of personal privilege. The Committee on Housing met with Mr. Stark right after the last session. He had assured the committee that a percentage of housing in his development will be set aside for low and moderate income families. I talked to the director of HCDA and they're concerned about the tenants and he has stated that many of the tenants at the Honolulu Ironworks knew that when they were leasing office from the Ironworks, they were on a month-to-month basis. And I've talked to him about finding a way to relocate these people and he said that he would look into the matter. He'll use staff time to really help these people to relocate."

Senator Abercrombie rose and stated:

"Mr. President, I didn't intend by my remarks to have the Housing chairman have to give an answer right now, but if those remarks have been made to her, I have to take exception to what's being said.

"Mr. Rex Johnson of the HCDA made it very clear last night that he doesn't have a clue as to what he is going to do, and that the 133 acres, for all intents and purposes, doesn't exist, because the state administration has not indicated that it would cut free any of this land that it controls for relocation purposes. Everybody knows that . . . this isn't news to people. You know, we don't just

exist here in a vacuum. The reason these people are on these revocable 30-day permits and leases is because everybody is wondering what the HCDA is going to do, vis-a-vis redevelopment. That's why they're there the way they are. And the reason for the 133 acres is to take care of these people.

"Now what they, the government, did last night is everybody stood around saying, 'It's not my job; I don't know what to do; I don't have the power.' Nobody at that meeting last night had the power to do anything. Mr. Johnson stands and says, 'I can't create land.'

"I said, 'You don't have to create land. We gave 133 acres, 90 percent of which is owned by the state; much

of which is vacant, just sitting there under the control of Transportation, DLNR, etc., etc.; that's why we did it.'

"That's the business we are trying to deal with right now. The people are going to be displaced. It's no answer for him to say he's going to try and do his best. His best isn't good enough; can him and get somebody who can do it. They need action and they need it right now."

ADJOURNMENT

At 12:08 o'clock p.m., on motion by Senator Cobb, seconded by Senator Soares and carried, the Senate adjourned until 11:30 o'clock a.m., Monday, January 30, 1984.