

CHAPTER 22

DYSFUNCTIONAL LEGISLATURE

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“What’s wrong with our state legislature?”

This question strikes most of those in the state legislature as the wrong question. Speaker of the House Joseph Souki says that a better approach is to ask what’s right. Vice Speaker of the House Jackie Young thinks the question is polarizing, negative, and cynical. Still, it’s comically and painfully clear that *something* is wrong. There has been one slip on a banana peel after another.

In 1992, for example, the Senate realized too late that it had forgotten to vote on a key bill it had already publicized as one of its major accomplishments.

In 1993, the legislature set as its primary objective the selection of a convention center site. It failed to do so not for any of the right reasons but for all the wrong reasons. Relying primarily on vested interests for intelligence—which is like asking the foxes for honest input on how to keep the chickens safe—the Senate and the House pushed different site schemes for two different developers. Then, attempting to reach a last-minute Cinderella compromise that would have let both interests stuff their feet into a single glass slipper, a Senate-House committee worked out a quick deal with the governor and the developers. Finally, in its haste to beat the midnight deadline, the committee actually signed the wrong papers. All was for naught, except that this slapstick debacle offers a near perfect microcosm of how the legislature operates. Tha

reality has its roots in six factors:

1. One-party control. The single most important characteristic of our state legislature, and its only unique trait, is lack of control over its own destiny. Hawai'i's state legislature is little more than a bureaucratic extension of Hawai'i's power elite.

The essence of political power is access to the decision-making process, and most of Hawai'i's legislators are simply not in that loop. The legislative procedures have been designed over time so that power is concentrated in the hands of only a few well-disciplined party loyalists. The others have learned that in order to get along they have to go along.

For example, the Hawai'i Supreme Court ruled in 1988 that without remedial legislation citizens have no right to vote directly on land use issues. At that point it seemed appropriate for the legislature at least to debate the issue. But in each of the next three years, proposals for land use initiatives were killed without discussion.

There has been some reform, and both the House and Senate are working on ways to make the legislature more accountable to the people. It is easier now than it used to be to pull bills out of committee and force a vote. But most of the reform measures are at best inadequate. A recent highly touted reform package calls for things most voters assumed already existed: cost-effective, most direct travel; limits on free postage; a requirement of a quorum for committee decision-making. These changes don't come close to altering the stark reality of a closed system dominated by the power elite.

2. Part-time legislators. Speaker of the House Souki, when asked what one thing in our legislative process needs fixing the most, says we ought to "lengthen the session. We need more time so that there are fewer compromises due to the clock."

The Republican minority leader in the House, Representative Cynthia Thielen, disagrees and argues that it's not time but incompetence that gets in the way. To others, asking for longer legislative sessions may seem like the restaurant customer who first complains that the food is inedible and then that the portions are too small.

But the Speaker makes a good point. The 60-working-day constitutional limitation on our legislature makes it almost impossible for a complicated and controversial bill to pass through in deliberative

fashion. Anything important will necessarily be subjected to last-minute compromises.

The Speaker of the House points out another and perhaps more serious problem with a part-time legislature: conflicts of interest. Many legislators arrive and leave with other things on their minds, including the best ways to supplement a base salary income of \$37,000. Most discover that being a legislator offers advantages when it comes to making money. Conflict of interest is nearly inevitable even if sometimes unintended. This constant appearance of self-seeking erodes voter confidence.

3. Greed and self-interest. Greed is not unique to our legislature. The big difference is that in Hawai'i the closed legislative system has made the blatant pursuit of self-interest all the easier.



"THERE'S JUST NO MONEY FOR ANYTHING...
IN FACT WE WERE LUCKY TO FIND ENOUGH
TO FUND OUR PAY RAISES ..."

In the 1993 legislature, the very first order of business for the House was to accept a salary increase of \$5,000 while refusing to give up a \$5,000 expense allowance that was supposed to be in effect only until the pay increase had been approved. One member of the House, Representative David Hagino, did argue that the allowance ought to be rescinded, but he was shouted down by his colleagues and accused of showing off for the voters.

This relentless pursuit of self-interest was equally apparent when in 1992 the travel habits of our legislators were revealed. It turned out that some of them had been treating themselves to first-class travel along with generous per diem allowances for days spent out of state on supposed legislative business. One senator went to Russia to pursue his own business interests at taxpayer expense and justified the trip on the theory that what's good for his business is good for Hawai'i.

Lieutenant Governor Ben Cayetano notes that some legislators have become disconnected from the public and lack fundamental principles. "What we have," says Cayetano when asked what's wrong with the legislature, "are too many legislators living a life of contentment."

4. Power politics. A fourth factor that determines how our legislature operates is its inordinate fear of, and respect for, three kinds of power—votes, money, and favors.

It's not so much the voters our legislators fear and respect as it is blocs of votes. Any bill or issue that appears to have unified support or opposition will be treated with special caution. The former minority leader and fourteen-year veteran of the House, Whitney Anderson, says that what's wrong with the legislature is that most legislators "have no guts and never take a stand." They follow the dictates of either the power elite or the outspoken and visible voting blocs.

Most bills, of course, don't draw the attention of voting blocs and thus are affected more by the other two kinds of power, money and favors.

Politicians who accept money from others but claim not to be influenced by it are not to be trusted. Money talks. Contributions by political action committees, businesses, and wealthy individuals pay off. That's the reason the contributions keep flowing.

Our legislature's historical reluctance up until 1993 to pass laws

aimed at tobacco, the only product that kills when used as directed, is connected to Philip Morris's being the third-largest contributor to our legislators (trailing only the University of Hawai'i's teachers lobby and the Hawai'i State Teachers Association).

The third kind of power—the ability to grant favors—is the primary reason the Senate president and Speaker of the House were reluctant in 1992 to change first-class travel policies. In just one year, one member of the Republican *opposition* racked up \$16,000 worth of first-class travel in addition to per diem expenses for thirty-seven days out of town. All this had to be okayed by the Democrats. It would be naive to think this busy traveler didn't feel a tad bit indebted to Senator Wong for his okay.

It becomes difficult for legislators, living in the fairytale land of favors, to understand what's bothering the rest of us. Some legislators come to expect to be treated differently than ordinary people. Freebies like memberships in the Aloha Airlines Executive Club and in country clubs are accepted without qualm. According to sources at Punahou and University of Hawai'i professional schools, state legislators are notorious for attempting to influence admissions decisions.

5. Secrecy and anonymity. Former heavyweight boxing champion Joe Louis once said of a speedy opponent, "He can run but he can't hide." For our legislators it's different: they can run and they can hide and then they can run again. One of the things that helps incumbents preserve their good reputations is that so little of what they do is known.

The 1992 legislature named Senate president Wong's aide and friend to the Office of Ombudsman, where, in theory, he would investigate complaints from citizens. But one of his first decisions was to continue the policy of *not* publicizing the office; he was concerned that it might generate too many inquiries.

Anonymity is helped by the budget process. The general appropriations bill is not voted on until the last day of the legislative session, and even the Legislative Reference Bureau, the department with the most expertise in finding out what's going on, acknowledges that the bill is impossible to access in meaningful ways.

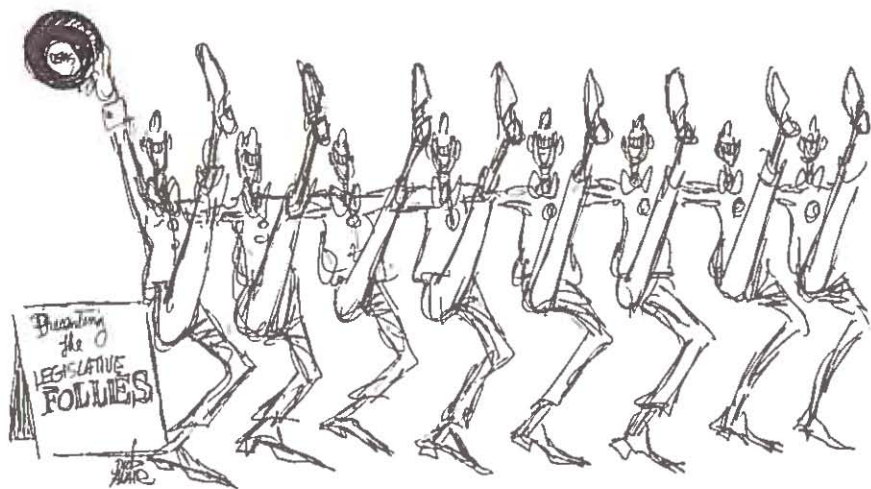
No outsider can know who is voting for what because the legislators themselves aren't sure. Toward the end of the 1993 session, not even Senator Dennis Nakasato's office could determine whether one of his

projects, continued sponsorship of a hot rod dragster as an advertising medium for tourism, had been included in the general appropriations bill.

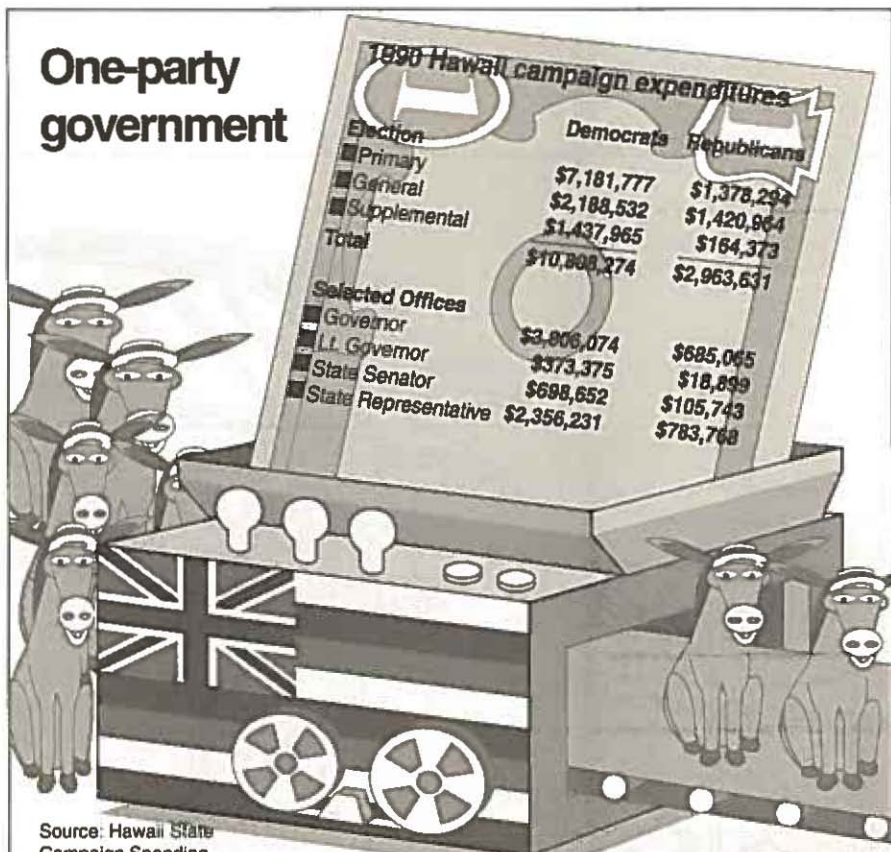
6. Reelection process. Two Democratic senators and fifteen Democratic representatives (30 percent of the House) ran unopposed in the 1992 general election.

As long as an incumbent "goes along to get along" and doesn't make a fatal mistake, chances of reelection are good. State employees, who get a paycheck from the government and are apt to fear change, now account for a huge bloc of votes. Money will come from those who have been given favors. Support will come from the party machine. Publicity and coverage will come from uncritical newspaper and television reporters. Votes will come from blocs which have been satisfied and from complacent voters for whom name recognition is everything. Reelection is almost certain.

What it means. The problem is ours. As long as we continue to tolerate our legislative follies, then for that long we'll continue to get what we deserve. It's as simple as that.

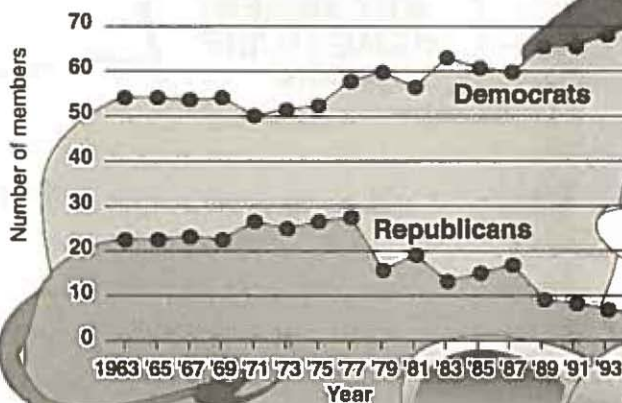


One-party government



Source: Hawaii State Campaign Spending Commission, Oct. 14, 1991

State legislature party membership



Source: State of Hawai'i, Department of Business, Economic Development and Tourism, Data Book 1992, table 268.

