CHAPTER 27

GOVERNMENT CORRUPTION

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"Is government in Hawai'i corrupt?"

Will Rogers once said, "All I know is what I read in the newspapers." Perhaps there's more to government procurement in Hawai'i than we read about, but that alone is enough to concern many people. Here's a summary of a few newspaper articles from recent years. Most of these were written by James Dooley of the *Honolulu Advertiser*.

• Aloha Stadium manager Ken Kiyabu resigns with full retirement benefits after being caught intentionally circumventing the procurement law by parceling $50,000 of purchases to friends. Governor Waihee calls Kiyabu an outstanding employee who "made a mistake." Waihee's appointed attorney general, Robert Marks, decides not to prosecute Kiyabu, saying he has suffered enough.

• Public Utilities Commission and other state officials attend expensive golf tournaments sponsored by GTE Hawaiian Tel and other companies that have received large state contracts from, or are regulated by, these same officials. Some receive gifts such as golf clubs worth about $1,000.

• Data House, a computer consulting company that provided services and leased computer equipment to the political campaign of John Waihee, receives $10 million in non-bid contracts after Governor Waihee assumes office in 1987. The president of Data House, Dan Arita, is a close friend of State Director of Budget and Finance Yukio Takemoto and golfs with him about forty times a year. But Takemoto says he did not realize that Data House had helped in the governor's campaign.

• An engineering firm known as M&E is awarded a $150,000 consulting contract during an early phase of the state's $2.5 billion airport improvement project. That contract is then amended numerous times over the years, without competitive bidding or outside review. As of early 1993, amounts paid out under the amended contract exceed $52 million. A principal of the company, James Kumagai, is the former head of the Democratic party. M&E has many retired state officials on its payroll and is a large contributor to the Democratic party.

• Employee Retirement System (ERS) administrator Stanley Siu says he was instructed by his bosses not to answer questions about activities of the $5 billion ERS fund. Taking these marching orders literally, he ignores inquiries from not only investigative reporter James Dooley but also Lieutenant Governor Benjamin Cayetano. The chairman of the ERS board publicly denies issuing the gag order. State Director of Budget and Finance Takemoto writes a letter apologizing for the "misunderstanding" but doesn't admit giving the gag order or reveal who did.

• A company called SS/168 sells an office complex (CentrePoint) to the ERS, minutes after having bought it for $3 million less than the sales price. A part owner of SS/168, Stanley Himeno, is the father-in-law of Attorney General Warren Price. Himeno's daughter is a principal in a law firm that billed more than $600,000 to the ERS over a three-year period for non-bid work on other matters. Governor Waihee later nominates Sharon Himeno to the Hawai'i Supreme Court.

• State director of environmental quality Marvin Miura pleads guilty to federal charges of fraud, bribery, and tax evasion relating to kickbacks received in the awarding of large non-bid consulting contracts.

An insider's perspective. Even Will Rogers's opinion of government in Hawai'i would be colored by these and similar stories. I'm a little jaded, too, not just from reading the newspapers, but from what I saw as a high-level bureaucrat in state government. Until recently, I was administrator of the Information and Communication and Services Division of the Department of Budget and Finance(ICS Division). In this position, I had a ringside seat for watching how government in Hawai'i operates.

Before going any further, I want to emphasize that the vast majority of government workers in Hawai'i are honest, hardworking, and committed. Many of them have been at least as frustrated and angered as is the public by the actions of a few high-level people in government. Some have taken courageous actions: Peter Crosby, a Budget and Finance employee who was yanked off his assigned project when he questioned a particular non-bid contract, went public by filing a "whistle-blower" lawsuit; Hideto Kono, Richard Barber, and two others resigned from the nine-person board of the Hawai'i Information Network in reaction to political appointments that they perceived as being based on connections rather than competence; former Supreme Court Justice Edward Nakamura quit as a director of the ERS rather than be a part of something he couldn't stomach. The list could be much longer. The point is that people inside government have taken stands against what they perceived to be abuses of the public trust.

I personally saw and struggled with many of the cases reported in the papers. It was not easy. I was often torn by my conscience and the demands of others, continually trying to find compromises that did not exist. I made formal and informal appeals of troubling decisions, but the situation just got worse. Eventually, I quit my job in frustration. I simply grew tired of beating my head against a brick wall.

Leaving the Budget and Finance Department was one of the most difficult decisions I've ever had to make. The people working with me had worked very hard, and we had accomplished some really good things. The work itself was interesting and challenging, and there was a lot more that needed to be accomplished.

Ironically, I did not intend to voice my concerns publicly at that time. It didn't seem likely to be productive, and I quickly had gotten involved in a time-consuming new job.

Economic buttons. But then a key person in state government somehow got the impression that I was partly responsible for newspaper and legislative investigations that started in early 1992. He called me in and told me to "back off." I can still hear his words: "Hey Norman . . . when the economic buttons get pressed, you're going to get hurt. Your family is going to get hurt. And, the company you're working for is going to get hurt." It was like something out of the *Godfather* movies.

At first I was shocked. Then I was resigned to whatever was going to happen. Finally, after going home and playing with my children, I became angry—so much so that I decided to do something about the practices that caused me to leave my job with the state. My first step was to resume the academic life I had left ten years earlier to work in government. As an associate specialist in research at the University of Hawai'i, I would be able to look into social concerns, such as abusive procurement practices, without too much fear of retribution. Several additional steps, including this chapter, followed. I can't say I've had an impact just yet, but I feel good about trying, especially since so many others are working equally hard, if not harder, for change.

Matsuura's committee. There is an excellent chance for government reform thanks to the work of a special committee of the State Senate. How it came about is itself an interesting story.

Senator Richard Matsuura, a Democrat from Hilo, together with Senator Mamoru Yamasaki, a Democrat from Maui, began raising questions publicly in 1992 about the general purchasing practices of the Waihee administration. They were concerned about costly sole-source and exempt procurements, the practice of amending contracts without

Senator Richard Matsuura

review, a specific contract with GTE Hawaiian Tel for the state's telephone system, the length of time the administration took to switch from costly interisland long-distance calls to the state's own microwave system, and the investment practices of ERS. These are some of the very things that had caused me to quit my job.

The administration's initial reaction to the Senate probe appeared to be based on a threefold strategy: not respond to inquiries; pressure the senators to halt the investigations (including the threat that this would "hurt the Democratic party"); and criticize existing procurement law while voicing support for reform.

Tactics fail. When these tactics failed to contain the inquiry, the administration tried to gain control of the Senate through the reorganization that followed the retirements of Senate president Richard Wong and Senator Yamasaki. But Senator James Aki ended up president of the Senate, and he supported the investigation. By December 1992, the Senate had formed a special investigative committee and assigned it the task of investigating procurement and the ERS. The governor lobbied against giving subpoena power to the committee but was unable to sway the Aki-organized Senate.

Toward the end of the 1993 session, and shortly after the polls revealed a substantial drop in his support, Governor Waihee again went on the offensive. First, he called for an end to political contributions from companies doing sole-source and exempt work. Then, he accused the Senate of killing a procurement bill for political reasons and for being more interested in conducting an investigation than in working for meaningful reform. Finally, he instructed all agency personnel to respond to questions from the committee only in writing and to send a copy of their responses to the offices of their particular director and the governor.

Charges of McCarthyism. Just before a committee hearing involving a Data House contract to provide services to his own office, the governor went so far as to charge that the investigation was reminiscent of McCarthyism. The governor's offensive posture, it seems, was designed to create the impression that the investigation was somehow politically motivated and to portray Senator Matsuura as being on a witchhunt. However, the press didn't buy it and neither did the public, who were beginning to wonder what was making the governor so nervous.

It was at about that same time that the administration hired Peter Wolff, a criminal defense lawyer. Wolff quickly sent a letter to the committee, challenging its right to operate between legislative sessions and saying he had advised state officials not to show up for the hearings. And he pledged to fight the committee's authority to issue subpoenas all the way to the Hawai'i Supreme Court.

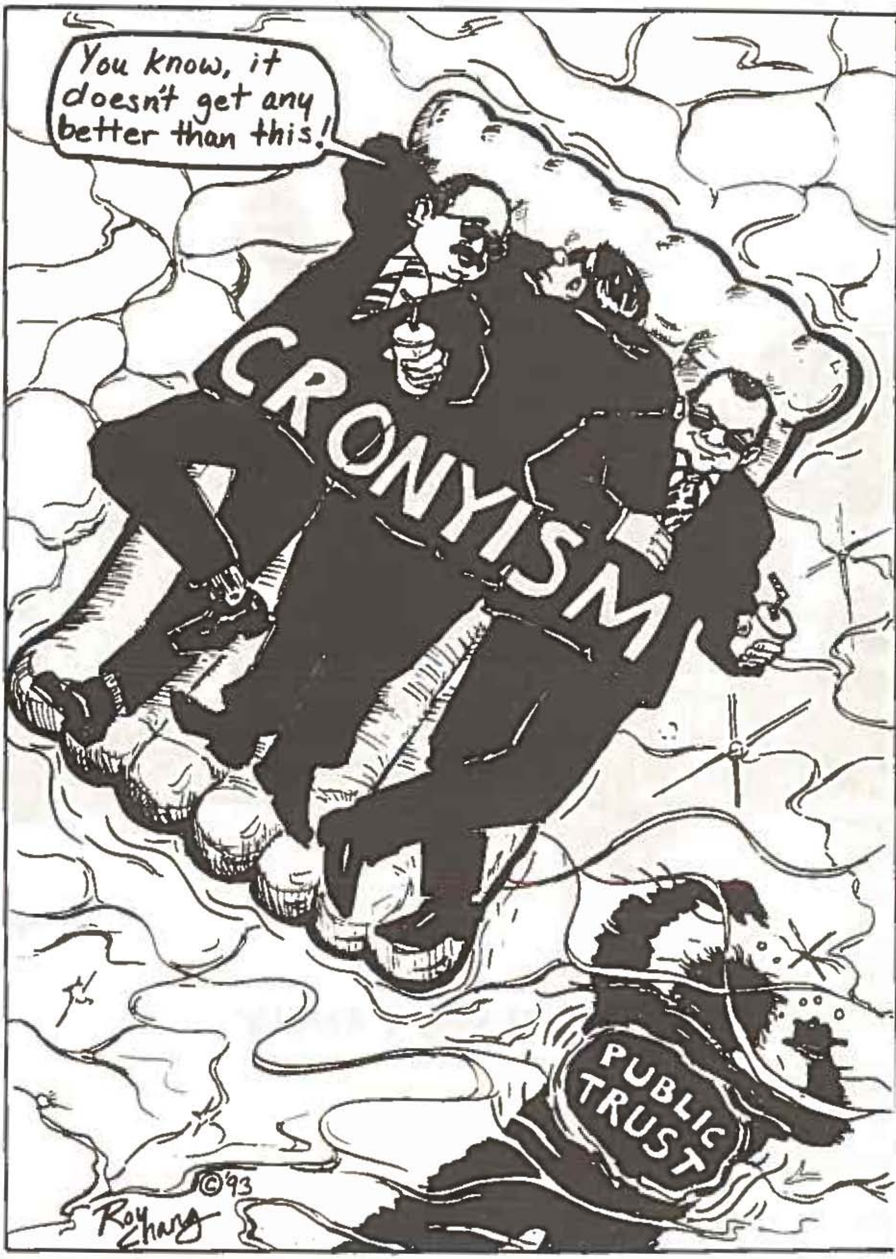
Although the governor's public relations ploy did not succeed in stifling the Senate investigation, the decision to test the committee's subpoena powers at least slowed it down.

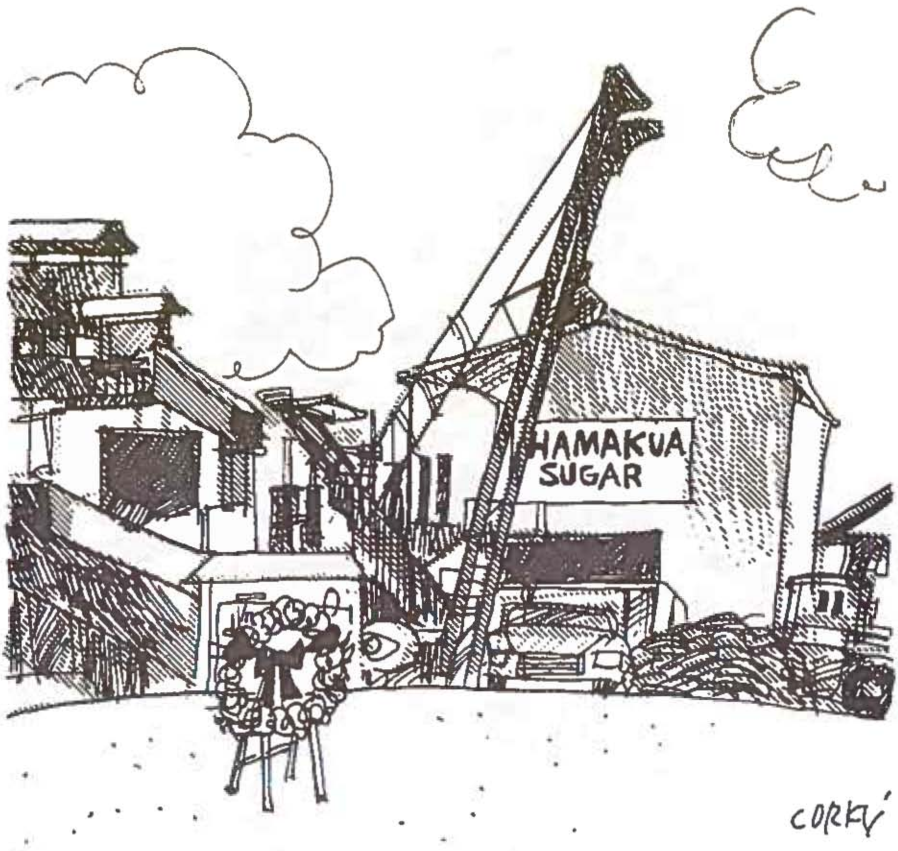
Crisis of confidence. There is a growing crisis of confidence that will not end soon. The Waihee administration's strategy appears to be to delay any resolution, leaving the mess for the next administration. That doesn't instill faith in government.

Regardless of how it plays out, there are lessons to be learned and reforms to be made. At a minimum, we need a new procurement code. That's obvious. But we also need an independent watchdog agency to keep things honest. Normally, a second political party would do most of this, but Hawai'i's Republican party has itself been fairly inept and one of its standard bearers has had to deal with allegations of wrongdoing himself (remember Kukui Plaza?). The absence of a viable second party has left the work of political reform to the newspapers and independent-minded Democrats in the Senate.

We also need an independent attorney general, someone who defines the client as the public rather than the governor.

Finally, we need political leaders who concern themselves with the spirit as well as the letter of any law and who run for office to serve the people rather than themselves and their friends. The vast majority of people who work for the State of Hawai'i are honest and hardworking. Yet they get tainted by the practices of a few. Whether those few are corrupt or just unethical doesn't matter all that much. The mere appearance of corruption is reason enough for the public to demand reform.





A DEATH IN THE FAMILY