University of Hawai'i at Mānoa **Hamilton Library**
eVols Repository **https://evols.library.manoa.hawaii.edu**
Native Hawaiian Issues Box NH7

Hawaiian Homes Commission, 1959 - 1974: General (1 of 2)

Senator Daniel K. Inouye Papers
Native Hawaiian Issues, Box NH7, Folder 7
http://hdl.handle.net/10524/62741

Items in eVols are protected by copyright, with all rights reserved, unless otherwise indicated.

UHM Library Digital Collections Disclaimer and Copyright Information

State of Hawaii Hawaiian Homes Comm

COPY

October 5, 1967

Mrs. Emmaline L. White
P. O. Box 155
Anahola, Kauai, Hawaii 96703

Dear Mrs. White:

Thank you for your letter regarding the handling of certain Hawaiian Home lands in the Anahola area of Kauai.

It is my understanding from authorities in Hawaii that in January 1963, the Department of Land and Natural Resources advertised a public auction to be conducted on February 25, 1963, of several parcels of public lands on Kauai, including a 37.65 acre parcel of Hawaiian Home lands. Up to that time, this 37.65 acre parcel was under a revocable permit to a Hawaiian homesteader, Mr. Theodore Williams, who, in turn was sharing the use of this parcel with another Hawaiian homesteader, Mr. William K. Lemn, Jr., both of Anahola. Mr. Williams paid a monthly rental of $40.00 to the Land Department for the use of this parcel, but he, in turn, charged Mr. Lemn $19.00 a month for partial use of the same parcel.

The Department of Hawaiian Home Lands asked the Department of Land and Natural Resources to withdraw the 37.65 acre parcel from the upcoming public auction and to return the parcel to the former for disposition. This was done and the parcel was then divided and turned over to the two Hawaiian homesteaders, Mr. Williams and Mr. Lemn, for their use in farming.

COPY

On May 9, 1965, about three acres of Hawaiian Home lands at Anahola was made available to the Lihue Hawaiian Congregational Church on a 90-day revocable permit basis. The church asked for a retreat site in an isolated portion of Anahola bordering the Anahola River where church groups could meet and where young people could hold deputation meetings. The site would be available to all church groups on Kauai. I understand this is permissible under Act, Section 207 (c) (1)(A) which authorizes the Department of Hawaiian Home Lands to allow use of its lands to "churches, hospitals, public schools, post offices, and other improvements for public purposes." I believe this is the church group that you referred to in your letter and I understand that the site is about 200 feet from the beach and does not block the beach or the river.

With regard to the 315.97 acre parcel of Department of Hawaiian Home lands at Moloaa, Kauai, I understand from authorities in Hawaii that this land for over a year before June 1, 1966, was under a General Lease No. 3006, under the Land Department to Gay and Robinson for ranching. The Land Department was asked to return this parcel to the Department of Hawaiian Home Lands for management upon the expiration of the lease (June 30, 1965). A thorough study of this parcel was made by both the Land Study Bureau of the University of Hawaii, and the Division of Land Management of the State Land Department. Both reports indicated: (1) the parcel was third-class agricultural land with soils of low fertility; (2) the terrain was very uneven and highly eroded with many gullies and gorges; (3) for economic use, the parcel should be farmed as a unit and not be cut up. The parcel was also assigned for agricultural use--intensive cropping.

COPY

I understand that after considerable study, the Department of Hawaiian Home Lands decided to make this parcel available at public auction for the assigned use of intensive cropping. The Department of Hawaiian Home Lands was convinced that cutting this parcel into small units could not be in the best interest of anyone who may acquire any one of the smaller units. At about this time, Aloha Papaya Company, Limited, applied for this parcel. It was willing to lease the entire parcel despite the fact that only about one-fourth could be put into crops. However, the company also indicated that it was working with several Hawaiian homesteaders at Anahola to grow papayas and harvest guava in this area.

With regard to your inquiry concerning public notification of this auction, I am enclosing a copy of a legal notice which ran in the Honolulu Advertiser on February 23, 28 and March 7, 1966. A similar notice was also run in the Garden Isle newspaper on February 19, 23 and March 2, 1966.

I understand that at one time this was a 350 acre parcel, but approximately 34 acres were transferred to the State Highway Department for use in construction of the new Kauai Belt Road. This transfer is in keeping with the policy of the Department of Hawaiian Homes Lands which makes its lands available for public projects in the public interest.

You may also be interested to know that the Aloha Papaya Company since acquiring the lease at Moloaa on May 1, 1966, has invested over $100,000 in making about 80 acres of the 315 acres under lease productive. The Aloha Papaya Company has also continued and maintained its working relationship with the Hawaiian homesteaders at Anahola, providing work for 15 people in the fields as well as for 10 persons in a packing shed it operates in Kapaa.

COPY

I hope this information will prove helpful to you and if I can be of any further assistance, please do not hesitate to contact me again.

Sincerely,

DANIEL K. INOUYE
United States Senator

DKI:at

SEP 15 1967

September 12, 1967

The Honorable Dan Inouye
United States Senator
Washington, D. C.

Dear Senator Dan Inouye,

Re: Hawaiian Homes Lands

Several years ago, I approached the Hawaiian Homes Office in Honolulu to apply for farm land, and was told that there was no program to that effect. At the same time 37 acreas was given away to two other individuals for farming and pasture land, also a camp site was given to a church group, who blocks off the right of way to the river and beach. Not too long ago about 350 acreas of land was given to an individual from Honolulu to plant papayas; the land is here on Kauai in the Moloaa Area. It was understood that this land was placed on auction by the Hawaiian Homes. I can't understand how the Hawaiian Homes can put on an auction without the public being notified. This auction was not publicized. I feel this to be unfair to us taxpayers, who lease lands from the government. We not only bid on these lands for the lease but pay bond and the taxes. In my opinion, I think that the State Lands Dept. should handle all land auctions, in fairness to all.

As my Congressman, I do hope you will look into this matter.

Thank you,

Yours truly,

Emmaline L. White

Mrs. Emmaline L. White
Anahola, Kauai
P. O. Box 155
Hawaii 96703

COPY

Slated Hawaii Hawaiian Homes Comm.

October 5, 1967

Mr. Abraham Piianaia
Chairman
Hawaiian Homes Commission
530 Halekauwila Street
Honolulu, Hawaii 96813

Dear Abe:

Thank you for your response to my inquiry regarding the complaints raised by Mrs. Emmaline L. White over the handling of certain Hawaiian Home lands in the Anahola-Moloaa area of Kauai.

Your comprehensive reply is most appreciated.

Sincerely,

DANIEL K. INOUYE
United States Senator

DKI:at

PROJECT OFFICES

WAIMEA OFFICE
P. O. BOX 125
KAMUELA, HAWAII

KEAUKAHA OFFICE
P. O. BOX 833
HILO, HAWAII

PROJECT OFFICES

MAUI OFFICE
P. O. BOX 22
KAHULUI, MAUI

MOLOKAI OFFICE
P. O. BOX 198
HOOLEHUA, MOLOKAI

KAUAI OFFICE
P. O. BOX 332
LIHUE, KAUAI

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
P. O. BOX 1879
HONOLULU, HAWAII 96805

September 26, 1967

The Honorable Daniel K. Inouye
United States Senate
442 Old Senate Office Building
Washington, D. C. 20510

Dear Senator Inouye:

Thank you for your letter of September 15, 1967, with its enclosure which is a copy of a letter to you from Mrs. Emmaline L. White, expressing dissatisfaction with the handling of certain Hawaiian Home lands in the Anahola-Moloaa area of Kauai. The following facts taken out of our files may be helpful to you in replying to Mrs. White.

The "several years ago" Mrs. White refers to was in 1962 to 1963. At that time, she and her husband inquired as to whether or not farming land was available under the Hawaiian Homes program in Anahola. They were interested in acquiring land to supplement acreage already in their possession for cattle raising. The answer to their inquiry was a simple "No" inasmuch as all of the Hawaiian Homes lands in Anahola were at the time under leases which would not expire for several years. In addition, the management of such leases were under the State Department of Land and Natural Resources.

In January 1963, the Department of Land and Natural Resources advertised a public auction to be conducted on February 25. 1963, of several parcels of public lands on Kauai, including a 37.65-acre parcel of Hawaiian Home lands. Up to that time, the said 37.65-acre parcel was under a revocable permit to a Hawaiian homesteader, Mr. Theodore Williams, who, in turn, was sharing the use of this parcel with another Hawaiian homesteader, Mr. William K. Lemn, Jr., both of Anahola. Mr. Williams paid a monthly rental of $40.00 to the Land Department for the use of this parcel, but he, in turn, charged Mr. Lemn $19.00 a month for partial use of the same parcel.

The Department of Hawaiian Home Lands asked the Department of Land and Natural Resources to withdraw the 37.65-acre parcel from the upcoming public auction and to return the parcel to the former for disposition. This was done and the parcel was then divided and

turned over to the two Hawaiian homesteaders, Mr. Williams and Mr. Lemn, for their use in farming. This is the 37-acre parcel Mrs. White writes of in her letter: ".... 37 acres was given away to two other individuals for farming and pasture land...." What Mrs. White did not mention is that she was interested in this 37-acre parcel and was disappointed when it was withdrawn from the Land Department's public auction.

On May 9, 1965, about three acres of Hawaiian Home lands at Anahola was made available to the Lihue Hawaiian Congregational Church on a 90-day revocable permit basis. The church asked for a retreat site in an isolated portion of Anahola bordering the Anahola River where church groups could meet and where young people could hold deputation meetings. The site would be available to all church groups on Kauai. This is permissible under the Act, Section 207 (c)(1)(A) which authorizes the Department to allow use of its lands to "churches, hospitals, public schools, post offices, and other improvements for public purposes;". This is the church group referred to in Mrs. White's letter, but the site is about 200 feet from the beach and does not block the beach nor the river.

For over a year before June 1, 1966, a 315.97-acre parcel of Department of Hawaiian Home lands at Moloaa, Kauai, was under a General Lease No. 3006, under the Land Department to Gay & Robinson for ranching. The Land Department was asked to return this parcel to the Department of Hawaiian Home Lands for management upon the expiration of the lease (June 30, 1965). A thorough study of this parcel was made by both the Land Study Bureau of the University of Hawaii, and the Division of Land Management of the State Land Department. Both reports indicated: (1) the parcel was third-class agricultural land with soils of low fertility; (2) the terrain was very uneven and highly eroded with many gullies and gorges; (3) for economic use, the parcel should be farmed as a unit and not be cut up. The parcel was also assigned for agricultural use--intensive cropping.

After considerable study, the Department of Hawaiian Home Lands decided to make this parcel available at public auction for the assigned use of intensive cropping. The Department was convinced that cutting this parcel into small units could not be in the best interest of anyone who may acquire any one of the smaller units. At about this time, Aloha Papaya Company, Limited, applied for this parcel. It was willing to lease the entire parcel despite the fact that only about one-fourth could be put into crops. However, the company also indicated that it was working with several Hawaiian homesteaders at Anahola to grow papayas and harvest guava in this area. In checking this out, we found this to be correct and that most of the people who would be working the area would be Hawaiian homesteaders.

In her letter, Mrs. White refers to this as: "....about 350 acres of land was given to an individual from Honolulu to plant papayas." She goes on to say: "I can't understand how the Hawaiian Homes can put on an auction without the public being notified. This auction was not publicized." Enclosed herewith is a newspaper clipping of the legal notice which ran in the Honolulu Advertiser of February 23, 28 and March 7, 1966, and also in the Garden Isle newspaper on February 19, 23 and March 2, 1966, publicizing the public auction of this specific parcel. At one time this was a 350-acre parcel, but about 34 acres was transferred to the State Highway Department for use in construction of the new Kauai Belt Road. This is in keeping with the Department's policy of making its lands available for public projects in the public interest.

May I conclude with the following observations. Mrs. White and her husband have for many years been critical of our land policy on Kauai. They are of the opinion that any Hawaiian has a right and is entitled to the use of lands set aside for the purposes of the Act. It has been the policy of the Department for many years not to indiscriminately award leases to anyone who applies for homestead lands without first determining the need for rehabilitation on the part of the applicant. In addition, as legislative appropriations become increasingly more difficult to obtain for the use of one ethnic group such as in the case with our operations, the Department has tried sincerely to maintain a balance between the revenues it obtains from lands not in homesteading and the cost of maintaining the rehabilitation program.

May I also point out that in the case of Aloha Papaya Company, it has, since acquiring the lease at Moloaa on May 1, 1966, invested over $100,000 in making about 80 acres of the 315 acres under lease productive. It has also continued and maintained its working relationship with the Hawaiian homesteaders at Anahola, providing work for 15 people in the fields as well as for 10 persons in a packing shed it operates in Kapaa.

Should you require more information on any of the foregoing, please let us know. Thank you for referring to us for the facts in this specific matter.

Respectfully yours,

A. K. PIIANAIA, Chairman
Hawaiian Homes Commission

AKP:hm
Enclosure - Notice of
Public Auction
(Newspaper clipping)

PUBLIC AUCTION

NOTICE OF SALE OF AN AGRICULTURAL LEASE ON GOVERNMENT LAND AT MOLOAA-PAPAA, KAWAIHAU, KAUAI

The Department of Hawaiian Home Lands, State of Hawaii, hereby announces the sale, at public auction, of a 35 year agricultural lease on Hawaiian Homes' land at Moloaa-Papaa, Kawaihau, Kauai, Tax Map Key 4-9-10-2 and 5, on and at the following date, time and place:

DATE & TIME: THURSDAY, MARCH 17, 1966, at 10:00 A.M.

PLACE: Squad Room of the Police Department, Lihue, Kauai.

LOCATION OF PARCEL, AREA AND UPSET PRICE:

One parcel of 315.97 acres, consisting of 2 lots of Hawaiian Homes' land of Moloaa—Papaa, Kauai, Tax Map Key 4-9-10-2 and 5.

No. of Parcels	Area in Acres	Upset Lease Rental Per Annum
1 parcel consisting of 2 lots	315.97 Acres	$2,400.00

SPECIFIC USE: Intensive Agriculture.

QUALIFICATION OF BIDDERS:

No person shall be entitled to bid at the public auction:

1. Who is a minor.
2. Who is delinquent in the payment of taxes, rents or other obligations to the State of Hawaii or any of its political subdivisions.
3. Who proposes to bid for another without first having fully disclosed the identity and eligibility to bid of such other person, and who fails to furnish the Chairman or his agent with written assurance of his authority to bid for such other person and to sign the memorandum of agreement.
4. Who fails upon demand of the Chairman or his agent to submit proof of his ability to pay in cash or by certified or cashier's check an amount equal to 25% of the upset lease rental per annum.

For the purpose of this sale, the term "person" shall include corporations, partnerships, joint ventures, firms, incorporated associations and the like.

ADDITIONAL TERMS AND CONDITIONS OF LEASE:

Additional and specific terms and conditions, including maps and descriptions setting forth fully the terms, covenants and conditions to be observed and performed by the respective purchases thereof, are on file and open for inspection at the offices of the Department of Hawaiian Home Lands, 530 Halekauwila Street, Honolulu, and the basement of the Circuit Court State Office Building, Lihue, Kauai.

CANCELLATION OF POSTPONEMENT OF AUCTION SALE:

The Commission reserves the right, by and through its Chairman, to cancel this auction sale, or to postpone or continue the same from time to time as it may deem necessary.

DONE at the Office of the Department of Hawaiian Home Lands, this 17th day of February, 1966.

HAWAIIAN HOMES COMMISSION
A. K. PIIANAIA, Chairman

(Hon. Adv. Feb. 23, 28; March 7, 1966)

LEGAL NOTICE

INVITATION FOR BIDS

The Hawaii Housing Authority will receive bids for the general construction of a group of thirty-two (32) dwelling units consisting of thirteen (13) 2 bedroom units, seventeen (17) 3 bedroom units, and two (2) 4 bedroom units designated as Unit I and of a group of eighteen (18) dwelling units consisting of seven (7) 2 bedroom units, seven (7) 3 bedroom units, and four (4) 4 bedroom units designated as Unit II, or of Units I and II combined into fifty (50) dwelling units consisting of twenty (20) 2 bedroom units, twenty-four (24) 3 bedroom units, and six (6) 4 bedroom units, including site clearing, grading, filling, construction of all utilities, parking areas, lawns and landscape planting, and other site improvements, as indicated and described in the Plans and Specifications entitled "PROJECT NO. HA 1-25" in Waimanalo, Oahu, Hawaii, until 2:00 P.M., Hawaiian Standard Time, March 31, 1966 at the office of Hawaii Housing Authority, 1002 North School Street, Honolulu, Hawaii, at which time and place all bids will be publicly opened and read aloud.

Proposed forms of contract documents, including plans and specifications, are on file at the office of the Hawaii Housing Authority at 1002 North School Street, Honolulu, Hawaii.

Copies of the documents may be obtained by depositing $25.00 with the Hawaii Housing Authority at 1002 North School Street, Honolulu, Hawaii for each set of documents so obtained. Such deposit will be refunded to each person who returns the plans, specifications and other documents in good condition within 10 days after bid opening.

A certified check or bank draft, payable to the Hawaii Housing Authority, U.S. Government bonds, or a satisfactory bid bond executed by the bidder and acceptable sureties in an amount equal to five percent of the bid shall be submitted with each bid.

The successful bidder will be required to furnish and pay for satisfactory performance and payment bonds or bonds.

Attention is called to th

LEGAL NOTICE

NOTICE TO BIDDERS
SEALED PROPOSALS

SEALED PROPOSAL for furnishing all labo equipment, tools, mater als and supplies for th maintenance of Abraha Lincoln Hall and Thoma Jefferson Hall, East We Center, University Hawaii, Honolulu, Hawai in strict accordance wit prepared specificatio will be received in th Property Management O fice, Bachman Hall, Roo 108, 2444 Dole Street, Un versity of Hawaii, Honol lu, Hawaii, until 2:30 p.m Friday, March 11, 196 and then publicly opene Bids received after th time and date fixed fo opening will not be consid ered.

Each prospective bidde as a prerequisite to bid o any contract to supply ser vices in excess of $5,00 shall, prior to or at th time of bid submission, as sure the University by separate certification i writing, of compliance with the requirements o Act 247, Session Laws o Hawaii, Regular Sessio 1965 that:

(A) The services to be rendered will be paid for at not less than the wages or salaries paid public officers and employees for similar work. The wages or salaries paid public officers and employees for similar work shall be promulgated by the University in writing and submitted to the prospective bidders not later than six (6) calendar days prior to the date designated for the opening of bids.

(B) All applicable Federal and State laws relating to workmen's compensation, unemployment compensation, payment of wages, and safety will be fully complied with.

Specifications, proposal forms and other contract documents may be examined in Room 108, Bachman Hall, Property Management Office, 2444 Dole Street, University of

I am privileged to have been asked also to bring to the attention of my colleagues a resolution which was recently adopted by the organization.

These two documents follow:

THE NANAKULI HAWAIIAN HOMESTEADERS ASSOCIATION, INC.,
March 5, 1968.

HONORABLE SIRS: We, the Hawaiian citizens presently residing on homestead land at Nanakuli, Hawaii, do respectfully request your support against H.R. 11133. The bill at present is in the Committee on Interior and Insular Affairs. A hearing was held by the Subcommittee on Public Lands of the House Committee on Interior and Insular Affairs on February 19, 1968. Congressman Walter Baring of Nevada, by request, introduced the bill on June 26, 1967.

The Hawaiian Homes Commission Act of 1920, which was originally the Organic Act of 1895 and during the time of the great "Mehele" (land gift from our beloved Prince Jonah Kuhio to the Hawaiian people), made definite provisions for homestead lands, and such lands to be held in trust and leased only to people of Hawaiian ancestry. When Hawaii became a state, this trust was then placed in the hands of Congress.

With the inception of Model Cities Programs, according to Executive Order 11063, in order for the program to qualify for federal monies, our homestead lands must be broken apart. Executive Order 11063 denies federal monies for any urban renewal recipient fund in violation of the Chief Executive's discrimination opinion on race, color, creed, and national origin.

We, the citizens of the Nanakuli Hawaiian Homestead lands, do not wish or desire to participate in the Model Cities program, and must take an opposing position to H.R. 11133, which would enable the Model Cities program to become a reality on our Homestead lands. We wish to see the present status of our homestead lands kept intact.

Because our state does not provide for initiative or petition referendum in our state constitution, we respectfully submit the enclosed petitions under the First Amendment of the Constitution of the United States, that is, the right to petition the Government for a redress of grievances. Be it known, also, that said enclosed petitions were signed by 99.89% of the adult population of the Nanakuli Hawaiian Homestead.

Once again, we respectfully ask for your support in opposition to H.R. 11133, and do humbly pray that you will make others aware of our plight.

Mahalo nui loa,
Sincerely,

RESOLUTION, NANAKULI HAWAIIAN HOMESTEADERS ASSOCIATION, INC., NANAKULI, OAHU, HAWAII, MARCH 4, 1968

Resolved, That the Nanakuli Hawaiian Howesteader's Association, Incorporated, by the membership, opposes the proposal to remove Federal power to intercede in the administration of State lands granted by the Hawaiian Statehood Act of 1959.

Be it further resolved that the proposal, known as H.R. 11133, would needlessly remove an essential check to the arbitrary exercise of State power. Moreover, it is not clear how this legislation could benefit any party, for if the State does not act in a manner violative of the public trust described in the Statehood Act, the continued existence of the Federal power to intervene will never come into operation; however, only if the State violates the public trust can the Federal power operate. It would seem that the proposal to remove this guarantee serves no legitimate purpose.

Adopted by the unanimous vote of all members in attendance at the Association meeting of February 23, 1968.

Mrs. MARIE OLSEN, *President.*
Mr. WILLIAM C. ACHI, *Vice President.*
Mrs. BETTY ANN KAAHAAINA, *Secretary.*

Fossils Found in Antarctic

HON. GEORGE P. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1968

Mr. MILLER of California. Mr. Speaker, tomorrow the National Science Foundation, in conjunction with Ohio State University, will announce one of the more important "finds" of recent years involving the discovery of fossils in Antarctica.

This event has great significance with regard to the theory of continental drift. It is also related to a better understanding of such matters as: First, the basic geologic structure of the earth, including the ocean floor and its potential uses; second, phenomena related to earthquakes, and possible improvement in man's capability to predict them; third, climatological history and prediction; and, fourth, relationships between the earth's structure and the flourishing and decline of varieties of both vegetable and animal life.

Mr. Speaker, I include herewith the statement of the Foundation in announcing the results of this research:

ANTARCTIC FOSSIL FIND MAY PROVIDE CLUE TO ORIGIN OF SOUTHERN CONTINENTS

The first land-vertebrate fossil found in Antarctica—a two-and-a-half inch piece of jaw bone—may provide a clue to the origin of Southern Hemisphere continents.

The bone was discovered last December in an ancient sediment-filled stream bed by a geology team from Ohio State University's (OSU) Institute of Polar Studies led by Peter J. Barrett working under a grant from the National Science Foundation. It has just been identified by Dr. Edwin H. Colbert of the American Museum of Natural History, New York City.

The fossil bone is from an amphibian that lived about 200 million years ago. Fossil remnants of this group of animals have also been found in Australia and South Africa in rocks of about the same age (early Triassic) as those that held the Antarctic fossil.

The fossil may play an important part in a current major scientific controversy dealing with the geographical origins of the Southern Hemisphere continents and India. An old theory, revived in recent years, suggests that Africa, Antarctica, Australia, South America, and India were once joined in a "supercontinent" called "Gondwanaland." At some time in the ancient past, proponents of the theory argue, the huge continent gradually broke up and its segments slowly drifted to their present locations.

Opponents of this continental-drift theory have offered evidence and arguments to support their contention that such continental movement could not have taken place.

The proponents of continental drift say that if Gondwanaland existed, then certain evidence, such as life forms, found in one of the present southern continents should be found also in other southern continents in circumstances indicating that it existed at about the same time. The evidence also must be such that it could not reasonably have spread across thousands of miles of salt water from one continent to another and, if living survive.

Certain kinds of rock and rock-layer sequences, as well as plant fossils, have been found that fit the requirements of the theory. However, a vertebrate animal that lived on land or in fresh water, common to two or more of the continents, and considered vital evidence in support of the theory by its proponents, has not been found until now in Antarctica—despite arduous search.

The fossil was found by the OSU group in the central Transantarctic Mountains, about 325 miles from the South Pole. Dr. Colbert who is curator of vertebrate paleontology at the American Museum of Natural History said the animal is of the subclass Labyrinthodontia, and probably was three to four feet in length. He has not yet identified the fossil below the subclass level.

Labyrinthodotia is a major group of extinct amphibians that ranged in size from alligators to salamanders. They were the dominant amphibians of the late Paleozoic and early Mesozoic eras (350–200 million years ago) and may well have included the ancestor of all land vertebrates. The fossil bone found in Antarctica measures about two-and-a-half inches, by one-and-a-half inches by one inch.

Scientists know that Antarctica once had a warm or tropical climate conducive to higher forms of animal life. Large fossil tree trunks, thick seams of anthracite coal, and fossils of prehistoric ferns have been found on the southern polar continent.

The OSU geology team that found the fossil was investigating rock strata sequences to learn more about the extent and flow direction of the ancient Antarctic ice sheet, and about the river basin sediments and coal deposits. Such information is expected to shed new light on the geologic history of the continent. In addition to Barrett, the team included Dr. David H. Elliot, Ralph J. Baillie and David P. Johnston. Their study was part of the United States Antarctic Research Program, funded and administered by the National Science Foundation.

The OSU geology team worked in the field between November 12, 1967 to February 2, 1968, Barrett reported. They worked at elevations ranging from 6,500 to 10,000 feet lived in two-man canvas tents, and traveled many miles across snow fields to rock outcrops in motorized toboggans. Temperatures ranged from 15 degrees to minus 20 degrees F. while they were in the field during the Antarctic summer.

The research party was placed in the field and picked up by C–130 Hercules aircraft of Air Development Squadron Six, a unit of the U.S. Navy's Operation Deep Freeze.

AAA Backs Travel Incentives

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1968

Mr. BINGHAM. Mr. Speaker, the American Automobile Association, in its American Motorist magazine this month, urged strongly that—

A Guarantee of What for Whom?

HON. ROGER H. ZION

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1968

Mr. ZION. Mr. Speaker, many of us share grave doubts over solutions proposed by the President's Commission on Civil Disorder for the problems and unrest in our cities. The Commission has suggested, once again, the device of a "guaranteed income" as a panacea to the problems of the ghetto poor. Hard work, and the individuality of man have been labeled as "inadequate" by this body. Not all of us believe these virtues are out of date, and I commend to my colleagues the very thoughtful editorial appearing in the Corydon, Ind., Republican this past week as going to the heart of the matter. Editor M. E. Benton writes as follows:

LOOK AGAIN, AMERICA

The President's Commission on crime and unrest in our nation's streets came up with some basic conclusions as to the cause of the unrest, but they are not things that the average American did not know.

We know for instance, that any man, woman, or child, made to feel inferior is a seed planted in the field of rebellion. But, being average Americans we too like to hide our heads in sandpiles of dreams and tell ourselves that although this is true, it's the other fellow who will not face facts.

Someone said a long time ago, "We can not legislate man's morals". We can make laws guaranteeing every man in the United States equal rights, but it is man himself that must recognize the immorality of degrading another human being.

This basic fact is not what troubles the mind in the Commission's report—it is rather one of the solutions offered. The Commission showed its Great Society Democrat influence in asking for a "guaranteed income for everyone," whether he works or not.

If Americans are complacent about who will enforce the rights of one man to be respected by other men—we appear to be even more complacent to the danger with which the guaranteed income proposal is frothed.

The English called "guaranteed income" the dole system, it helped make England Socialist and destroyed the British Empire.

Russia abolished profits in favor of the Workingman's Soviet society. We in America complacently watch union after union demand and force unearned wage increases which are destroying profits vital to the economy's growth.

If the United States sits by and lets our Federal government seize more and more power through such proposals as this, we will see the authority and self-respect of cities and states washed down the drain. This centralizing of solutions in the central government is what Germany did in the 1930's out of it came Hitler.

More and more of your income is being taken in taxes to support indolence by people who won't work but who will support whoever gives the most from the public trough. It is the fear of the "Great Leader" turning off the spigot that supports Castro's Cuba.

This suggestion of a guaranteed income, put into operation, could do more to destroy even a complacent society, more than any other thing.

Look about you—America used to mean a government of the people, by the people and for the people. Today success is suspect, poverty perpetuated by the party in power, criminals are pampered, police attacked, and our government is bogged down in spending money it doesn't have.

Look again—the solutions proposed by the Crime Commission will destroy the last vestige of what built America, hard work, individuality of man, free enterprise, and the right to be heard in free elections.

Look Again America—which shall it be for us—an example of a growing free society or just another fallen empire of Socialism.

This year we will still be able to practice the opportunity of free elections—it's closer to November than you think.

Two Marylanders Die in Vietnam

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1968

Mr. LONG of Maryland. Mr. Speaker, Sp4c. Thomas W. Pryor and Sp4c. Robert W. Abernathy, two paratroopers from Maryland, were killed recently in Vietnam. I wish to commend the bravery of these young men and honor their memories by including the following article in the RECORD:

TWO MARYLANDERS DIE IN VIETNAM—ABERNATHY AND PRYOR, BOTH PARATROOPERS, ARE KILLED

Two Maryland partroopers, one from Baltimore and one from Rockville, have been killed in Vietnam, the Defense Department announced yesterday.

They were:

Spec. 4 Thomas W. Pryor, son of Mrs. Josephine Pryor, of 813 East Thirty-fourth street, Baltimore.

Spec. 4 Robert W. Abernathy, son of Mr. and Mrs. Robert F. Abernathy, of 4403 Hallet street, Rockville.

Specialist Pryor, 21, a paratrooper with the 101st Airborne Division, was killed by small-arms fire March 5 while on a combat mission near the border zone, his mother said yesterday.

LOVED PARATROOPS

Mrs. Pryor said that her son, a rifleman, "just loved the paratroops."

She said that her son was "very, very patriotic and had little patience with the anti-war demonstrators and that sort of thing."

Until his last letter, which was less enthusiastic, she said, he described himself as "very gung ho."

A Baltimore native, he attended City College and was graduated from Calvert Hall High School, she said.

After high school, he worked for a year as an apprentice automobile mechanic in Wilmington, Del., living there with a brother, Richard V. Pryor.

He enlisted in the Army in June, 1966, and volunteered for airborne service immediately after completing his basic training.

An older brother, Joseph P. Pryor, was killed in a Navy aircraft accident in the Arctic Ocean in 1954 at age 22, Mrs. Pryor said. Specialist Pryor's father, R. Lamar Pryor, a Baltimore accountant and real estate man, died in 1956.

Survivors, in addition to Mrs. Pryor and the brother, Richard, include a sister, Betty Pryor, of Baltimore, and three other brothers, Robert L. Pryor, of Joppatowne, George H. Pryor, of Cincinnati, and James M. Pryor, of Baltimore.

ON PATROL

Specialist Abernathy, who was 20, was killed Monday while on a patrol near Tay Hoa, his father said last night. He was in the 173d Airborne and had been in Vietnam for about 6½ months.

The young paratrooper enlisted in the Army about two years ago. He wanted to finish his military obligation and "come back and go to college," Mr. Abernathy said.

His interest was physical education. While attending Robert E. Perry High School in Rockville, he played linebacker on the school's football team. He graduated in 1965.

Mr. Abernathy said his son had worked for the post office in Rockville for about a year after school before enlisting in the Army.

Besides his parents, Specialist Abernathy is survived by a sister, Lynette Abernathy, a student at Perry High School.

Improve Public Image of Model Cities Program

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1968

Mr. MATSUNAGA. Mr. Speaker, I find it very distressing that the model cities program, which holds such great promise for our American cities, appears to have been initiated in a manner that is less than satisfactory to the people it is designed to help. My conclusion after studying numerous complaints from Hawaii is that the objectives of the program and the means of achieving those objectives have not been adequately explained to the people whose lives are most affected. It is evident also that there is a lack of understanding and compassion on the part of some officials who have recently been charged with the responsibility of carrying out this program that deals not only with the physical environment, but also with the human beings who now live in that environment.

Mr. Speaker, it is my sincere hope that any initial errors that have been made will be corrected quickly and the model cities program will be implemented in the manner in which it was originally intended.

Because of my deep concern for the welfare of my constituents and others who are similarly affected by an unsatisfactory implementation of the model cities program, I am submitting for inclusion in the CONGRESSIONAL RECORD an open letter to Members of Congress from the Nanakuli Hawaiian Homesteaders Association, Inc., an organization of Hawaii citizens whose early experience with the model cities program leaves much room for improvement. They are some of the beneficiaries of the Hawaiian Homes Commission Act of 1920, which was enacted by a beneficent and understanding Congress to make available to native Hawaiians for home leasing purposes at a nominal rental certain public lands in the then Territory of Hawaii.

recommendation that it be enacted into law were the result of this Department's independent study and decision.

"I trust that this information will be helpful in correcting the mistaken impression that seems to have arisen in your State that you had a role in our sponsorship of HR 11133."

HR 11133 would amend a section of Hawaii's Enabling Act of 1959 to remove the requirement that the U.S. Attorney General intervene if the Hawaii Homes lands were used for any purpose other than specified in the sion Act of 1920. The 1920 Act is a compact between the United States and the Territory of Hawaii.

Mrs. Mink's office released a letter from Warren Christopher, U.S. Deputy Attorney General, which answered two questions she asked about HR 11133. Here are some excerpts from that letter:

"You ask whether the bill amends the Hawaiian Homes Commission Act and whether, after enactment, the Attorney General would still have authority to institute suit for a breach of trust.

"As for the first, let me assure you that this legislation does not amend the Hawaiian Homes Commission Act.

"With respect to your second question, many states were, in their enabling acts, vested with title to lands previously owned by the United States. These lands were given to the states in trust for certain purposes.

"In the cases of only New Mexico, Arizona and Hawaii do the enabling acts contain express provisions concerning suits to be brought by the United States for the breach of any of these trusts imposed upon the use or disposition of the lands or proceeds and rents derived from them.

"HR 11133 was introduced at the request of the Attorney General to eliminate the specific provisions in these three enabling acts.

". . . However, you may assure your constituents that in our judgment, after enactment of this legislation the Attorney General will be in the same position with respect to his ability to enforce the trust conditions in these three states as he is in all other states.

"By this I mean [illegible] Attorney General h may exercise, inhe thority to enforce t provisions and needs cific legislative auth do so . . ."

George Mason, p of Pacific Business was asked for comm the letters from Mrs. office.

"Even if Patsy was sponsible (for HR 111 still was derelict in ting others know a . . .," he replied.

"She's on the subc tee this bill was refe Why didn't Spark Rep. Spark M. Mats and others know ab Why didn't various St partment heads know it?"

HAdv 4/2/68 Hawaii C&C of Hono model cities

AG Clark Defends Rep. Mink

The Honolulu office of U.S. Rep. Patsy T. Mink yesterday released a letter from U.S. Attorney General Ramsey Clark which is meant to clear her of suggestions that she was involved in a "hush-hush land grab" in Nanakuli.

For the past several weeks, Pacific Business News has been editorially critical of Mrs. Mink and HR 11133, a bill before Congress to amend the enabling acts of Hawaii, New Mexico and Arizona.

The weekly publication suggested HR 11133 was a secret attempt, possibly connected with the Model Cities program, to make Hawaiian Homes lands in Nanakuli available for private resort development.

Pacific Business News also suggested that Mrs. Mink, a member of the House subcommittee which considered HR 11133, was involved in the "hush-hush land grab."

Clark's letter to Mrs. Mink said:

"The Department of Justice recommended this proposed legislation to Congress on May 9, 1967. Sen. Henry M. Jackson introduced it in the Senate on May 23, 1967, as SR 1832, and Congressman Walter S. Baring introduced it in the House on June 26, 1967, as HR 11133.

"This will confirm that neither I nor my staff gave you any notice of our submission of this legislation to Congress or consulted with you at any time before submission about its subject matter or provisions. The preparation of the bill and recommendation that it be enacted into law were the result of this Department's independent study and decision.

"I trust that this information will be helpful in correcting the mistaken impression that seems to have arisen in your State that you had a role in our sponsorship of HR 11133."

HR 11133 would amend a section of Hawaii's Enabling Act of 1959 to remove the requirement that the U.S. Attorney General intervene if the Hawaii Homes lands were used for any purpose other than specified in the sion Act of 1920. The 1920 Act is a compact between the United States and the Territory of Hawaii.

Mrs. Mink's office released a letter from Warren Christopher, U.S. Deputy Attorney General, which answered two questions she asked about HR 11133. Here are some excerpts from that letter:

"You ask whether the bill amends the Hawaiian Homes Commission Act and whether, after enactment, the Attorney General would still

Staff named to work on Model Cities

The State Department of Education has named Dr. Irwin Tanaka to head the department's work with the Model Cities program.

Other Education Department staff members who will be working on the Model Cities program are:

Miss Aiko Otomo, chief program planner.
Masao Osaki, program planner.
John Uchima, program coordinator.

Among other education department appointments made for fall are:

Honolulu District

Anuenue Elementary School — Mrs. Emiko Nakamura, principal.
Palolo Elementary — Mrs. Alice Hall, vice-principal.
Kaahumanu Elementary — Juliette S. H. Ling.
Lunalilo Elementary — Roland Lum, vice-principal.

Central District

Aiea High — Mamoru Matsumura, vice-principal.
Halawa Elementary — Mrs. Edith Lee, vice-principal.
Hickam Elementary — Mrs. Katherine Yamane, vice-principal.
Radford High — Milton Shishido, vice-principal.

Leeward Oahu District

Makaha Elementary — Mrs. Alice Zenger, principal.
Iroquois Point Elementary — Yoshinobu Oshiro, principal.
Pokahea Elementary — Mrs. Karen Hosaka, vice-principal.
Pearl Ciy Highlands—Mrs. Doris Hirayama, vice-principal.
Makakilo Elementary — Eugene Shizuru, vice-principal.
Nanakuli High and Intermediate — Thomas Yano, vice-principal.

Akira Fukuda has been named acting principal of the Waipahu Community School and Henry Imanaka as administrator for student transportation and teacher housing in the department's physical facilities branch.

Star-Bulletin - June 28, 1968 (A-10)

COPY

Please get
Hawn Homes comm

April 14, 1964

Mr. Abraham Piianaia, Chairman
Hawaiian Homes Commission
530 Halekauwila Street
Honolulu, Hawaii 96813

Dear Mr. Piianaia:

I received a note from Mr. Ed Payton of Kawaihae recently stating that he is requesting 25 acres in your Kawaihae Industrial Park. I am sure you will give him fair consideration under your existing rules and regulations.

I hope you are enjoying your new job. If I can be of any assistance to you at anytime please don't hesitate to contact me.

With warmest regards, I am

Sincerely,

DANIEL K. INOUYE
United States Senator

DKI:dw

COPY

April 14, 1964

Mr. Ed Payton
Box 516
Kamuela, Hawaii

Dear Mr. Payton:

I want to acknowledge receipt of your pamphlet with a message on the back. I shall communicate with Mr. Piianaia today regarding your request for 25 acres in their Kawaihae Industrial Park.

I hope your business is progressing well.

Please give my regards to your associates. Aloha and best wishes.

Sincerely,

DANIEL K. INOUYE
United States Senator

DKI:dw

4-Hs Feeds are known for **4 - H** ighest nutrition conversion value

Bulk or Bagged -- you save profits when you buy from

HAWAII'S only "GRAIN BANK"

Hawaii's only deep-water **GRANULATOR FEED MILL**

Can Save You Feed Dollars

Fresh feeds are not stored or transported for long periods to become stale.

Finest concentrates with digestible ingredients are used.

Granulated Corn is Best and More Costly.

Corn is unequaled by any other grain for a basic feed.

CERTIFIED FRESH FEEDS
Give you more value!

QUOTES

APR 11 1964

Dear Senator:

Mr. Pianaia and Hawaiian Home lands Commission meet April 24th to Consider a Request from me of 25 Acres in Their Kawaihae Industrial Park—

We need this to build our Food Processing Complex— This will Reduce The Cost of Beef and Pork to our Consumers — Please ask Them to Give us Favorable Action—

Mahalo

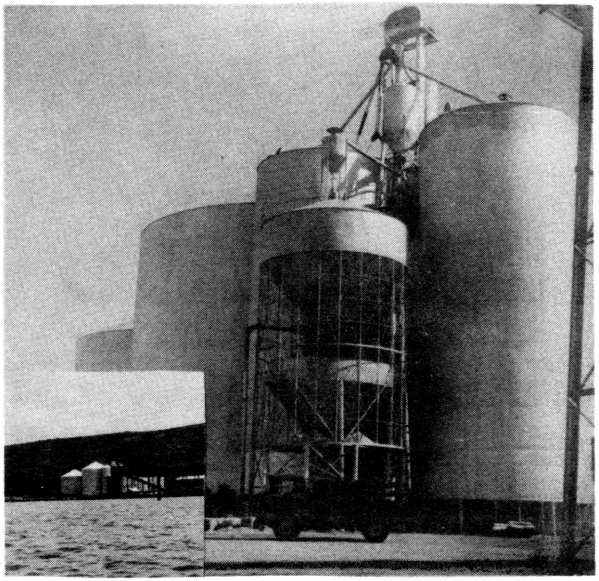
KAWAIHAE ELEVATOR

'The Grain Bank of Hawaii"

KAWAIHAE ELEVATOR CO.
"THE GRAIN BANK OF HAWAII"
P.O. Box 516, Kamuela, Hawaii

KAWAIHAE ELEVATOR CO.

"The Grain Bank of Hawaii"



Producers of -----

Kawaihae

Certified "FRESH" Feeds

For

Hawaii's Beef, Dairy, Pork and Poultry Industry

CERTIFIED FRESH

Cut-Cost Feeds

CERTIFIED FRESH

Custom Mix Feeds

CERTIFIED FRESH

4-Hs Feeds

The "GRAIN BANK OF HAWAII" cuts-cost with bulk shipments in our deep water elevator.

SHOPPING LIST

STORY OF
FOOD PROCESSING COMPLEX
IN
"HAWAII BUSINESS & INDUSTRY"
BIG ISLAND ISSUE

OCT - 1963

Ask Your Butcher For

KAWAIHAE CERTIFIED

CORN FED BEEF

from KAWAIHAE

to KANSAS CITY

CORN-FED BEEF

there's no finer BEEF

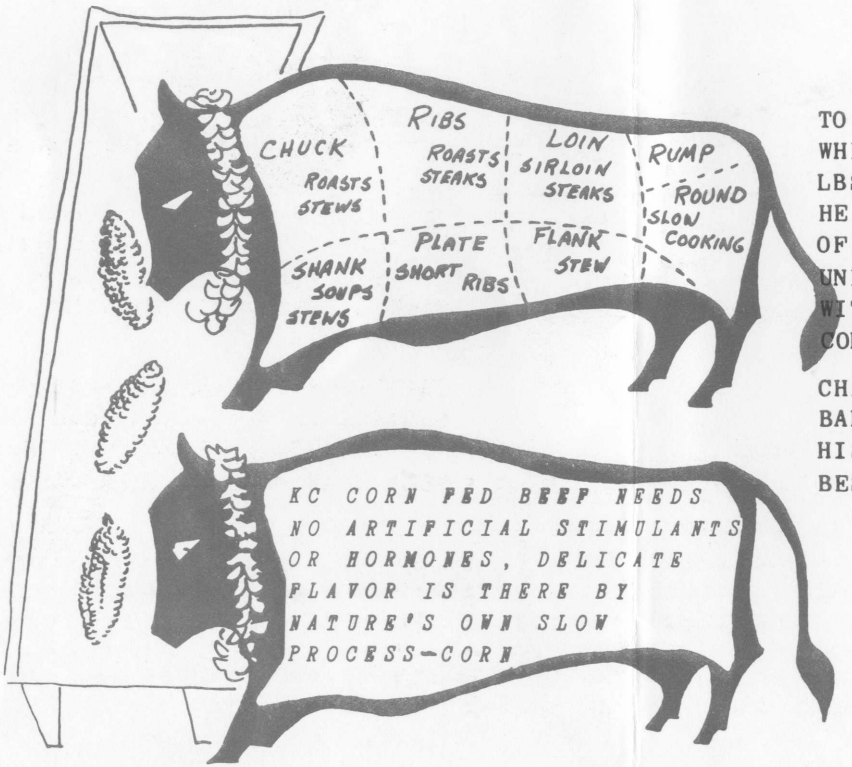
HAWAII'S KC BEEF

PUAKO FEED AND FEEDING CO.
P.O. BOX 516
KAMUELA, HAWAII

Bob Stanton
854-154

Ed Payton
854-017

DER DES GUY OVER DER ON DE BEEG ISLAND, HAWAII ON DE BEACH KAWAIHAE.
DEY GROW SOME REAL ONO KINE BEEF
FROM DA PIPI WHAT DEY FEEDING
WEET CORN.
DIS KINE MO BETTA DAN DE
MAINLAN



TO FINISH THIS BEEF WITH SNO-WHITE FAT REQUIRED OVER 2000 LBS. OF GOLDEN YELLOW CORN. HE DRANK OVER 1,000 GALLONS OF WATER, USED UP 2 MILLION UNITS OF VITAMIN 'A' ALONG WITH A HUNDRED OTHER DIET CONCENTRATES

CHANCES ARE HE HAD A BETTER BALANCE OF NUTRITION THAN HIS RANCHER. HE WAS HAWAII'S BEST MEAT FACTORY ON 4 LEGS.

CORN INSTILLS A FLAVOR AND TENDERNESS
UNEQUALLED BY ANY GRAIN KNOWN TO MAN

COPY

State Sent
Hawn Homes Comm.

February 2, 1967

The Honorable John A. Burns
Governor of Hawaii
Iolani Palace
Honolulu, Hawaii

Dear Jack:

Thank you for your very candid letter of January 17th, in response to my letter of December 19th, relating to changes to the Hawaiian Homes Program for the benefit of our Hawaiian people.

Your position is logical and makes good sense. However, it was my feeling that by selling some of these parcels to qualified homesteaders, the money could be used to buy other property to accommodate those on the waiting list. But your arguments against this proposal cannot be refuted.

Please be assured that nothing further will be done on this matter.

Aloha,

DANIEL K. INOUYE
United States Senator

DKI:sb

EXECUTIVE CHAMBERS

HONOLULU

January 17, 1967

JOHN A. BURNS
GOVERNOR

Dear Dan:

Thank you for your letter of December 19, 1966, regarding changes to the Hawaiian Homes program for the benefit of the Hawaiian people.

In 1964, the Legislative Reference Bureau had noted the limited success of said program and spelled out several suggestions that had been advanced for the improvement of the program to meet changing conditions, including, among others, educational improvements, social service development, pepperpotting, supplemental financing by other institutions, agricultural demonstration projects, and sale of land in fee. Given the program's limited resources, simultaneous adoption of all promising approaches could not be undertaken, and policy priorities were established. The 1965 State Legislature enacted several statutes in this regard, implementation of which have been commenced by the Department of Hawaiian Home Lands.

Inasmuch as the sale of land in fee would disrupt one of the basic tenets of the program, i.e., alienation of Hawaiian Home lands be made impossible, primary consideration has not to date been given to this approach. Authorizing the purchase of homestead lots in fee by lessees, after they have established over a period of years the ability to successfully manage their finances and property, appears to have merit as an incentive measure in accord with the leadership approach, as distinguished from pepperpotting, in the total Hawaiian Homes program.

This proposal should be considered, however, in view of the $1 annual rent paid by lessees under a 99 year lease as against the burden of significantly higher periodic payments by the prospective fee owner, and counter-balanced with restrictions against speculation for subsequent transfers.

Additional sustained discussion will be required before any positive commitment by the State can be submitted to Congress for its approval.

Above and beyond everything, however, is the basic tenet of the Hawaiian Homes Commission Act that forbids the alienation of land by the "native Hawaiian." The purpose of the Act was the rehabilitation of distressed Hawaiians, but not through the mere material disposal of land. The restriction had its inspiration in the events that had gone before, when the Polynesian, given fee ownership by the Great Mahele, had exercised his right of fee by alienation of his property in most instances for values which seem negligible to us today.

I do not see how I could ever support the proposal for the fee to be given to the homesteader, whether by purchase or by gift, now or at any time in the foreseeable future.

Quite simply put, the majority of those who might be classified as "native Hawaiians" have not been served by the Act. Perhaps they never will be. It is manifestly unjust to give fee ownership to the minority who have been served.

Act 4 of S.L. 1965, however, does make some substantial contributions to the meaning of the HHC operation. Six words in Section 1 (3) have posed some problems. They are: "... only the Department can make loans." Otherwise, the Act is one of the finest amendments ever made to the HHC Act. Perhaps it might even be identified as the first amendment which truly attempts to implement the principle underlying the HHC Act.

A noteworthy provision is contained in Section 2 of this Act, for it provides for educational projects aimed to benefit the children of lessees at preschool and elementary school levels. Another most beneficial provision is that authorizing the Department to borrow monies for the purposes of purchasing or erecting or improving dwellings on Hawaiian Home Lands and non-Hawaiian Home Lands.

That provision is most significant in that it is the first time any suggestion has ever been made that a qualified "native Hawaiian" should be permitted to receive help

from the HHC in establishing himself as a fee owner in the general community. It represents a most realistic recognition of the present situation and the possibilities of the future. I am sure neither you nor anyone else can view our homestead areas today with a great deal of pride about the "rehabilitation" being accomplished. Efforts to improve these programs are being made and will continue, and yet we cannot ignore the possibility that we may be creating ghetto-like areas where the lowest cultural standard of people living there is the common denominator. It is more than a coincidence that culturally deprived areas noted by the OEO program are also often the homestead areas.

Though not totally comprehensive, the foregoing gives a little idea of the improvements that have been made in the operation of the HHC Act.

Your continued support and assistance is solicited in developing the workability of the various approaches to improve and strengthen the Hawaiian Homes program.

Warmest personal regards. May the Almighty be with you and yours always.

Sincerely,

Jack

Honorable Daniel K. Inouye, U.S.S.
442 Old Senate Office Building
Washington, D. C.

COPY

Hawaii Council for Housing Action

April 29, 1966

Mr. Jack W. Hall
President, Hawaii Council
for Housing Action
451 Atkinson Drive
Honolulu, Hawaii 96814

Dear Jack:

Thank you for your letter of April 26 regarding the Hawaii Council for Housing Action.

I was pleased to learn that you will soon have staff assistants and I will await further word from your organization.

With personal best wishes, I am

Sincerely,

DANIEL K. INOUYE
United States Senator

DKI:co

INTERNATIONAL
LONGSHOREMEN'S & WAREHOUSEMEN'S
UNION

HAWAII REGIONAL OFFICE • 451 ATKINSON DRIVE, HONOLULU, HAWAII 96814
TELEPHONE 994-161

JACK W. HALL
Regional Director

APR 28 1966

April 26 , 1966

Daniel K. Inouye
Senator to Congress
Room 442, Senate Office Bldg.
Washington, D. C. 20000

Dear Dan:

This will acknowledge your letter of April 19, 1966, regard to the Hawaii Council for Housing Action.

Your letter was made available to the Executive Committee today. We hope to have staff assistance before much longer and I am sure we will be calling on you for assistance in implementing our objectives.

Sincerely,

Jack W. Hall

Jack W. Hall, President
Hawaii Council for Housing Action

JWH:bs

howu

Senator:

Re: Hawaiian Homes Legislation

Your bill, to permit federal loans on lease-hold lands passed --as yo recall--the last session.

The second proposal, to permit the sale of lands for purposes of buying other lands, was NOT submitted.

At present we have the attached letter out to Gov. Burns awaiting his answer.

COPY

State Hawn Homes Comm

December 19, 1966

The Honorable John A. Burns
Governor
State of Hawaii
Iolani Palace
Honolulu, Hawaii

Dear Jack:

During my recent visit to Hawaii I had an opportunity to discuss with a number of my Hawaiian friends how the Hawaiian Homes Commission lands might be put to more effective use for the benefit of the Hawaiian people.

One suggestion which I felt merited further study was that the law governing the administration of these lands be amended to permit the present lessees to buy the land they occupy in fee and the money derived from these sales to be set aside as funds for the purchase of other lands in fee which might in turn be made available to the Hawaiian people.

As you know at the present time there are long waiting lists for these lands. Such an amendment would not seem to violate the basic intent of the law but instead might make it a more viable solution to the present day needs of this segment of our society. As you are aware, ownership tends to develop pride, a sense of responsibility, and an opportunity to build for the future.

COPY

I am sure there are many facets to this proposal, but my interest at the present time is purely exploratory. May I have your reactions to it? If you feel this idea has merit, would you be kind enough to forward it to Attorney General Bert Kobayashi for his reactions and suggestions.

I shall of course be happy to sponsor any legislation here if this proposal holds any merit. As you know, according to 73 Statutes, p. 4, Section 4, An Act to Provide for the State of Hawaii to Enter into the Union, this process is long and involved.

Sincerely,

DANIEL K. INOUYE
United States Senator

DKI:at
bcc: A. K. Piianaia

MEMORANDUM TO SENATOR INOUYE
December 9, 1966

RE: Amending the Hawaiian Homes Commission regulations to permit the sale of lands now leased, the funds to be reinvested in other fee simple lands for further homesteading.

I have checked this out with the Legal Branch of the Library Congress (Mr. Price 173 664) who reports as follows:

1. Section 4 of the Administrative Act of July 1, 1921, which authorized the Hawaiian Homes Commission, was adopted into the Hawaiian Constitution at the time of Statehood (See 73 Statues p. 4, Section 4, An Act to provide for the State of Hawaii to enter into the Union...)*

2. As a result, the Library of Congress interpretation was that the State Legislature should enact any amending legislation, which if passed will then be referred to the Congress for approval.

LEFFORGE

* Sec. 4 (Compact with the United States) As a compact with the United States relating to the management and disposition of hte Hawaiian home lands, the Hawaiian Homes Commission Act, 1920, as amended, shall be adopted as a provision of the Constitution of said State, as provided by Section 7, subsection (b) of this Act, subject to amendment or repeal only with the consent of the United States, and in no other manner; Provided that (1) sections 202, 213,219,220,222,224, and 225 and other provisions relating to admin istration and paragraph (2) of section 204, sections 206 and 212, a and other provisions relating to the powers and duties of officers other than those charged with the administration of said Act, may be amended in the constitution, or in the manner required for State legislation, but the Hawaiian home loan fund, the Hawaiian home-operating fund and the Hawaiian home development fund shall not be reduced or impaired by any such amdnement, whether made in the constitution or in the manner required for State legislation and the encumbrances authorized to be placed on Hawaiian home lands by officers other than those charged with the administration of said Act, shall not be increased, except with the consent of the United States; (2) that any amendment to increase the benefits tolessees of Hawaiian home lands may be made in the constitution or in the manner required for State legislation, but the qualifi-

cations of lessees shall not be changed except with the consent of the United States; and (3) that all proceeds and income from available lands as defined by said Act, shall be used only in carrying out the provisions of said Act.

THE LIBRARY OF CONGRESS

LEGISLATIVE REFERENCE SERVICE

August 4, 1967

Honorable Daniel Inouye
Attn: Miss Olsen

In response to your request of August 2, 1967, we have enclosed a xerox copy in duplicate of the Hawaiian Homes Commission Act of 1920 and Amendments.

Sincerely,

Lester S. Jayson

Lester S. Jayson
Director

Hugh C. Keenan
Legislative Attorney
Ext. 722

5-55e (2/66)

HAWAIIAN HOMES COMMISSION ACT, 1920

This Act is now part of the State Constitution and is subject to amendment or repeal as prescribed in Article XI of the Constitution.

Pursuant to L. 1963, c. 207, s. 5, the following substitutions have been made throughout the Act as the context required: "State" or words of like import for "Territory" or words of like import; "board of land and natural resources" for "commissioner of public lands" and "board of public lands".

L. 1963, c. 207, s. 2 substituted "department" for "commission" wherever appearing in §§ 204, 205, 207 to 217, and 219 to 221.

TITLE 1: DEFINITIONS

§ **1.** That this Act may be cited as the "Hawaiian Homes Commission Act, 1920." [48 U.S.C.A. 691.]

§ **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

§ **201. [Definitions.]** (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 "State" means the State 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;

(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;

(8) The term "irrigated pastoral land" means land not in the description of the agricultural land but which, through irrigation, is capable of carrying more livestock the year through than first-class pastoral land.

(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. [As am. June 8, 1954, 68 Stat. 263, c. 321, s. 2; 48 U.S.C.A. 692; am. L. 1963, c. 207, s. 5(a).]

§ **202. Department officers, staff, commission, members, compensation.** (a) There shall be a department of Hawaiian home lands which shall be headed by an executive board to be known as the Hawaiian homes commission. The members of the commission shall be nominated and appointed in accordance with section 14A-3, Revised Laws of Hawaii 1955, as amended. The commission shall be composed of seven members, four of whom shall be residents of the city and county of Honolulu; of the remaining members, one shall be a resident of the county of Hawaii, one a resident of the county of Maui, and one a resident of the county of Kauai. All members shall have been residents of the State at least three years prior to their appointment and at least four of the members shall be descendants of not less than one-fourth part of the blood of the races inhabiting the Hawaiian islands previous to 1778. The members of the commission shall serve without pay, but shall receive actual expenses incurred by them in the discharge of their duties as such members. The governor shall appoint the chairman of the commission from among the members thereof.

The commission may delegate to the chairman such duties, powers, and authority or so much thereof, as may be lawful or proper for the performance of the functions vested in the commission. The chairman of the commission shall serve in a full-time capacity. He shall, in such capacity, perform such duties, and exercise such powers and authority, or so much thereof, as may be delegated to him by the commission as herein provided above.

(b) The provisions of section 3–20(o) Revised Laws of Hawaii 1955, as amended, shall apply to the positions of the first deputy and private secretary to the chairman of the commission. All other positions in the department shall be subject to the provisions of chapters 3 and 4, Revised Laws of Hawaii 1955, as amended, and employees having tenure, according to the employment practices of the department, immediately prior to [June 20, 1963] and occupying positions in accordance with the state's position classifications and compensation plans shall be given permanent appointment status under chapter 3 without a reduction in pay or the loss of seniority, prior service credit, vacation or sick leave earned heretofore. An employee with tenure who does not occupy a position under chapters 3 and 4 shall be appointed to the position after it has been classified and assigned to an appropriate salary range by the director of personnel services and such employee shall not suffer a reduction in pay or loss of seniority and other credits earned heretofore.

All vacancies and new positions which are covered by the provisions of chapters 3 and 4, Revised Laws of Hawaii 1955, as amended, shall be filled in accordance with the provisions of sections 3–21 (e) and (1), Revised Laws of Hawaii 1955, as amended, provided that the provisions of these sections shall be applicable first to qualified persons of Hawaiian extraction. [As am. July 26, 1935, 49 Stat. 504, c. 420, s. 1; May 31, 1944, 58 Stat. 260, c. 216, s. 1; July 1, 1952, 66

Stat. 515, c. 618; 48 U.S.C.A. 693, am. L. 1963, c. 207, s. 1; am. imp. L. 1965, c. 223, ss. 5, 8.]

Acting board members. § 7–24.

Membership on other boards prohibited. § 7–25.5.

Public agency meetings and records. Chapter 7A.

§ 203. [Certain public lands designated "available lands."] 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 (eleven thousand acres, more or less), in the district of Kau; Puukapu (twelve thousand acres, more or less), Kawaihae 1 (ten thousand acres, more or less), and Pauahi (seven hundred and fifty acres, more or less), in the district of South Kohala; Kamoku-Kapulena (five thousand acres, more or less), Waimanu (two hundred acres, more or less), Nienie (seven thousand three hundred and fifty acres, more or less), in the district of Hamakua; fifty-three thousand acres to be selected by the [department] from the lands of Humuula Mauka, in the district of North Hilo; Panaewa, Waiakea (two thousand acres, more or less), Waiakea-kai, or Keaukaha (two thousand acres, more or less), and two thousand acres of agricultural lands to be selected by the [department] from the lands of Piihonua, in the district of South Hilo; and two thousand acres to be selected by the Commission from the lands of Kaohe-Makuu, in the district of Puna; land at Keaukaha, Hawaii, more particularly described as follows:

PARCEL I

Now set aside as Keaukaha Beach Park by Executive Order Numbered 421, and being a portion of the Government land of Waiakea, South Hilo, Hawaii.

(For description of this parcel, containing 11.20 acres, see 50 Stat. 498, compiled in R.L.H. 1955, p. 46.)

PARCEL II

Being a portion of the Government land of Waiakea, South Hilo, Hawaii, and located on the north side of Kalanianaole Road and adjoining parcel I, hereinbefore described.

(For description of this parcel, containing 5.26 acres, see 50 Stat. 498, compiled in R.L.H. 1955, p. 46.)

(2) On the island of Maui*: Kahikinui (twenty-five thousand acres, more or less) in the district of Kahikinui, and the public lands (six thousand acres, more or less) in the district of Kula;

(3) On the island of Molokai: Palaau (eleven thousand four hundred acres, more or less), Kapaakea (two thousand acres, more or less), Kalamaula (six thousand acres, more or less), Hoolehua (three thousand five hundred acres, more or less), Kamiloloa I and II (three thousand six hundred acres, more or less), and Makakupaia (two thousand two hundred acres, more or less) and Kalaupapa (five thousand acres, more or less);

(4) On the island of Oahu: Nanakuli (three thousand acres, more or less), and Lualualei (two thousand acres, more or less), in the District of Waianae; and Waimanalo (four thousand acres, more or less), in the District of Koolaupoko, excepting therefrom the military reservation and the beach lands; and those certain portions of the lands of Auwaiolimu, Kewalo, and Kalawahine described by metes and bounds as follows, to-wit:

(I) Portion of the Government land at Auwaiolimu, Punchbowl Hill, Honolulu, Oahu, described as follows:

(For description of this parcel, containing 27 acres, see 50 Stat. 599, as am. by 55 Stat. 782, compiled in R.L.H. 1955, p. 47.)

(II) Portion of the land of Kewalo, Punchbowl Hill, Honolulu, Oahu, being part of the lands set aside for the use of the Hawaii Experiment Station of the United States Department of Agriculture by proclamation of the Acting Governor of Hawaii dated June 10, 1901, and described as follows:

(For description of this parcel, containing 30 acres, see 50 Stat. 500, compiled in R.L.H. 1955, p. 47.)

[(III) Repealed. July 9, 1952, 66 Stat. 511, c. 614, s. 1.]

(IV) Portion of the Hawaii Experiment Station under the control of the United States Department of Agriculture, situated on the northeast side of Auwaiolimu Street.

Being a portion of the land of Kewalo-uka conveyed by the Territory of Hawaii to the United States of America by proclamations of the Acting Governor of Hawaii, Henry S. Cooper, dated June 10, 1901, and August 16, 1901, and a portion of the United States Navy Hospital reservation described in Presidential Executive Order Numbered 1181, dated March 25, 1910.

(For description of this parcel, containing 27.90 acres, see 50 Stat. 501, compiled in R.L.H. 1955, p. 47.)

(V) Portion of Kewalo-uka Quarry Reservation. Situate on the northeast side of Auwaiolimu Street.

Being land reserved by the Territory of Hawaii within the Hawaii Experiment Station under the control of the United States Department of Agriculture, as described in proclamations of the Acting Governor of Hawaii, Henry E. Cooper, dated June 10, 1901.

(For description of this parcel, containing 574,730 square see 50 Stat. 503, compiled in R.L.H. 1955, p. 48.)

(VI) Being a portion of government land of Auwaiolimu, situated on the northeast side of Hawaiian home land of Auwaiolimu and adjacent to the land of Kewalo-uka at Pauoa Valley, Honolulu, Oahu, State of Hawaii.

(For description of this parcel, containing 33.88 acres, see 66 Stat. 512, compiled in R.L.H. 1955, p. 48.)

(VII) Being portions of government lands of

* See second to last paragraph of this section as added by Act of June 3, 1948, c. 384, referring to available lands at Wailuku, Maui.

Kewalo-uka and Kalawahine situated on the east side of Tantalus Drive at Pauoa Valley, Honolulu, Oahu, State of Hawaii.

(For description of this parcel, containing 574,730 square feet or 13.194 acres, see 66 Stat. 513, compiled in R.L.H. 1955, p. 49.)

(5) On the island of Kauai: Upper lands of Waimea, above the cultivated sugar cane lands, in the district of Waimea (fifteen thousand acres, more or less); and Moloaa (two thousand five hundred acres, more or less), and Anahola and Kamalomalo (five thousand acres, more or less).

Wailuku, Maui: That parcel of government land, situate in the District of Wailuku, Island and County of Maui, comprising twelve and four hundred and fifty-five one-thousandths acres of the ILI OF KOU and being a portion of the land covered by General Lease Numbered 2286 to Wailuku Sugar Company, Limited, notwithstanding the fact that said parcel is cultivated sugar cane land, subject, however, to the terms of said lease.

Cultivated Sugar Cane Lands: That parcel of Anahola, Island of Kauai, comprising four hundred and one and four hundred and twenty-three one-thousandths acres, hereinafter described and being portion of the land covered by general lease numbered 2724 to the Lihue Plantation Company, Limited, notwithstanding the fact that said parcel is cultivated sugar cane land, subject however, to the terms of said lease, said parcel being more particularly described as follows:

(For description of this parcel, containing 401.423 acres, see R.L.H. 1955, p. 49.)

[As am. May 16, 1934, 48 Stat. 777, c. 290, s. 1; August 29, 1935, 49 Stat. 966, c. 810, s. 1; July 10, 1937, 50 Stat. 497, c. 482; Nov. 26, 1941, 55 Stat. 782, c. 544, s. 1; May 31, 1944, 58 Stat. 260, c. 216, s. 2; June 3, 1948, 62 Stat. 295, c. 384; June 3, 1948, 62 Stat. 303, c. 397; July 9, 1952, 66 Stat. 511, c. 614, ss. 1, 2; 48 U.S.C.A. 697; am. L. 1963, c. 207, ss. 2, 5.]

For notes on further legislation affecting the status of available lands see:

1. R.L.H. 1955, p. 50, on the Act of May 31, 1944, 58 Stat. 260, c. 216.

2. R.L.H. 1955, p. 52, on the Act of June 12, 1948, 62 Stat. 387, c. 458.

3. R.L.H. 1955, p. 52, on the Act of August 29, 1935, 49 Stat. 966, c. 819 and on the Act of May 31, 1944, 58 Stat. 260, c. 216.

The term "available lands" does not include land already set apart by Presidential Executive Order at time of enactment of this Act. Att. Gen. Op. 64-44.

§ **204. [Control by department of "available lands"; return to board of land and natural resources, when.]** 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 department to be used and disposed of in accordance with the provisions of this title, except that:

(1) In case any available land is under lease by the Territory of Hawaii, by virtue of section 73 of the Hawaiian Organic Act, 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 board of land and natural resources 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 board of land and natural resources shall withdraw such lands from the operation of the lease whenever the department, with the approval of the Secretary of the Interior, gives notice to it that the department is of the opinion that the lands are required by it for the purposes of this title; and 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;

(2) Any available land, including land selected by the department out of a larger area, as provided by this Act, as may not be immediately needed for the purposes of this Act, may be returned to the board of land and natural resources and may be leased by it as provided in chapter 103A, Revised Laws of Hawaii 1955, as amended, or may be retained for management by the department.

Any lease by the board of land and natural resources of Hawaiian home lands hereafter entered into shall contain a withdrawal clause, and the lands so leased shall be withdrawn by the board of land and natural resources, for the purpose of this Act, upon the department giving at its option, not less than one nor more than five years' notice of such withdrawal; provided, that the minimum withdrawal-notice period shall be specifically stated in such lease.

In the management of any retained available lands not required for leasing under section 207(a), the department may dispose of such lands by lease or license to the general public, including native Hawaiians, on the same terms, conditions, restrictions and uses applicable to the disposition of public lands as provided in chapter 103A; provided, that the department may not sell such lands in fee simple except as authorized under section 205 of this Act.

(3) The department shall not lease, use, nor dispose of more than twenty thousand (20,000) acres of the area of Hawaiian home lands, for settlement by native Hawaiians, in any calendar five-year period.

(4) The department may, with the approval of the governor and the Secretary of the Interior, in order to consolidate its holdings or to better effectuate the purposes of this Act, exchange the title to available lands for land, publicly owned, of an equal value. All land so acquired by the department shall assume the status of available lands as though the same were originally designated as such under section 203 hereof, and all lands so conveyed by the department shall assume the status of the land for which it was exchanged. The limitations imposed by section 73 (1) of the Hawaiian Organic Act and the land laws of Hawaii as to the area and value of land that may be conveyed by way of exchange shall not apply

to exchanges made pursuant hereto. No such exchange shall be made without the approval and of two-thirds of the members of the board of land and natural resources. [As am. March 7, 1928, 45 Stat. 246, c. 142, s. 1; July 10, 1937, 50 Stat. 503, c. 482; February 20, 1954, 68 Stat. 16, c. 10, s. 1; June 18, 1954, 68 Stat. 262, c. 319, s. 1; 48 U.S.C.A. 698; am. L. 1963, c. 207, ss. 2, 5(b); am. L. 1965, c. 271, s. 1.]

As to last two sentences, compare §§ 103A–5 and 103A–47.

§ **205. [Sale or lease, limitations on.]** 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 department 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*. [48 U.S.C.A. 699; am. L. 1963, c. 207, s. 2.]

§ ***206. [Other officers not to control Hawaiian home lands; exception.]*** The powers and duties of the governor and the board of land and natural resources, in respect to lands of the State, shall not extend to lands having the status of Hawaiian home lands, except as specifically provided in this title. [48 U.S.C.A. 700; am. L. 1963, c. 207, s. 5(a) (b).]

§ **207. [Leases to Hawaiians, licenses.]** (a) The department is authorized to lease to native Hawaiians the right to the use and occupancy of a tract or tracts of Hawaiian home lands within the following acreage limits per each lessee: (1) not less than one nor more than forty acres of agricultural lands; or (2) not less than one hundred nor more than five hundred acres of first-class pastoral lands; or (3) not less than two hundred and fifty nor more than one thousand acres of second-class pastoral lands; or (4) not less than forty nor more than one hundred acres of irrigated pastoral lands; (5) not more than one acre of any class of land to be used as a residence lot: provided, however, that, in the case of any existing lease of a farm lot in the Kalanianaole Settlement on Molokai, a residence lot may exceed one acre but shall not exceed four acres in area, the location of such area to be selected by the lessee concerned: provided further, that a lease granted to any lessee may include two detached farm lots located on the same island and within a reasonable distance of each other, one of which, to be designated by the department, shall be occupied by the lessee as his home, the gross acreage of both lots not to exceed the maximum acreage of an agricultural or pastoral lot, as the case may be, as provided in this section.

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

(c) (1) The department is authorized to grant licenses for terms of not to exceed twenty-one years in each case, to public utility companies or corporations as easements for railroads, telephone lines, electric power and light lines, gas mains, and the like. The department is also authorized to grant licenses for lots within a district in which lands are leased under the provisions of this section, to—

(A) churches, hospitals, public schools, post offices, and other improvements for public purposes;

(B) theaters, garages, service stations, markets, stores, and other mercantile establishments (all of which shall be owned by lessees of the department or by organizations formed and controlled by said lessees).

(2) The department is also authorized, with the approval of the governor, to grant licenses to the United States for terms not to exceed five years, for reservations, roads, and other rights-of-way, water storage and distribution facilities, and practice target ranges: provided, that any such license may be extended from time to time by the department, with the approval of the governor, for additional terms of three years: provided further, that any such license shall not restrict the areas required by the department in carrying on its duties, nor interfere in any way with the department's operation on maintenance activities. [As am. February 3, 1923, 42 Stat. 1222, c. 56, s. 1; May 16, 1934, 48 Stat. 779, c. 290, s. 2; July 10, 1937, 50 Stat. 504, c. 482; May 31, 1944, 58 Stat. 264, c. 216, ss. 3, 4; June 14, 1948, 62 Stat. 390, c. 464, ss. 1, 2; June 18, 1954, 68 Stat. 263, c. 321, s. 1; August 23, 1958, 72 Stat. 822, P.L. 85–733; 48 U.S.C.A. 701; am. L. 1963, c. 207, s. 2.]

"State" substituted for "United States" in view of section 5(b) of Hawaii Admission Act.

See L. 1959, J.R. 17, directing the Commission to allow the Homesteaders Cooperative Association to use and occupy portion of Hoolehua Store building free of rent, subject to certain conditions.

Section does not authorize the commission to grant a permit to occupy Hawaiian homes premises from month to month on a monthly charge basis. Att. Gen. Op. 61–64.

Commission has no authority to permit a lessee to subdivide her homestead tract and sublease a portion thereof to her daughter. Att. Gen. Op. 61–65.

Neither the department nor any lessee is authorized to develop multi-unit dwellings. Att. Gen. Op. 62–9.

§ **208. [Conditions in leases.]** Each lease made under the authority granted the department by the provisions of section 207 of this title, and the tract in respect to which the lease is made, shall

* The reference was to paragraph (3) of section 204 as originally enacted, which fixed a period of eight years after the first meeting of the commission [department]. The first meeting was held September 20, 1921.

be deemed subject to the following conditions, whether or not stipulated in the lease:

(1) The original lessee shall be a native Hawaiian,* not less than twenty-one years of age. In case two lessees either original or in succession marry, they shall choose the lease to be retained, and the remaining lease shall be transferred or cancelled in accordance with the provisions of succeeding sections.

(2) The lessee shall pay a rental of one dollar a year for the tract and the lease shall be for a term of ninety-nine 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. The lessee of agricultural lands shall plant and maintain not less than five, ten, fifteen and twenty trees per acre of land leased and the lessee of pastoral lands shall plant and maintain not less than two, three, four, and five trees per acre of land leased during the first, second, third and fourth years, respectively, after the date of lease. Such trees shall be of types approved by the department and at locations specified by the department's agent. Such planting and maintenance shall be by or under the immediate control and direction of the lessee. Such trees shall be furnished by the department free of charge.

(4) The lessee shall thereafter, for at least such part of each year as the department 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 or group of persons or organizations of any kind, except a native Hawaiian or Hawaiians, and then only upon the approval of the department, 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 or Hawaiians approved of by the department, or for any indebtedness due the department or for taxes, or for any other indebtedness the payment of which has been assured by the department, be subject to attachment, levy, or sale upon court process. The lessee shall not sublet his interest in the tract or improvements thereon.

(6) The lessee shall pay all taxes assessed upon the tract and improvements thereon. The department may in its discretion pay such taxes and have a lien therefor as provided by section 216 of this act.

(7) The lessee shall perform such other conditions, not in conflict with any provision of this title, as the department may stipulate in the lease: provided, however, that an original lessee shall be exempt from all taxes for the first seven years from date of lease. [As am. July 10, 1937, 50 Stat. 504, c. 482; November 26, 1941, 55 Stat. 783, c. 544, s. 2; Aug. 21, 1958, 72 Stat. 706, P.L. 85–710; 48 U.S.C.A. 702; am. L. 1963, c. 207, s. 2.]

Lessee is prohibited from subdividing homestead tract and subleasing a portion thereof to her daughter. Att. Gen. Op. 61–65.

Bank of Hawaii is not an eligible mortgagee; improvements may not be treated as personalty. Att. Gen. Op. 65–15.

§ 209. [Successors to lessees.] (1) Upon the death of the lessee, his interest in the tract or tracts and the improvements thereon, including growing crops (either on the tract or in any collective contract or program to which the lessee is a party by virtue of his interest in the tract or tracts), shall vest in the relatives of the decedent as provided in this paragraph. From the following relatives of the lessee, husband and wife, children, widows or widowers of the children, grandchildren, brothers and sisters, widows or widowers of the brothers and sisters, or nieces and nephews,—the lessee shall designate the person or persons to whom he directs his interest in the tract or tracts to vest upon his death. Such person or persons must be qualified to be a lessee of Hawaiian home lands: provided, that Hawaiian blood requirements shall not apply to the descendants of those who are not native Hawaiians but who were entitled to the leased lands under the provisions of section 3 of the Act of May 16, 1934 (48 Stat. 777, 779), as amended: provided, further, that such person or persons need not be twenty-one years of age. Such designation must be in writing, must be specified at the time of execution of such lease with a right in such lessee in similar manner to change such beneficiary at any time and shall be filed with the department and approved by the department in order to be effective to vest such interests in the successor or successors so named.

In the absence of such a designation as approved by the department, the department shall select from the relatives of the lessee in order named above as limited by the foregoing paragraph one or more persons who are qualified to be lessees of Hawaiian home lands, except as hereinabove provided, as the successor or successors of the lessee's interest in the tract or tracts, and upon the death of the lessee, his interest shall vest in the person or persons so selected. The department may select such a successor or successors after the death of the lessee, and the rights to the use and occupancy of the tract or tracts may be made effective as of the date of the death of such lessee.

In the case of the death of a lessee leaving no such relative qualified to be a lessee of Hawaiian

* The Act of May 16, 1934, 48 Stat. 777, c. 290, § 3; am. July 9, 1952, 66 Stat. 513, c. 614, § 3, provides that:

"Notwithstanding the provisions of the Hawaiian Homes Commission Act, as amended, limiting the leasing of lands to native Hawaiians, persons, whether or not native Hawaiians as defined by said Act, as amended, who, on May 16, 1934, were residing on the lands of Auwaiolimu, Kewalo-uka, and Kalawahine, on the island of Oahu, described by this Act shall be given first opportunity to lease, in the case of said Auwaiolimu and Kewalo-uka lands, the lands on which they reside, and, in the case of said Kalawahine lands, other similar lands under the control of the Hawaiian homes commission."

home lands, the land subject to the lease shall resume its status as unleased Hawaiian home lands and the department is authorized to lease such land to a native Hawaiian or Hawaiians as provided in this Act.

Upon the death of a lessee leaving no such relative qualified to be a lessee of Hawaiian home lands, or the cancellation of a lease by the department, or the surrender of a lease by the lessee, the department shall appraise the value of all such improvements and growing crops and shall pay to the legal representative of the deceased lessee, or to the previous lessee, as the case may be, the value thereof, less any indebtedness to the department, or for taxes, or for any other indebtedness the payment of which has been assured by the department, from the deceased lessee or the previous lessee. Such payments shall be made out of the loan fund and shall be considered an advance therefrom reimbursable out of payments made by the successor or successors to the tract involved.

Such appraisal shall be made by three appraisers, one of which shall be named by the department, one by the previous lessee or the legal representative of the deceased lessee, as the case may be, and the third shall be selected by the two appraisers hereinbefore mentioned.

(2) After the cancellation of a lease by the department in accordance with the provisions of sections 210 and 216 of this title, or the surrender of a lease by a lessee, the department is authorized to transfer the lease or to issue a new lease to any qualified Hawaiian regardless of whether or not he is related in any way by blood or marriage to the previous lessee.

(3) Should any successor or successors to a tract be a minor or minors, the department may appoint a guardian therefor, subject to the approval of the court of proper jurisdiction. Such guardian shall be authorized to represent the successor or successors in all matters pertaining to the leasehold: provided, that said guardian shall, in so representing such successor or successors, comply with the provisions of this title and the stipulations and provisions contained in the lease, except that said guardian may not be a native Hawaiian as defined in section 201 of this title. [As am. July 10, 1937, 50 Stat. 504, c. 482; November 26, 1941, 55 Stat. 783, c. 544, s. 3; July 9, 1952, 66 Stat. 514, c. 614, s. 4; 48 U.S.C.A. 703; am. L. 1963, c. 207, s. 2.]

A lessee surrendering a lease is entitled to payment for appraised value of pineapple crops growing on tract at date of surrender less deduction for indebtedness. Att. Gen. Op. 61–66.

On discretion of commission in the selection of a successor to a lessee who dies without designating his own successor. Att. Gen. Op. 61–75.

Distribution of "pineapple money" which includes "advances" for expenditures. Att. Gen. Op. 61–88.

§ 210. [Cancellation of leases.] Whenever the department has reason to believe that any condition enumerated in section 208, or any provision of section 209, of this title has been violated, the department 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 successsor of the lessee's interest therein, as the case demands. If upon such hearing the department finds that the lessee or his successor has violated any condition in respect to the leasing of such tract, the department 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 revest in the department and the department may take possession of the tract and the improvements thereon. [R.L. 1935, s. 1669; 48 U.S.C.A. 704; am. L. 1963, c. 207, s. 2.]

Action to cancel lease void for failure to give notice and opportunity to be heard. 43 H. 281.

§ 211. [Community pastures.] The department 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. [48 U.S.C.A. 705; am. L. 1963, c. 207, s. 2.]

§ 212. [Lands returned to control of board of land and natural resources.] The department may return any Hawaiian home lands not leased as authorized by the provisions of section 207 of this title to the control of the board of land and natural resources. Any Hawaiian home lands so returned shall, until the department gives notice as hereinafter in this section provided, resume and maintain the status of public lands in accordance with the provisions of the [Revised Laws of Hawaii 1955], except that any 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 board of land and natural resources to terminate the lease and return the lands to the department whenever the department, with the approval of the Secretary of the Interior, gives notice to the board that the department 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. [48 U.S.C.A. 706; am. L. 1963, c. 207, ss. 2, 5(b).]

"Revised Laws of Hawaii 1955" substituted for "the Hawaiian Organic Act and the Revised Laws of Hawaii 1915" in view of L. 1962, c. 32.

See § 204, re notice.

§ 213. [Hawaiian home-loan fund; Hawaiian home-development fund; Hawaiian home-operating fund; administration account.] (a) There are hereby established in the treasury of the State two revolving funds to be known as the Hawaiian home-loan fund and the Hawaiian home-operating fund, and two special funds to be known as the Hawaiian home-development fund and the Hawaiian home-administration account.

(b) **Hawaiian home-loan fund.** Thirty per centum of the state receipts derived from the

leasing of cultivated sugar-cane lands under any other provisions of law or from water licenses, shall be deposited into the Hawaiian home-loan fund until the aggregate amount of the fund (including in said amount the principal of all outstanding loans and advances, and all transfers which have been made from this fund to other funds for which this fund has not been or need not be reimbursed) shall equal $5,000,000. In addition to these moneys, there shall be covered into the loan fund the installments of principal paid by lessees upon loans made to them as provided in paragraph 2 of section 215, or as payments representing reimbursements on account of advances made pursuant to section 209 (1), but not including interest on such loans or advances. The moneys in said fund shall be available only for loans to lessees as provided for in this Act, and for the payments provided for in section 209(1), and shall not be expended for any other purpose whatsoever, except as provided in paragraphs (c) and (d) of this section.

Subject to repeal or amendment of this authorization and to the recall, by the legislature, of the moneys herein loaned, thirty per cent of the state receipts derived from the leasing of cultivated sugar-cane lands under any other provisions of law or from water licenses, over and above the present ceiling in the Hawaiian home-loan fund of $5,000,000, which additional amount is hereinafter called "Additional Receipts", shall be deposited into a special revolving account within the Hawaiian home-loan fund until the aggregate amount of the Additional Receipts so deposited (including the principal and interest of all outstanding loans and advances made from the Additional Receipts but not from moneys borrowed under (6) hereinbelow, and all transfers which have been made from the Additional Receipts to other funds for which this fund has not been or need not be reimbursed) shall equal $2,500,000. In addition to these moneys there shall be covered into the special revolving account of the loan fund, moneys borrowed under (6) hereinafter, installments of principal and interest paid by borrowers upon loans from the special revolving account, whether from the Additional Receipts or such borrowed moneys. To the extent as stated hereinafter, the Additional Receipts shall be repaid to the general fund of the State upon proper action by the legislature directing repayment.

Eighty-five per cent of the annual Additional Receipts, hereinafter called the "Additional Receipts—Development Fund Portion", is to be transferred to the Hawaiian home development fund, to be used in accordance with the amended provisions [of subsection (c) of this section.]

Fifteen per cent of the annual Additional Receipts, hereinafter called the "Additional Receipts —Loan Fund Portion," shall be retained in the special revolving fund and be used for and in connection with the purchase or erection of improvement of dwellings on either Hawaiian home lands or non-Hawaiian home lands, whether owned or leased, with loans by the department or by financial institutions, governmental or private. In furtherance of the purposes herein, the department may do any one or more of the following, with moneys from the Additional Receipts—Loan Fund Portion and any borrowed moneys under (6) hereinbelow:

(1) The department may extend the benefits of the special revolving account only to native Hawaiians as defined in the Act;

(2) The department may loan, or guarantee the repayment of or otherwise underwrite any authorized loan, up to a maximum of $10,000; provided, that where, upon the death of a lessee living on Hawaiian home lands who leaves no relatives qualified to be a lessee on Hawaiian home lands, or the cancellation of a lease by the lessee, the department shall be authorized to make payment and to permit assumption of loan in excess of $10,000 under and in accordance with the provisos of section 215(1), subject, as stated, to the provisions of section 215(3);

(3) Where the dwelling is on Hawaiian home lands, only the department may make loans, and the department shall be governed by, and the loans made in connection with the purchase or erection or improvement of dwellings shall be subject to, all applicable provisions of the Act, including but not limited to the provisions of sections 207, 208, 209, 210, 215, 216 and 217, and to such legislative amendments of the Act herein or hereafter enacted, provided such amendments do not change the qualifications of lessees or constitute a reduction or impairment of the Hawaiian home loan fund, Hawaiian home operating fund or Hawaiian home development fund or otherwise require the consent of the United States;

(4) Where the dwelling is on non-Hawaiian home lands, anything in the Act to the contrary notwithstanding, either the department or financial institutions may make loans, and in connection with such loans, the department shall be governed by, and the loans made in connection with the purchase or erection or improvement of dwellings shall be subject to, such terms and conditions as the department may, by rules and regulations not inconsistent with the provisions of this legislative amendment to such Act, promulgate; provided, the department shall require any loan made or guaranteed or otherwise underwritten to be secured adequately and suitably by a first or second mortgage or other securities;

(5) The department shall establish interest rate or rates at two and one-half per cent per annum or higher, in connection with authorized loans on Hawaiian home lands or non-Hawaiian home lands, and where the going rate of interest on moneys borrowed by the department under (6) immediately following or loans made by financial institutions to native Hawaiians is higher, pay from the special revolving fund from either the Additional Receipts—Loan Fund Portion or the moneys borrowed, the difference in interest rates;

(6) The department may borrow and deposit into the special revolving account for the purposes of purchasing or erecting or improving dwellings

on Hawaiian home lands and non-Hawaiian home lands and related purposes as provided for in the second paragraph of (8) hereinafter, from financial institutions, governmental or private, and if necessary in connection therewith, to pledge, secure or otherwise guarantee the repayment of moneys borrowed with all or a portion of the estimated sums of Additional Receipts for the next ensuing ten years from the date of borrowing, less any portion thereof previously encumbered for similar purposes;

(7) The department may purchase or otherwise acquire, or agree so to do, before or after default, any notes and mortgages or other securities, covering loans under this program made by financial institutions, and guarantee the repayment of or otherwise underwrite, the loans, and accept the assignment of any notes and mortgages or other securities in connection therewith;

(8) The department may exercise the functions and reserved rights of a lender of money or mortgagee of residential property in all direct loans made by the department with funds from the Additional Receipts—Loan Fund Portion or with funds borrowed under (6) hereinabove (but not with funds from the original $5,000,000, unless such exercise is authorized by the Act), or in all loans by financial institutions made to Hawaiians under this program. The functions and reserved rights shall include but not be limited to, the purchasing, repurchasing, servicing, selling, foreclosing, buying upon foreclosure, guaranteeing the repayment or otherwise underwriting, of any loan, protecting of security interest, and after foreclosure, the repairing, renovating or modernization and sale of the property covered by the loan and mortgage, to achieve the purposes of this program while protecting the monetary and other interests of the department.

The Additional Receipts—Loan Fund Portion, less any amounts thereof utilized to pay the difference in interest rates, discounts, premiums, necessary loan processing expenses, and other expenses authorized in this legislative amendment, are subject to repayment to the general fund upon appropriate legislative action or actions directing whole or partial repayment.

(c) **Hawaiian home-development fund.** Twenty-five per centum of the amount of moneys covered into the Hawaiian home-loan fund annually shall be transferred into the Hawaiian home-development fund. The moneys in said development fund shall be available, with the prior written approval of the governor, for the construction of sanitary sewerage facilities, for the construction of roads through and over Hawaiian home lands, and for other nonrevenue producing improvements.

With respect to the Additional Receipts—Development Fund Portion, fifteen per cent thereof shall be used, with prior written approval of the governor, for the construction of sanitary sewage facilities, for the construction of roads through and over Hawaiian home lands and for other nonrevenue-producing improvements, and the remaining eighty-five per cent shall be segregated into a special account which may be drawn upon from time to time by the department of education, with prior written approval of the governor, for such educational projects as shall be developed and directed by the department of education after consultation with the University of Hawaii and the department of Hawaiian home lands; provided that such projects shall be directed primarily to the educational improvement of the children of the lessees, the funds to be used primarily at the preschool and elementary grade levels.

Only so much of the Additional Receipts—Development Fund Portion not encumbered at the time of appropriate legislative action directing repayment, shall be repaid to the general fund of the State.

(d) **Hawaiian home-operating fund.** All moneys received by the department from any other source, except moneys received from the Hawaiian home-administration account, shall be deposited in a revolving fund to be known as the Hawaiian home-operating fund. The moneys in said fund shall be available (1) for construction and reconstruction of revenue-producing improvements, including acquisition therefor of real property and interests therein, such as water rights or other interests; (2) for payment into the treasury of the State of such amounts as are necessary to meet the following charges for state bonds issued for such revenue-producing improvements, to wit, the interest on such bonds, and the principal of such serial bonds maturing the following year; (3) for operation and maintenance of such improvements, heretofore or hereafter constructed from said funds or other funds; and (4) for the purchase of water or other utilities, goods, commodities, supplies, or equipment and for services, to be resold, rented, or furnished on a charge basis to occupants of Hawaiian home lands. The moneys in said fund may be supplemented by other funds available for, or appropriated by the legislature for, the same purposes. In addition to such moneys, said fund, with the approval of the governor, may be supplemented by transfers made on a loan basis from the home-loan fund. The amounts of all such transfers shall be repaid into the home-loan fund in not exceeding ten annual installments, and the aggregate amount of such transfers outstanding at any one time shall not exceed $500,000. No projects or activities shall be undertaken hereunder except as authorized by sections 220 and 221 or the other provisions of this Act.

(e) **Match moneys.** The department is authorized and empowered to use moneys in the development and operating funds, with the prior written approval of the governor, to match federal, state or county funds available for the same purposes and to that end is authorized to enter into such undertaking, agree to such conditions, transfer funds therein available for such expenditure and do and perform such other acts and things, as may be necessary or required, as a condition to securing match funds for such projects or works.

(f) **Hawaiian home-administration account.** The entire receipts derived from any leasing of the available lands defined in section 204 shall be deposited into the Hawaiian home-administration account. The moneys in said account shall be expended by the department for salaries and all other administrative expenses of the department, not including structures and other permanent improvements, subject, however, to the following conditions and requirements:

(1) The department shall, at such time as the governor may prescribe, but not later than November 15, preceding each [annual] session of the legislature, submit to the state director of finance its budget estimates of expenditures for the next ensuing [fiscal period] in the manner and form and as required by state law of state departments and establishments.

(2) The department's budget, if it meets with the approval of the governor, shall be included in the governor's budget report and shall be transmitted to the legislature for its approval.

(3) Upon approval by the legislature of the department's budget estimate of expenditures for the ensuing [fiscal period] the amount thereof shall be available to the department for the [fiscal period] and shall be expendable by the department for the expenses hereinabove provided, or, if no action on the budget is taken by the legislature prior to adjournment, the amount submitted to the legislature, but not in excess of $200,000, shall be available for such expenditures; any amount of money in said account in excess of the amount approved by the legislature for the [fiscal period] or so made available shall be transferred to the Hawaiian home-development fund, such transfer to be made immediately after the amount of moneys deposited in said administration account shall equal the amount approved by the legislature or so made available.

(4) The money in said administration account shall be expended by the department in accordance with state laws, rules, and regulations and practices. [As am. February 3, 1923, 42 Stat. 1222, c. 56, s. 2; March 7, 1928, 45 Stat. 246, c. 142, s. 2; November 26, 1941, 55 Stat. 784, c. 544, s. 4; June 14, 1948, 62 Stat. 390, c. 464, s. 3; July 9, 1952, 66 Stat. 514, c. 615, ss. 1, 2; August 21, 1958, 72 Stat. 705, P.L. 85–708; 48 U.S.C.A. 707; am. L. 1961, c. 183, s. 2; am. L. 1963, c. 114, s. 5 and c. 207, ss. 2, 5(a); am. L. 1965, c. 4, ss. 1, 2.]

L. 1961 amended subs. (c) by deleting the restriction that the aggregate amount of annual transfers shall not exceed $80,000.

L. 1965, c. 4 which added the second and following paragraphs to (b) and the second and following paragraphs to (c) also provided as follows:

"SECTION 3. All provisions of this amendment shall be liberally construed so as to facilitate the maximum number of loans to Hawaiians.

SECTION 4. The department shall promulgate rules and regulations not inconsistent with the provisions of this legislative amendment to the Act in furtherance of the purposes of this legislative amendment.

SECTION 5. This authorization shall not be construed as an irrevocable amendment to the Hawaiian Homes Commission Act and any repeal or amendment of the authorization and recall of moneys loaned herein shall not be construed as a present or then reduction or impairment of the funds of the Act".

Revisor substituted "annual" and "fiscal period" for "biennial" and "biennium" to conform to budgetary requirements under the Constitution. L. Sp. 1959, 1st, c. 13, made similar changes to sections of R.L.H. 1955.

Funds may not be used to subsidize nursery schools. Att. Gen. Op. 62–6.

§ 214. Loans, purposes of. The department is hereby authorized to make loans from the fund to the lessee of any tract, the successor to his interest therein or any agricultural cooperative association, all of whose members are lessees. 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 livestock and farm equipment;

(3) Otherwise assisting in the development of tracts and of farm and ranch operations; and

(4) The cost of breaking up, planting and cultivating land and harvesting crops, the purchase of seeds, fertilizers, feeds, insecticides, medicines and chemicals for disease and pest control for animals and crops, and related supplies required for farm and ranch operations, the erection of fences and other permanent improvements for farm or ranch purposes and the expenses of marketing. [48 U.S.C.A. 708; am. L. 1962, c. 14, s. 3; am. L. 1963, c. 207, s. 2.]

L. 1962 made agricultural cooperatives eligible for loans and added item (4).

§ 215. Conditions of loans. (1) Each contract of loan with the lessee or any successor or successors to his interest in the tract or with any agricultural cooperative association composed entirely of lessees shall be held subject to the following conditions whether or not stipulated in the contract of loan: The amount of loans at any one time to any lessee, or successor or successors in interest, of a tract of agricultural or pastoral land shall not, with respect to the provisions of subsections (1), (2) and (3) of section 214, exceed $15,000; to any lessee, or successor or successors in interest, of a residence lot shall not exceed $10,000 but with respect to the provisions of subsection (4) of section 214 shall be without limit, and to any agricultural cooperative association shall be determined by the department on the basis of the proposed operations of the association and the security available; provided, that where, upon the death of a lessee leaving no relative qualified to be a lessee of Hawaiian home lands, or the cancellation of a lease by the department, or the surrender of a lease by the lessee, the department shall make the payment provided for by section 209 (1), the amount of any such payment made to the legal representative of the deceased lessee, or to the previous lessee, as the case may be, shall be considered as part or all, as the case may be, of any such loan to the successor or successors, without limitation as to the

above maximum amounts; provided, further, that in case of the death of a lessee, or cancellation of a lease by the department, or the surrender of a lease by the lessee, the successor or successors to the tract shall assume any outstanding loan or loans thereon, if any, without limitation as to the above maximum amounts but subject to provisions of paragraph (3) of this section.

(2) The loans shall be repaid in periodic installments, such installments to be monthly, quarterly, semi-annual, or annual as may be determined by the department in each case. The term of any loan shall not exceed thirty years. Payments of any sum in addition to the required installments, or payment of the entire amount of the loan, may be made at any time within the term of the loan. All unpaid balances of principal shall bear interest at the rate of two and one-half per cent per annum, payable periodically or upon demand by the department, as the department may determine. The payment of any installment due shall be postponed in whole or in part by the department 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 two and one-half per cent per annum on the unpaid principal.

(3) In the case of the death of a lessee the department shall, in any case, permit the successor or successors to the tract to assume the contract of loan subject to the provisions of paragraph (1) of this section. In case of the cancellation of a lease by the department or the surrender of a lease by the lessee, the department may, at its option declare all installments upon the loan immediately due and payable, or permit the successor or successors to the tract to assume the contract of loan subject to the provisions of paragraph (1) of this section. The department may, in such cases where the successor or successors to the tract assume the contract of loan, waive the payment, wholly or in part, of interest already due and delinquent upon said loan, or postpone the payment of any installment thereon, wholly or in part, until such later date as it deems advisable. Such postponed payments shall, however, continue to bear interest at the rate of two and one-half per cent per annum on the unpaid principal. Further, the department may, if it deems it advisable and for the best interests of the lessees, write-off and cancel, wholly or in part, the contract of loan of the deceased lessee, or previous lessee, as the case may be, where such loans are delinquent and deemed uncollectible. Such write-off and cancellation shall be made only after an appraisal of all improvements and growing crops on the tract involved, such appraisal to be made in the manner and as provided for by section 209(1). In every case, the amount of such appraisal, or any part thereof, shall be considered as part or all, as the case may be, of any loan to such successor or successors, subject to the provisions of paragraph (1) of this section.

(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 shall comply with such other conditions, not in conflict with any provision of this title, as the department may stipulate in the contract of loan.

(6) The borrower or the successor to his interest 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 any tract.

(7) Whenever the department shall determine that a borrower is delinquent in the payment of any indebtedness to the department, it may require such borrower to execute an assignment to it, not to exceed, however, the amount of the total indebtedness of such borrower, including the indebtedness to others the payment of which has been assured by the department of all moneys due or to become due to such borrower by reason of any agreement or contract, collective or otherwise, to which the borrower is a party. Failure to execute such an assignment when requested by the department shall be sufficient ground for cancellation of the borrower's lease or interest therein. [As am. February 3, 1923, 42 Stat. 1222, c. 56, s. 3; July 10, 1937, 50 Stat. 505, c. 482; November 26, 1941, 55 Stat. 785, c. 544, s. 5; June 14, 1948, 62 Stat. 392, c. 464, ss. 4, 5; July 9, 1952, 66 Stat. 514, c. 615, ss. 3, 4; 48 U.S.C.A. 709; am. L. 1962, c. 14, s. 4 and c. 18, s. 2; am. L. 1963, c. 207, ss. 2, 3.]

Revisor deleted the phrase "with the concurrence therein of the majority of all its members" instead of the phrase "with the concurrence therein of at least three of the five members of the commission". The former phrase was substituted for the latter by L. 1962, c. 14, although the latter is deleted by L. 1963, c. 207, s. 3.

L. 1962, c. 14 amended section generally and c. 18 substituted "$10,000" for "$6,000".

§ 216. Insurance by borrowers; acceleration of loans; lien and enforcement thereof. The department may require the borrower to insure, in such amount as the department may prescribe, any livestock, machinery, equipment, dwellings and permanent improvements purchased or constructed out of any moneys loaned by the department; or, in lieu thereof, the department may directly take out such insurance and add the cost thereof to the amount of principal payable under the loan. Whenever the department 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 department shall give due notice and afford opportunity for a hearing to the borrower or the successor or successors to his interest, as the case demands. If upon such hearing the department finds that the borrower has violated the condition, the department may declare all principal and interest of the loan immediately due and payable notwithstanding any provision in the contract of loan to the contrary. The department shall have a first lien upon the borrower's or lessee's interest in any lease, growing crops, either on his tract or in any collective con-

tract or program, livestock, machinery and equipment purchased with moneys loaned by the department, and in any dwellings or other permanent improvements on any leasehold tract, to the amount of all principal and interest due and unpaid and of all taxes and insurance and improvements paid by the department, and of all indebtedness of the borrower, the payment of which has been assured by the department. Such lien shall have priority over any other obligation for which the property subject to the lien may be security.

The department may, at such times as it deems advisable, enforce any such lien by declaring the borrower's interest in the property subject to the lien to be forfeited, any lease held by the borrower cancelled, and shall thereupon order such leasehold premises vacated and the property subject to the lien surrendered within a reasonable time. The right to the use and occupancy of the Hawaiian home lands contained in such lease shall thereupon revest in the department, and the department may take possession of the premises covered therein and the improvements and growing crops thereon: provided that the department shall pay to the borrower any difference which may be due him after the appraisal provided for in paragraph (1) of section 209 of this title has been made. [As am. July 10, 1937, 50 Stat. 506, c. 482; June 14, 1948, 62 Stat. 393, c. 464, s. 6; 48 U.S.C.A. 710; am. L. 1962, c. 14, s. 5; am. L. 1963, c. 207, s. 2.]

L. 1962 amended section generally.

§ **217. [Ejectment, when: loan to new lessee for improvements.]** 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 department under the provisions of section 210 or 216 of this title, the department may (1) bring action of ejectment or other appropriate proceedings, or (2) invoke the aid of the circuit court of the State for the judicial circuit in which the tract designated in the department's order is situated. Such court may thereupon order the lessee or his successor to comply with the order of the department. 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 department as authorized by the provisions of section 207 of this title, except that the value, in the opinion of the department, of all improvements made in respect to such tract by the original lessee or any successsor to his interest therein shall constitute a loan by the department 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 department from the Hawaiian loan fund. [48 U.S.C.A. 711; am. L. 1963, c. 207, ss. 2, 5(a).]

§ **218. [Lessees ineligible under "farm loan act."]** 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. [48 U.S.C.A. 712.]

See c. 102 of this supplement for new act on farm loans. L. 1959, c. 278, as amended.

§ **219. [Agricultural experts.]** The department 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 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. [48 U.S.C.A. 713; am. L. 1963, c. 207, s. 2.]

§ **219.1. General assistance.** The [department] is authorized to carry on any activities it deems necessary to assist the lessees in obtaining maximum utilization of the leased lands, including taking any steps necessary to develop these lands for their highest and best use commensurate with the purposes for which the land is being leased as provided for in section 207, and assisting the lessees in all phases of farming and ranching operations and the marketing of their agricultural produce and livestock. [L. 1962, c. 14, s. 6.]

"Department" substituted for "commission" in view of L. 1963, c. 207, s. 2.

§ **220. [Development projects; appropriations by legislature: bonds issued by legislature.]** The department is authorized directly to undertake and carry on general water and other development projects in respect to Hawaiian home lands and to undertake other activities having to do with the economic and social welfare of the homesteaders, including the authority to derive revenue from the sale, to others than homesteaders, of water and other products of such projects or activities, or from the enjoyment thereof by others than homesteaders, where such sale of products or enjoyment of projects or activities by others does not interfere with the proper performance of the duties of the department: provided, however, that roads through or over Hawaiian home lands, other than federal-aid highways and roads, shall be maintained by the county or city and county in which said particular road or roads to be maintained are located. The legislature is authorized to appropriate out of the treasury of the State such sums as it deems necessary to augment the Hawaiian home-loan fund, the Hawaiian home-development fund, the Hawaiian home-operating fund, and the Hawaiian home-administration account, and to provide the department with funds sufficient to execute and carry on such projects and activities. The legislature is further authorized to issue bonds to the extent required to yield the amount of any sums so appropriated for the payment of which, if issued for revenue-producing improvements, the department shall provide, as set forth in section 213(d).

To enable the construction of irrigation projects which will service Hawaiian home lands, either exclusively or in conjunction with other lands served by such projects, the department is authorized, with the approval of the governor, to grant to the [board of land and natural resources], or to any other agency of the government of the State or the United States undertaking the construction and operation of such irrigation projects, licenses for rights-of-way for pipelines, tunnels, ditches, flumes, and other water conveying facilities, reservoirs and other storage facilities, and for the development and use of water appurtenant to Hawaiian home lands; to exchange available lands for public lands, as provided in section 204 (4) of this title, for sites for reservoirs and subsurface water development wells and shafts; to request any such irrigation agency to organize irrigation projects for Hawaiian home lands and to transfer irrigation facilities constructed by the department to any such irrigation agency; to agree to pay the tolls and assessments made against community pastures for irrigation water supplied to such pastures; and to agree to pay the costs of construction of projects constructed for Hawaiian home lands at the request of the department, in the event the assessments paid by the homesteaders upon lands are not sufficient to pay such costs: Provided, that licenses for rights-of-way for the purposes and in the manner specified in this section may be granted for a term of years longer than is required for amortization of the costs of the project or projects requiring use of such rights-of-way only if authority for such longer grant is approved by an act of the legislature of the State. Such payments shall be made from, and be a charge against the Hawaiian home-operating fund. [As am. July 10, 1937, 50 Stat. 507, c. 482; Nov. 26, 1941, 55 Stat. 786, c. 544, s. 6; June 14, 1948, 62 Stat. 393, c. 464, s. 7; Aug. 1, 1956, 70 Stat. 915, c. 855, s. 1; 48 U.S.C.A. 714; am. L. 1963, c. 207, ss. 2, 5(a).]

"Board of land and natural resources" substituted for "Hawaii Irrigation Authority". § 14A–20 and chapter 86.

Irrigation projects. §§ 86–12, 13.

Lien on lands as security for improvement bonds is not authorized. Att. Gen. Op. 63–25.

§ 221. [Water.] (a) When used in this section:

(1) The term "water license" means any license issued by the board of land and natural resources 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 department, grant to it the right to use, free of all charge, any water which the department deems necessary adequately to supply the livestock or the domestic needs of individuals upon any tract.

(c) In order adequately to supply livestock or the domestic needs of individuals upon any tract, the department 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 1915 [R.L. 1955, ss. 8–9 to 8–32], 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 department may institute the eminent domain proceedings in its own name.

(d) The department is authorized, for the additional purpose of adequately irrigating any tract, to use, free of all charge, 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 July 9, 1921. Any water license issued after that date 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 department, grant to it the right to use, free of all charge, any of the surplus water tributary to the Waimea river upon the island of Kauai, which is covered by the license and which the department deems necessary for the additional purpose of adequately irrigating any tract.

Any funds which may be appropriated by Congress as a grant-in-aid for the construction of an irrigation and water utilization system on the island of Molokai designed to serve Hawaiian Home lands, and which are not required to be reimbursed to the federal government, shall be deemed to be payment in advance by the department and lessees of the department of charges to be made to them for the construction of such system and shall be credited against such charges when made.

(e) All rights conferred on the department by this section to use, contract for, 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 department. [As am. Aug. 1, 1956, 70 Stat. 915, c. 855, ss. 2, 3; 48 U.S.C.A. 715; am. L. 1963, c. 207, ss. 2, 5(b).]

Board of land and natural resources empowered to prepare irrigation plans. § 86–5.

§ 222. Administration. The department shall adopt rules and regulations and policies in accordance with the provisions of chapter 6C, Revised

Laws of Hawaii 1955, as amended. The department may make such expenditures as are necessary for the efficient execution of the functions vested in the department by this Act. All expenditures of the department, as herein provided out of the Hawaiian home-administration account, the Hawaiian home-development fund, or the Hawaiian home-operating fund, and all monies necessary for loans made by the department, in accordance with the provisions of this Act, from the Hawaiian home-loan fund, shall be allowed and paid upon the presentation of itemized vouchers therefor, approved by the chairman of the commission. The department shall make an annual report to the legislature of the State upon the first day of each regular session thereof and such special reports as the legislature may from time to time require. The chairman of the commission 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 governor. [As am. Nov. 26, 1941, 55 Stat. 787, c. 544, s. 7; June 14, 1948, 62 Stat. 394, c. 464, s. 8; 48 U.S.C.A. 694–6; am. L. 1963, c. 207, s. 4.]

§ **223. [Right of amendment, etc.]** The Congress of the United States reserves the right to alter, amend, or repeal the provisions of this title. [48 U.S.C.A. 716.]

See Const. Art. XI.

§ **224. [Sanitation and reclamation expert.]** The Secretary of the Interior shall designate from his Department someone experienced in sanitation, rehabilitation, and reclamation work to reside in the State and cooperate with the [department] in carrying out its duties. The salary of such official so designated by the Secretary of the Interior shall be paid by the [department] while he is carrying on his duties in the State, which salary, however, shall not exceed the sum of $6,000 per annum. [Add. July 26, 1935, 49 Stat. 505, c. 420, s. 2; 48 U.S.C.A. 715a; am. L. 1963, c. 207, s. 5(a).]

"Department" substituted for "commission" and "Hawaiian Homes Commission" in view of L. 1963, c. 207, s.2.

§ **225. [Investment of funds; disposition.]** The department shall have the power and authority to invest and reinvest any of the moneys in any of its funds, not otherwise immediately needed for the purposes of the funds, in such bonds and securities as authorized by state law for the investment of state sinking fund moneys. Any interest or other earnings arising out of such investment shall be credited to and deposited in the Hawaiian home-operating fund and shall be considered a deposit therein from the other sources mentioned in section 213(d). [Add. November 26, 1941, 55 Stat. 787, c. 544, s. 8; am. June 14, 1948, 62 Stat. 394, c. 464, s. 9; 48 U.S.C.A. 707a; am. L. 1963, c. 207, s. 5(a); am. L. 1965, c. 30, s. 1.]

TITLE 3: AMENDMENTS TO HAWAIIAN ORGANIC ACT.

[Omitted]

TITLE 4: MISCELLANEOUS PROVISIONS.

§ **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. [48 U.S.C.A. note to s. 691.]

§ **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. [48 U.S.C.A. note to s. 691.]

Jennifer;

To review —

LB

Return to

Jim

Sale/Hawaii Hawaiian Homes Comm

COPY

March 13, 1968

The Honorable Bert Kobayashi
Attorney General
State of Hawaii
Iolani Palace Grounds
Honolulu, Hawaii

Dear Bert:

As you are probably aware, S. 1832, a bill which would repeal a portion of Section 5(f) of the Enabling Act of the State of Hawaii, is presently pending before the Senate Interior and Insular Affairs Committee. S. 1832 would repeal the following underlined portion of this section:

> Such lands, proceeds and income shall be managed and disposed of... in such manner as the Constitution and laws of said State may provide, and their use for any other object shall constitute a breach of trust for which suit may be brought by the United States.

A number of the members of the Nanakuli Hawaiian Homesteaders Association have written to me objecting to the passage of this bill. They claim that its passage would enable the State to violate the terms of the Hawaiian Homes Commission Act, if the State wanted to.

Within the limits of existing rules and regulation, I would appreciate receiving your comments on S. 1832 in light of the fears of the Nanakuli Hawaiian Homesteaders Association that this bill could allow the State of Hawaii to violate the terms of the Hawaiian Homes Commission Act of 1920 as incorporated in the Hawaii State Constitution.

The Honorable Bert Kobayashi COPY March 13, 1968

Your assistance in this matter would be most appreciated.

Sincerely,

DANIEL K. INOUYE
United States Senator

DKI:at

State of Hawaii - Hawaii - Homes - Comm -

COPY

February 27, 1968

The Honorable Bert Kobayashi
Attorney General
State of Hawaii
Iolani Palace Grounds
Honolulu, Hawaii

Dear Bert:

As you are probably aware, the House version of the truth-in-lending bill contains a section on garnishments. I am enclosing for your information and study a copy of this bill and the report on this measure prepared by the House Banking and Currency Committee.

I would appreciate your advising me of the effects this garnishment section, if enacted in its present form, would have on Hawaii's statutes.

Sincerely,

DANIEL K. INOUYE
United States Senator

DKI:at

Alice Lee
Hawaii

MAR 25 1968
Hawaiian Homes Commission

NANAKULI HAWAIIAN HOMESTEADERS ASSOCIATION, INC.
89-602 Haleakala Avenue
Nanakuli, Hawaii 96792

March 21, 1968

Honorable Daniel K. Inouye
United States Senator
UNITED STATES SENATE
Washington, D. C. 20510

Dear Senator Inouye:

This letter is in acknowledgement of your letter dated March 12, 1968. We thank you for letting us know that the material we forwarded to you have been helpful.

Your kind attention is very much appreciated by all of the Hawaiian Homesteaders. Aloha Nui!

Yours very truly

NANAKULI HAWAIIAN HOMESTEADERS ASSOCIATION, INC.

Marie Olsen

Marie Olsen
President

MO:bk

COPY

September 15, 1967

Mr. Abraham Piianaia
Chairman
Hawaiian Homes Commission
530 Halekauwila Street
Honolulu, Hawaii 96813

Dear Abe:

The enclosed complaint from Mrs. Emmaline L. White seems most difficult to believe but I would very much appreciate your comments in order that I may reply to her letter.

I will look forward to seeing you in Honolulu on my return there late this year.

With personal best wishes, I am

Sincerely,

DANIEL K. INOUYE
United States Senator

DKI:co
Enclosure

In August of 1983 the Federal-State Task Force on the Hawaiian Homes Commission Act issued its report to the Secretary of Interior and Governor of the State of Hawaii. In the report, recommendations were made regarding the satisfaction of the federal and state trust obligations arising from the Hawaiian Homes Commission Act of 1920. Since that time, the State has made substantial progress towards carrying out these recommendations. However, little progress appears to have been made by the Department of Interior. The Committee therefore directs that the Secretary designate an individual to be responsible for reviewing the recommendations of the Task Force report and that steps be taken as soon as practicable to identify any additional programs or resources which might be necessary to satisfy the United States' trust obligation as created by the Hawaiian Homes Commission Act. The Committee further directs that a report, including a plan of implementation, additional necessary resources, and the department's view regarding the appropriate scope of assistance, be submitted to the Committee within 180 days of the passage of this bill.

C. The Return of Wrongfully Conveyed Lands

A mechanism for the return or appropriate compensation for wrongfully conveyed Hawaiian Homelands is suggested in the following bill.

SECTION-BY-SECTION SUMMARY OF PROPOSED LEGISLATION

Hawaiian Homes Program Amendments

Section 1 would provide that this Act may be cited as the "Hawaiian Homes Program Amendments of 1985."

Section 2 would require the Secretary of Interior to submit a report to Congress at the end of each fiscal year regarding the activities of the Department with regard to Hawaiian homelands, and the progress made in correcting problems identified in the report of the Federal-State Task Force on the Hawaiian Homes Commission Act, together with such recommendations as the Secretary deems advisable.

Section 3 (a) would establish a time period, beginning on the effective date of this Act, during which the Secretary of the Interior and the State of Hawaii shall identify all leases for Hawaiian homelands between agencies of the Federal Government and the State of Hawaii.

Section 3 (b) would require the agencies of the Federal Government involved, on identification of any lease, to enter into negotiations with the State to re-lease the land for fair market values, as determined by the Secretary and the State.

Section 4 (a) would establish a time period, beginning on the effective date of this Act, for the identification of all conveyances of Hawaiian homelands made to the Federal Government.

Section 4 (b) would provide for the method of obtaining an independent appraisal of the value of lands identified in subsection (a).

Section 5 would require the Secretary to negotiate, based on identification and appraised value, with the State for the purpose of exchanging Federal lands of equal value for lands found to be conveyed under Section 4(a).

Section 6 would define terms, for purposes of this Act, as follows:

1. "Secretary" would mean the Secretary of the interior.
2. "State" would mean the State of Hawaii.
3. "Statehood Act" would mean the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union," approved March 18, 1959 (73 Stat. 4).

Section 9 would establish October 1, 1986, as the effective date for this Act.

State Gov't
Hi. Homes Com

File
Hawaiian Homes
Housing

NEWS RELEASE
FROM THE OFFICE OF THE GOVERNOR
STATE CAPITOL BUILDING
HONOLULU, HAWAII

FRIDAY, SEPTEMBER 25, 1970

SEP 29 1970

Governor John A. Burns tonight announced that the Hawaii Housing Authority has loaned $2 million to the Hawaiian Homes Commission to improve and expand the Homestead leasing program and increase the number of mortgages available to potential homesteaders.

Leases and mortgage assistance will be made available immediately to approximately 100 qualified Hawaiians at Waiakea on the Big Island, Nanakuli on Oahu and on Molokai. Hawaiian Homes lots at these three sites already have the necessary off-site improvements so that construction of the units can begin immediately.

The money will also be used for development of lands by Hawaiian Homes at Kamuela on the Big Island and at Waimanalo, Governor Burns said.

The Governor made the announcement at the annual membership meeting of the Interprofessional Commission on Environmental Design (ICED), Friday evening, (September 25) at the Kahala Hilton Hotel.

(ICED is an environmentally oriented professional organization made up of local planners, architects, engineers and landscape architects.)

"For the past year, even before the past session of the Legislature ended, the Administration has been

-more-

searching for ways to improve the Hawaiian Homes program. I'm pleased to announce that more than $2 million will be loaned to Hawaiian Homes Lands so that mortgages can be made almost immediately to approximately 100 qualified Hawaiians," the Governor said.

The Governor also discussed an ICED proposed "design review board" that would be made up of professionals and interested residents to insure good design in the State's low, moderate and middle income housing projects.

"Hawaii Housing Authority is considering several alternative approaches to this. One is to have a review board on each Island, with the boards having representation from the design professions as well as people a particular housing development is meant to serve and in whose neighborhood the development is being build," he said.

If this approach is used, Governor Burns indicated that the representation on the board might change with each development.

"HHA is also considering making it mandatory that every development proposal include a landscape plan," he said.

The Governor began his address by discussing Act 105, the State's $100 million omnibus housing package.

"The really big gun in the housing package, of course, is the authorization to expend $100 million," he said.

"But the main thrust is to attack simultaneously all cost factors, including land, land development, construction financing, mortgage financing, labor, materials, fees and bureaucratic 'red tape.'

"There is wide variation from project to project in almost all cost contributing elements in housing production."

"It is my opinion, and the opinion of the members of the State Housing Committee, that it is important to eliminate all unnecessary costs in all elements of housing development," Governor Burns said.

The cost elements of land, land development, labor, materials and professional fees are fairly easy to measure, he said.

"Not so easily measured is the cost of code rigidity and 'red tape.'

"Without question, the most expensive element of housing development is financing construction and mortgages. Estimates for the cost of financing range from 42 percent on up."

"But the percentages by which each of these elements add to the cost of housing is not really so important. What is important is that we eliminate all unnecessary costs."

Commenting on the semi-preemptive portion of Act 105, which allows all State-sponsored housing developments to bypass the County Planning Departments and Planning Commissions, the Governor said that the State does not have the "unilateral capacity to disregard County codes."

"The Councils still must rule on any code variances the State might seek," he said.

He added that the semi-preemptive provision was the "State Legislature's way of saying that it felt some County administrations perhaps weren't handling the planning process as expeditiously as they should."

"I share the State Legislatures' view that unnecessarily long deliberations do not guarantee good planning. I believe

that legitimate cost savings can be attained by speeding up the process and by permitting innovative building materials and systems which may be precluded by rigid County codes and standards.

Stressing his Administration's intent to work together with the County governments in a spirit of cooperation, the Governor said that he viewed the semi-preemptive provision of Act 105 not "as dangerous to good planning and design", but as an "opportunity to develop more quickly, less costly, well designed homes in quality environments."

The Governor pledged that his Administration will continue to work to coordinate State and County Capital Improvement programs to insure that the necessary government services--roads, utility services, and schools--would be provided for all public and private sites on all Islands which are suitable for housing development.

One of the most important parts of the housing package, the Governor said, "is the recognition that private industry with assistance from government, is best qualified to provide needed housing for our people."

"Act 105 permits HHA to joint venture with private enterprise to plan and develop homes. The authority may make below-market-interest-rate interim financing available to the private sector. It may exempt the housing development from elements of the general excise tax. It may assume some of the improvement costs. Government's role in the joint venture is to make certain the cost savings accrue to the consumer, and not in increased profits to the developer.

In such State-private enterprise joint ventures, HHA is the managing partner and the bookkeeper, the Governor said.

"If Act 105 is used with imagination, and I intend to see that it is, then the housing developed under this Act should not be just as good as the best that is being done today, but better.

"There is no reason the developments should not represent an improvement. Act 105 makes available to the developer less costly money. Exemptions from the general excise tax are possible. We hope to speed up the planning process--another cost savings. There will be the opportunity to have a design review committee examine the proposed projects," the Governor said.

"Another imaginative use of Act 105, I believe, is to work immediately with developers who have good subdivisions ready to be built now, if making use of less costly money and tax exemptions will significantly lower the intended sales price of quality homes in a quality environment.

"One such proposal we are considering calls for use of our interim financing and tax exemption authority for a high quality Windward Oahu development in the Kailua area. This State assistance would save the developer several hundred thousand dollars. We have proposed that the developer give us several hundred thousand dollars worth of those homes in his completed project. Hawaii Housing Authority then could make these units available for sale, lease or rent to low and moderate income families.

"It is our announced intention to strive for economic

mix in all of the developments in which the State becomes involved. I do not want a continuation of economic ghetto-izing.

"Finally, I would suggest that our planners--especially government planners--for too long have regarded their role as that of a policeman or watchdog of the public interest. On the surface, this may seem a good rule. But it seems to me that too many planners have become too negative.

"They look for reasons why it can't be done, instead of why it can.

"I would like to see all government planners--those involved in housing especially--recognize that they have a responsibility to provide an opportunity to all citizens to live in a decent home.

"With some judicious use of Act 105, we have an opportunity to assist County planners in meeting this responsibility. We are studying the feasibility of using Act 105 funds to match County appropriations for planning and executing housing development projects in cooperation with Hawaii Housing Authority and the private sector.

"It is my strong belief that seeing a solution to the housing problem--which is a national problem--is the joint responsibility of all levels of government, including the Federal, State and County governments.

"I am equally convinced that the State, despite Act 105, should not lord it (solving the housing problem) over the Counties, telling them how many houses should be built and where.

"It has been suggested that the Mayors of each County appoint special assistants on housing with the authority to put together housing development proposals which can be implemented under Act 105," the Governor said.

ADDRESS BY GOVERNOR JOHN A. BURNS
MEMBERSHIP MEETING
INTERPROFESSIONAL COMMISSION ON ENVIRONMENTAL DESIGN (ICED)
KAHALA HILTON HOTEL

7:30 p.m., Friday, September 25, 1970

The subject tonight is housing. I will, as best I can, try to outline the direction this Administration is taking to try to solve the housing problem. Later, if you have questions, I will try to answer them. For specifics, we have Mr. Franklin Sunn, an engineer; Mr. Yoshio (Blackie) Yanagawa, the executive director of the Hawaii Housing Authority; and Mr. Bill Cook, my special assistant on housing.

First, let me give you a brief description of Act 105--the State's omnibus housing program. It is a product of the combined efforts of members of the State Legislature, the Administration and the State Committee on Housing, which included government representation from all of the Counties, plus broad representation from those elements of the private sector involved in housing.

Act 105 is divided easily into two major parts--production assistance and mortgage assistance.

Of the $100 million total authorized, $60 million is allocated for production assistance and $40 million for mortgage assistance.

The $60 million may be used to acquire and develop land and for interim financing loans to homebuilders. In fact, it can be used for almost anything that will put more homes on the market for those families in the housing "gap group"--those who earn too much to qualify for public housing and not enough to qualify for a conventional mortgage.

The $40 million legislative authorization for mortgage assistance is to be expended in three specific programs--a down payment loan program, a mortgage guarantee program and a participation loan program in which 50 per cent of the mortgage comes from conventional sources and 50 per cent from the State.

If there is a single major thrust to Act 105, it is that the State may now make less costly money available for housing development and for mortgage loans. The Act permits the State to make this money available at 1 per cent more than our general obligation bonds sell for. The State's latest bond sale sold for 6.1 per cent, which means development and mortgage money could be made available at 7.1 per cent.

Other major elements of the Act provide $100,000 for testing and evaluation of new, less costly materials and building systems, and $100,000 for expanding the building trades apprenticeship programs.

Another major element of Act 105 is that section which allows Hawaii Housing Authority to exercise semi-preemptive authority over the County planning process. This section permits the authority to present a specific housing development plan directly to the County Council, bypassing the Planning Department and Planning Commission

The proposed development may disregard County codes, subdivision standards, zoning ordinances and general plans. The Council has 45 days in which to veto the proposal by simple majority. It may approve anytime during the 45-day period. If the Council takes no action, the proposal is approved.

The provision differs from the famous--or infamous--House Bill 2162 of the past legislative session in that only a State-sponsored development is accorded the semi-preemptive treatment. It is not open to any private developer who hopes to speed up the planning process.

As Mr. Frank Johnson noted, the ICED Design Committee posed eight specific questions to me. Several of these questions addressed themselves to this semi-preemptive provision of Act 105. Let me respond to these first, and then I will tackle the others.

The first: "What purpose does the power to disregard County codes serve in the housing package?"

As I noted earlier, the State does not have the unilateral capacity under Act 105 to disregard County codes. It does have the capability to bypass the County Planning Departments and Planning Commissions. The Councils still must rule on any code variances the State might seek.

This semi-preemptive provision was the State Legislature's way of saying that it felt some County administrations perhaps weren't handling the planning process as expeditiously as they should.

I share the State Legislature's view that unnecessarily long deliberations do not guarantee good planning. I believe that legitimate cost savings can be attained by speeding up the process, and by permitting innovative building materials and systems which may be precluded by rigid County codes and standards.

My primary ground for vetoing H.B. 2162 was that this proposal tended to violate the principle of separation of powers between the executive and legislative branches of our county governments.

The Mayors of our four counties agreed that the problem to which the bill was addressed could be straightened out administratively. They assured me, in my meeting with them, that they would take prompt steps to correct a situation that clearly cried for remedial action.

In any event, I do not view this semi-preemptive provision of Act 105 as dangerous to good planning and design. Rather, I see it as an opportunity to develop more quickly less costly, well designed homes in quality environments. Moreover, it is my hope that we will not need to exercise this authority and that our goals can be met by working together with the county governments in a spirit of cooperation.

Another question from your Design Committee: "Who will provide site improvements and environmental amenities if the developer is relieved from this obligation?"

The answer to that is simple. The developer will not be relieved of these obligations.

And a third question which is relevant to this provision: "Please comment on the possibility of a 'design review board' composed of design professionals and others to insure good design in projects."

Hawaii Housing Authority is considering several alternative approaches to this. One is to have a review board on each Island, with the boards having representation from the design professions as well as people a particular housing development is meant to serve and in whose neighborhood the development is being built. It may be that representation will change with each development.

An alternative is to have one review board with appropriate representation from each Island.

Of further interest to you, I believe, is that Hawaii Housing Authority is considering making it mandatory that every development proposal include a landscape plan.

A fourth question: "Do you foresee any possibility that because of the power to supersede County zoning under the new housing law, housing concentrations could be produced, traffic and transportation generated, utility services required and other resources tapped which were not planned for?"

Absolutely no! We do not intend to build housing at <u>any</u> cost.

The housing program cannot be carried on in a vacuum. That, of course, is a major reason why Hawaii Housing Authority must work closely with the Counties and the State Department of Planning and Economic Development.

We have identified many public and private sites on all Islands which are suitable for housing development. And we will continue to coordinate State and County CIP programs to make certain necessary government services are available to residents of housing developments.

Other questions from your Design Committee:

"What is the specific nature and magnitude of Hawaii's housing problem? Who are the peoplein the problem market? What is their income level??

The State Administration recently completed a comprehensive housing market analysis and is evaluating its findings. It establishes housing needs by income and by location for each Island. Findings to date show that the need includes housing for families up to the income level of about $15,000 per year. This means we need a quantity of subsidized public housing, elderly housing, student housing, military housing, and "gap group" housing.

Mr. Cook can provide you later tonight, in the question-and-answer period, with some numbers and percentages.

Another question:

"What are the significant contributing elements to housing costs in Hawaii? What percentage of costs does land account for, labor, materials, fees, site improvements?"

There is wide variation from project to project in almost all of these factors. It is my opinion, and it was the opinion of the members of the State Housing Committee, that it is important to eliminate all unnecessary costs in all elements of housing development.

These cost elements include land, land development, labor, materials and fees. These elements are fairly easy to measure.

Not so easily measured is the cost of code rigidity and "red tape."

Without question, the most expensive element of housing development is financing construction and mortgages. Estimates for the cost of financing range from 42 per cent and up.

But the percentages by which each of these elements add to the cost of housing is not really so important. What is important is that we eliminate all unnecessary costs.

Another question:

"What is the main thrust of the 'housing package' to reduce costs?"

The really big gun in the housing package, of course, is the authorization to expend $100 million at below-market-interest rates to homebuilders and homebuyers--the ability to provide a cheaper source of money.

Especially important, I feel, is the recognition in the housing package that private industry, with assistance from government, is best qualified to provide needed housing for our people.

Act 105 permits Hawaii Housing Authority to joint venture with private enterprise to plan and develop homes. The authority may make below-market interest rate interim financing available to the private sector. It may exempt the housing development from elements of the general excise tax. It may assume some of the improvement costs. Government's role in the joint venture is to make certain the cost savings accrue to the consumer, and not in increased profits to the developer.

In such State-private enterprise joint ventures, Hawaii Housing Authority is the managing partner and bookkeeper.

As you undoubtedly recognize from my remarks so far, the State of Hawaii now has vastly increased capa ility to increase Hawaii's housing inventory. And thanks to enlightened State Legislature, we have a very flexible program.

How then do we propose to use it? Will there be stale repetitions of typical grid subdivisions? Will developments be lacking in amenities because our total concern is reduced cost? Will we be guilty of creating instant, crackerbox slums?

If Act 105 is used with imagination, and I intend to see that it is, then the housing developed under this Act should not be just as good as the best that is being done today, but better.

There is no reason the developments should not represent an improvement. Act 105 makes available to the developer less costly money. Exemptions from the general excise tax are possible. We hope to speed up the planning process--another cost savings. There will be the opportunity to have a design review committee examine the proposed projects.

We ready have identified scores of State and privately owned land parcels suitable for housing. The State parcels, as in Hilo, Waimanalo, Waianae, Lahaina, and Kekaha on Kauai are being made available for housing. Many private parcels, undevelopable for low and moderate income housing given the cost of money from conventional sources, will come on the market because of the Hawaii Housing Authority's new capabilities to work with the private sector.

Even the Department of Hawaiian Home Lands will benefit from this new capability. For the past year, even before the past session of the Legislature ended, the Administration has been searching for ways to improve the Hawaiian Homes program. I'm pleased to announce tonight

that more than $2 million will be loaned to Hawaiian Home Lands so that mortgages can be made almost immediately to approximately 100 qualified Hawaiians at Waiakea on the Big Island, Nanakuli on Oahu and on Molokai. On these three sites, the land already has been improved. Other lands due for immediate improvement by Hawaiian Homes are at Kamuela on the Big Island and at Waimanalo.

Another imaginative use of Act 105, I believe, is to work immediately with developers who have good subdivisions ready to be built now, if making use of less costly money and tax exemptions will significantly lower the intended sales price of quality homes in a quality environment.

One such proposal we are considering calls for use of our interim financing and tax exemption authority for a high quality Windward Oahu development in the Kailua area. This State assistance would save the developer several hundred thousand dollars. We have proposed that the developer give us several hundred thousand dollars worth of those homes in his completed project. Hawaii Housing Authority then could make these units available for sale, lease or rent to low and moderate income families.

It is our announced intention to strive for economix mix in all of the developments in which the State becomes involved. I do not want a continuation of economic ghetto-izing.

Finally, and I think this will be of interest to this group, I would suggest that our planners--especially government planners--for too long have regarded their role as that of a policeman or watchdog of the public interest. On the surface, this may seem a good rule. But it seems to me that too many planners have become too negative. They look for reasons why it can't be done, instead of why it can.

I would like to see all government planners--those involved in housing especially-recognize that they have a responsibility to provide an opportunity to all citizens to live in a decent home.

With some judicious use of Act 105, we have an opportunity to assist County planners in meeting this responsibility. We are studying the feasibility of using Act 105 funds to match County appropriations for planning and executing housing development projects in cooperation with Hawaii Housing Authority and the private sector.

It is my strong belief that seeking a solution to the housing problem--which is a national problem--is the joint responsibility of all levels of government, including the Federal, State and County governments.

I am equally convinced that the State, despite Act 105, should not lord it over the counties, telling them how many houses should be built and where.

It has been suggested that the Mayors of each County appoint special assistants on housing with the authority to put together housing development proposals which can be implemented under Act 105.

Finally,I would like to address myself specifically to the members of the American Society of Landscape Architects. I know of your interest in the 1970 legislation which recognizes the professional status of landscape architects in Hawaii. I know, too, of your interest in my coming appointments to the Registration Board for Architects, Engineers, Land Surveyors and Landscape Architects. Within the next several weeks, I expect to announce those appointments.

Now, the question-and-answer period...

Mahalo.