

## THIRD DAY

Friday, January 21, 1977

The Senate of the Ninth Legislature of the State of Hawaii, Regular Session of 1977, convened at 11:30 o'clock a.m., with the Vice President in the Chair.

The Divine Blessing was invoked by Mr. Samuel M. Saffery, Jr. of Liliuokalani Protestant Church, after which the Roll was called showing all Senators present, with the exception of Senators Saiki, Ushijima, Yamasaki and Yim.

The Vice President announced that he had read and approved the Journal of the Second Day.

At this time, the following introductions were made to the members of the Senate:

Senator Ching introduced Mr. and Mrs. Donald L. Moers and Dr. and Mrs. Harvey S. Fenster, of Washington, D.C., and Mr. and Mrs. Eugene Axelrod, of Honolulu.

Senator Yee introduced 56 second and third grade students from Ala Wai School, together with their teachers, Ms. Molly Hamanaka, Ms. Patsy Hirata and Ms. Jean Matsusaka.

The Vice President then introduced the following State of Hawaii Organization of Police Officers (SHOPO) Legislative Committee members: Mr. Rags Scanlan, Chairman; Ms. Bertha Nahoopii, Mr. Ralf Oide, Mr. Dennis Ginden and Mr. Paul Akana, City and County of Honolulu representatives; Mr. Mitch Kanehailua and Mr. Johnny Kai, County of Hawaii representatives; Mr. LeRoy Rocha, County of Maui representative; and Mr. Leon Gonzalez and Mr. Take Yamashiro, County of Kauai representatives.

## SENATE RESOLUTION

At this time, Senator Yee rose to request that a resolution, regarding the confirmation of Griffin B. Bell as Attorney General of the United States, be read and acted upon before adjourning. He stated that while he realized the Majority party had not yet had an opportunity to review the resolution, time was of the essence, as the United States Senate would take action on the confirmation on Monday, January 24, 1977. He added that several members of the U.S. Senate had requested that the matter of the appointment be deferred until that date.

At 11:38 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:40 o'clock a.m.

A resolution (S.R. No. 1), entitled: "SENATE RESOLUTION REQUESTING THAT MEMBERS OF HAWAII'S CONGRESSIONAL DELEGATION VOTE AGAINST AND USE THEIR INFLUENCE TO PERSUADE OTHERS TO VOTE AGAINST THE CONFIRMATION OF GRIFFIN B. BELL AS ATTORNEY GENERAL OF THE UNITED STATES", was jointly offered by Senators Yee, Anderson, Soares, Henderson, George and Leopold, and was read by the Clerk.

The Vice President ordered that S.R. No. 1 be accepted.

At this time, Senator Yee moved that S.R. No. 1 be adopted, seconded by Senator Anderson.

The Vice President ruled the motion out of order.

At this time, Senator Anderson rose to say, "I think the Rules of the Senate provide that any time a resolution is introduced, it can be acted upon without being referred to committee. This is not in violation of any rule of the Senate". He then requested a parliamentary ruling.

The Vice President stated that as "this is not an ordinary resolution, it will require a proper committee hearing". He then ruled the former speaker's remarks out of order.

Senator O'Connor then rose to say that the remarks of the Minority Floor Leader were "out of order as the Rules of the Senate state that a committee must act on a resolution".

Senator Leopold moved to appeal the ruling of the Chair, regarding the acceptance of S.R. No. 1, seconded by Senator Anderson.

The Vice President then stated that the question before the Body was "Shall the decision of the President stand?", and Roll Call having been requested, the motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 14. Noes, 6 (Anderson, George, Henderson, Leopold, Soares and Yee). Excused, 5 (Hulten,

Saiki, Ushijima, Yamasaki and Yim).

At 11:45 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:50 o'clock a.m.

At this time, Senator Anderson, on a point of information, rose to state:

"Mr. President, the Rules of the Senate, under Resolutions; Motions, very clearly say: 'After a motion is stated or read by the President, it shall be deemed to be in the possession of the Senate, and shall be disposed of by vote of the Senate'.

I think every Senator here, Mr. President, is entitled to have his resolution read, heard, and either passed or killed...and because a resolution is not tasteful to some members, it's a bad precedence to arbitrarily bury it because you don't want to face up to it."

The Vice President replied as follows:

"You are assuming that the Majority party wants, as you put it, to 'arbitrarily bury it'. The Minority party knows very well that this is not an ordinary congratulatory resolution. It affects the appointment of a man to high office, and should be heard in committee...the committee's recommendation should then come back to the floor of the Senate for dialogue and debate. The Chair's ruling is very much in keeping with what is appropriate for this particular type of resolution."

Senator Anderson again rose to state:

"Mr. President, I concur with you 100%. The only problem is that Monday is the deadline for his name to go before the entire Congress--and you are going to refer this to committee. By the time this gets to our committee for recommendation, the man will be appointed or rejected--without the State Senate reflecting its view. So, in fact, what you have done is endorse this candidate."

Senator O'Connor then rose on a point of personal privilege to say, "There is debate going on now concerning a matter which this Body has already disposed of. The Rules of this Body have been read incorrectly in that debate...furthermore, it is time to stop this and move on to the business of the day".

Senator R. Wong also rose on a point of personal privilege, stating that "the Rules also state that the President of the Senate has the right to make referrals if he thinks a matter is substantive. The Rules clearly indicate that, Mr. President. That is your power".

Senator Ching then rose on a point of personal privilege to state:

"Mr. President, if the Minority were really sincere about this resolution, they could have presented it earlier and, with the concurrence of the Majority, we could have had a proper hearing in time for the subject hearing on Monday. But to pop this on the Majority at this late hour, without even an attempt to discuss it prior to this...I think it is pure shibai on the part of the Minority.

We are trying to keep some semblance of order in this Body--we will not be railroaded by the actions of one or two on the Minority side."

Senator Yee also rose on a point of personal privilege to state:

"Mr. President, the reason, as I mentioned earlier, for this hurried action, was because the United States Senate did not confirm Mr. Bell yesterday. The U.S. Senators opposed to him have been given an opportunity to prepare their arguments so that they will be better prepared on Monday when the confirmation comes up. If Mr. Bell had been confirmed yesterday, this resolution would not have been prepared--it would have been for naught. There is still question in the minds of some members of the U.S. Senate because of his background...this is why we tried to rush it, with your deference and indulgence.

I certainly see the need for a committee hearing on this matter, but the question is a matter of time. They are five hours ahead of us, and before we could have a committee meeting, the entire action may be moot.

It is not a shibai action. We feel very strongly about this.

The Senate Majority, in 1970, voted for a similar resolution against the nomination of G. Harold Carswell. The title used here this morning is almost exactly the same title that the Majority used in 1970, so I am not being out of turn. I have been in compliance with the Senate procedures

of the past."

The Vice President then replied that "because of the seriousness of the end results of this resolution, the ruling of the Chair stands. I might suggest that the Minority immediately wire a signed petition to our delegation in Washington, D.C., to at least let the Senate Minority position be known".

At this time, Senator Anderson rose to inquire if the Majority Leader would yield to a question, to which Senator Ching answered in the affirmative.

Senator Anderson then stated, "Based on the importance of the resolution, Mr. President, and the arguments posed by the Majority Leader, the Minority will be very happy to come back tonight...allowing the Majority time to go over this very important resolution in depth and detail".

Senator Ching answered, "As I've stated earlier, if the Minority were serious about the question, it could have been worked out way in advance. But when they pop the resolution on the floor just prior to the motion for adjournment, you know it is pure shibai".

The Vice President then stated that the Chair's ruling was sustained.

By unanimous consent, S.R. No. 1 was referred to the Committee on Judiciary.

#### ADJOURNMENT

At 11:59 o'clock a.m., on motion by Senator Taira, seconded by Senator Anderson and carried, the Senate adjourned until 11:30 o'clock a.m., Monday, January 24, 1977.