

## TENTH DAY

Tuesday, January 30, 1979

The Senate of the Tenth Legislature of the State of Hawaii, Regular Session of 1979, convened at 11:30 o'clock a.m., with the President in the Chair.

The Divine Blessing was invoked by Reverend Harold Jow, United Church of Christ, after which the Roll was called showing all Senators present, with the exception of Senators Yee and Yim who were excused.

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

Senator Campbell then introduced to the members of the Senate six members of the Retired Teachers Association Legislative Committee, accompanied by their chairperson Mrs. Louise McGregor-Mechado. He added that the retired teachers had made an outstanding contribution to the education of the children of Hawaii.

Senator Carroll, on behalf of the Senators from the Sixth Senatorial District, introduced to the members of the Senate 16 student council members of Kuhio School, accompanied by their teachers Susan Kaya and Betty Wakabayashi.

Senator Abercrombie introduced to the members of the Senate, Mr. Norman Montiegal, one of his oldest friends and one who has guided, in great measure, the destination of Radio KTUH at the University of Hawaii--one of the finest campus radio stations in the U.S.

## MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 41 to 55) were read by the Clerk and were disposed of as follows:

A message from the Governor (Gov. Msg. No. 41), submitting for consideration and confirmation as Comptroller, the nomination of Hideo Murakami, term to expire December 6, 1982, was placed on file.

By unanimous consent, Gov. Msg. No. 41 was referred to the Committee on Ways and Means.

A message from the Governor (Gov. Msg. No. 42), submitting for consideration and confirmation as Chairman of the Board of Agriculture, the nomination of John Farias, Jr., term to expire December 31, 1982, was placed on file.

By unanimous consent, Gov. Msg. No. 42 was referred to the Committee on Agriculture.

A message from the Governor (Gov.

Msg. No. 43), submitting for consideration and confirmation as Attorney General, the nomination of Wayne K. Minami, term to expire December 6, 1982, was placed on file.

By unanimous consent, Gov. Msg. No. 43 was referred to the Committee on Judiciary.

A message from the Governor (Gov. Msg. No. 44), submitting for consideration and confirmation as Adjutant General, the nomination of Valentine A. Siefertmann, term to expire December 6, 1982, was placed on file.

By unanimous consent, Gov. Msg. No. 44 was referred to the Committee on Intergovernmental Relations.

A message from the Governor (Gov. Msg. No. 45), submitting for consideration and confirmation as Director of Finance, the nomination of Eileen R. Anderson, term to expire December 6, 1982, was placed on file.

By unanimous consent, Gov. Msg. No. 45 was referred to the Committee on Ways and Means.

A message from the Governor (Gov. Msg. No. 46), submitting for consideration and confirmation as Chairperson of the Hawaiian Homes Commission, the nomination of Georgiana K. Padeken, term to expire December 31, 1982, was placed on file.

By unanimous consent, Gov. Msg. No. 46 was referred to the Committee on Housing and Hawaiian Homes.

A message from the Governor (Gov. Msg. No. 47), submitting for consideration and confirmation as Director of Health, the nomination of George A. L. Yuen, term to expire December 6, 1982, was placed on file.

By unanimous consent, Gov. Msg. No. 47 was referred to the Committee on Health.

A message from the Governor (Gov. Msg. No. 48), submitting for consideration and confirmation as Director of Labor and Industrial Relations, the nomination of Joshua C. Aagsalud, term to expire December 6, 1982, was placed on file.

By unanimous consent, Gov. Msg. No. 48 was referred to the Committee on Human Resources.

A message from the Governor (Gov. Msg. No. 49), submitting for consideration and confirmation as Chairman of the

Board of Land and Natural Resources, the nomination of Susumu Ono, term to expire December 31, 1982, was placed on file.

By unanimous consent, Gov. Msg. No. 49 was referred to the Committee on Economic Development.

A message from the Governor (Gov. Msg. No. 50), submitting for consideration and confirmation as Director of Personnel Services, the nomination of Donald A. Botelho, term to expire December 6, 1982, was placed on file.

By unanimous consent, Gov. Msg. No. 50 was referred to the Committee on Human Resources.

A message from the Governor (Gov. Msg. No. 51), submitting for consideration and confirmation as Director of Planning and Economic Development, the nomination of Hideto Kono, term to expire December 6, 1982, was placed on file.

By unanimous consent, Gov. Msg. No. 51 was referred to the Committee on Economic Development.

A message from the Governor (Gov. Msg. No. 52), submitting for consideration and confirmation as Director of Regulatory Agencies, the nomination of Tany S. Hong, term to expire December 6, 1982, was placed on file.

By unanimous consent, Gov. Msg. No. 52 was referred to the Committee on Consumer Protection and Commerce.

A message from the Governor (Gov. Msg. No. 53), submitting for consideration and confirmation as Director of Social Services and Housing, the nomination of Andrew I. T. Chang, term to expire December 6, 1982, was placed on file.

By unanimous consent, Gov. Msg. No. 53 was referred to the Committee on Human Resources.

A message from the Governor (Gov. Msg. No. 54), submitting for consideration and confirmation as Director of Taxation, the nomination of George Freitas, term to expire December 6, 1982, was placed on file.

By unanimous consent, Gov. Msg. No. 54 was referred to the Committee on Ways and Means.

A message from the Governor (Gov. Msg. No. 55), submitting for consideration and confirmation as Director of Transportation, the nomination of Ryokichi Higashionna, term to expire December 6, 1982, was placed on file.

By unanimous consent, Gov. Msg. No. 55 was referred to the Committee on Transportation.

#### HOUSE COMMUNICATION

A communication from the House (Hse. Com. No. 6), returning Senate Concurrent Resolution No. 1 which was adopted by the House of Representatives on January 29, 1979, was read by the Clerk and was placed on file.

#### SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 70 to 73) were read by the Clerk and were disposed of as follows:

A resolution (S.R. No. 70), entitled: "SENATE RESOLUTION REQUESTING A REVIEW OF THE REAL ESTATE COMMISSION'S STUDY ON TIME SHARING", was jointly offered by Senators Cobb, Chong, Kawasaki, Takitani, Carpenter, Campbell, Yim and Young.

By unanimous consent, S.R. No. 70 was referred to the Committee on Consumer Protection and Commerce, then to the Committee on Legislative Management.

A resolution (S.R. No. 71), entitled: "SENATE RESOLUTION EXTENDING CONGRATULATIONS TO HAWAIIAN AIRLINES, INC., ON ITS 50TH ANNIVERSARY", was jointly offered by Senators Saiki, Takitani, George, Carroll, Kuroda, Cobb, Hara, Carpenter, Toyofuku, Yamasaki, Ajifu, Chong, Yee, Mizuguchi, Wong, Campbell, Soares, Abercrombie, Cayetano, Young, Kawasaki and Anderson.

On motion by Senator Saiki, seconded by Senator Takitani and carried, S.R. No. 71 was adopted.

At this time, Senator Saiki introduced to the members of the Senate Mr. John H. Magoon, Jr., Chairman of the Board, President and Chief Executive Officer of Hawaiian Airlines, and Mr. Erastus Corning, III, Executive Vice President and Chief Operating Officer, who were presented with certified copies of the resolution and leis by Senators George and Young.

At 11:37 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:39 o'clock a.m.

A resolution (S.R. No. 72), entitled: "SENATE RESOLUTION REQUESTING A REVIEW OF THE COSTS RELATING TO LAST ILLNESSES AND DEATH", was jointly offered by Senators Cayetano

and Cobb.

By unanimous consent, S.R. No. 72 was referred to the Committee on Consumer Protection and Commerce, then to the Committee on Legislative Management.

A resolution (S.R. No. 73), entitled: "SENATE RESOLUTION EXPRESSING CONDOLENCES TO THE FAMILY OF THE LATE MARGARET LUM", was jointly offered by Senators Wong, Yamasaki, Takitani, Chong, Mizuguchi, Hara, Cobb, Ushijima, Cayetano, Kuroda, Kawasaki, Campbell, Carpenter, O'Connor, Ajifu, Yee, Abercrombie, Carroll, George, Anderson, Soares, Saiki, Toyofuku and Young.

On motion by Senator Kawasaki, seconded by Senator Campbell and carried, S.R. No. 73 was adopted on a rising vote.

#### INTRODUCTION OF SENATE BILLS

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, the following bills passed First Reading by title, were referred to print, and were placed on the calendar for further consideration on Wednesday, January 31, 1979:

#### Senate Bills

No. 308 "A Bill for an Act Relating to Employment Agencies."

Introduced by: Senators Kawasaki, Cayetano, Chong, Carpenter, Takitani, Cobb, Saiki, Ajifu, Soares, Carroll, Kuroda and Campbell.

No. 309 "A Bill for an Act Relating to Generic Drug Substitution."

Introduced by: Senators Kawasaki, Ajifu, Campbell, Carpenter, Carroll, Cayetano, Chong, Mizuguchi, Soares, Takitani, Toyofuku, Ushijima, Yamasaki and Young.

No. 310 "A Bill for an Act Relating to Generic Drugs."

Introduced by: Senators Kawasaki, Ajifu, Campbell, Carpenter, Carroll, Cayetano, Chong, Cobb, Mizuguchi, Soares, Takitani, Toyofuku, Ushijima, Yamasaki and Young.

No. 311 "A Bill for an Act Relating to No-Fault Insurance."

Introduced by: Senators Cobb, Kawasaki, Takitani, Yim, Chong, Young, Carpenter and Yamasaki.

No. 312 "A Bill for an Act Relating to the Introduction of Bills."

Introduced by: Senator Carroll.

No. 313 "A Bill for an Act Making an Appropriation for Capital Improvements for Heeia Kea Harbor, Oahu."

Introduced by: Senators Carroll and George.

No. 314 "A Bill for an Act Making an Appropriation for Heeia Kea Small Boat Harbor, Oahu."

Introduced by: Senators Carroll and George.

No. 315 "A Bill for an Act Relating to Excise Tax Credit."

Introduced by: Senator Carroll.

No. 316 "A Bill for an Act Making an Appropriation for the Refurbishing of Oahu Prison."

Introduced by: Senator Carroll.

No. 317 "A Bill for an Act Relating to Smoking in Public Places."

Introduced by: Senator Carroll.

No. 318 "A Bill for an Act Relating to the X-Rated Movies."

Introduced by: Senator Carroll.

No. 319 "A Bill for an Act Relating to General Fund Appropriations."

Introduced by: Senator Carroll.

No. 320 "A Bill for an Act Proposing an Amendment to the Constitution of the State of Hawaii to Provide for the Recall of Public Officers."

Introduced by: Senator Carroll.

No. 321 "A Bill for an Act Relating to State Spending Limit."

Introduced by: Senator Carroll.

No. 322 "A Bill for an Act Relating to the Highway Fund."

Introduced by: Senator Carroll.

No. 323 "A Bill for an Act Relating to the Liquor Tax Law."

Introduced by: Senator Carroll.

No. 324 "A Bill for an Act Relating to the Tobacco Tax Law."

Introduced by: Senator Carroll.

No. 325 "A Bill for an Act Proposing an Amendment to Articles II and III of the Constitution of the State of Hawaii

- to Provide for the Referendum." Introduced by: Senators Carpenter,  
Chong, Kuroda, Yamasaki, Kawasaki  
and Cayetano.
- Introduced by: Senator Carroll.
- No. 326 "A Bill for an Act Proposing Amendments to Articles II, III, and XVII of the Constitution of the State of Hawaii to Provide for the Initiative." On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, the following bills were referred to print and were placed on the calendar for further consideration on Wednesday, January 31, 1979:
- Introduced by: Senator Carroll.
- No. 327 "A Bill for an Act Relating to Taxes on Certain Food and Drugs." Senate Bills
- Introduced by: Senator Carroll.
- No. 328 "A Bill for an Act Relating to Elections." No. 288 "A Bill for an Act Relating to the Tax Review Commission."
- Introduced by: Senator Carroll.
- No. 329 "A Bill for an Act Relating to the Creation of the Condominium Commission." Introduced by: Senator Cayetano
- Introduced by: Senator Carroll.
- No. 330 "A Bill for an Act Relating to Residential Leasehold Cooperatives." No. 289 "A Bill for an Act Relating to State Mandates."
- Introduced by: Senator Carroll.
- No. 331 "A Bill for an Act Relating to Residential Leasehold Condominiums." Introduced by: Senator Cayetano.
- Introduced by: Senator Carroll.
- No. 332 "A Bill for an Act Relating to Horizontal Property Regimes." No. 290 "A Bill for an Act Relating to Real Property Taxation."
- Introduced by: Senator Carroll.
- No. 333 "A Bill for an Act Relating to Horizontal Property Regimes." Introduced by: Senator Cayetano.
- Introduced by: Senator Carroll.
- No. 334 "A Bill for an Act Making an Appropriation for Construction of a Gymnasium Complex in Keaukaha, Hawaii." No. 291 "A Bill for an Act Relating to State Bonds."
- Introduced by: Senators Ushijima, Hara and Carpenter.
- No. 335 "A Bill for an Act Relating to Hawaii Employment Security Law." Introduced by: Senator Cayetano.
- Introduced by: Senator Abercrombie.
- No. 336 "A Bill for an Act Relating to the East-West Center." No. 292 "A Bill for an Act Relating to County Bonds."
- Introduced by: Senator Abercrombie.
- No. 337 "A Bill for an Act Relating to Adult Education Teachers." Introduced by: Senator Cayetano.
- Introduced by: Senator Abercrombie.
- No. 338 "A Bill for an Act Relating to Acupuncture." No. 293 "A Bill for an Act Relating to Counties."
- Introduced by: Senator Abercrombie.
- No. 339 "A Bill for an Act Relating to the State of Hawaii." Introduced by: Senator Cayetano.
- Introduced by: Senator Abercrombie.
- No. 340 "A Bill for an Act Relating to the State of Hawaii." No. 294 "A Bill for an Act Relating to Housing."
- Introduced by: Senator Abercrombie.
- No. 341 "A Bill for an Act Relating to the State of Hawaii." Introduced by: Senator Cayetano.
- Introduced by: Senator Abercrombie.
- No. 342 "A Bill for an Act Relating to the State of Hawaii." No. 295 "A Bill for an Act Relating to Health Care."
- Introduced by: Senator Abercrombie.
- No. 343 "A Bill for an Act Relating to the State of Hawaii." Introduced by: Senator Cayetano.
- Introduced by: Senator Abercrombie.
- No. 344 "A Bill for an Act Relating to the State of Hawaii." No. 296 "A Bill for an Act Relating to Utilities."
- Introduced by: Senator Abercrombie.
- No. 345 "A Bill for an Act Relating to the State of Hawaii." Introduced by: Senator Cayetano.
- Introduced by: Senator Abercrombie.
- No. 346 "A Bill for an Act Relating to the State of Hawaii." No. 297 "A Bill for an Act Relating to Industrial Enterprises."
- Introduced by: Senator Abercrombie.
- No. 347 "A Bill for an Act Relating to the State of Hawaii." Introduced by: Senator Cayetano.
- Introduced by: Senator Abercrombie.
- No. 348 "A Bill for an Act Relating to the State of Hawaii." No. 298 "A Bill for an Act Relating to Processing Enterprises."
- Introduced by: Senator Abercrombie.
- No. 349 "A Bill for an Act Relating to the State of Hawaii." Introduced by: Senator Cayetano.
- Introduced by: Senator Abercrombie.
- No. 350 "A Bill for an Act Relating to the State of Hawaii." No. 299 "A Bill for an Act Relating to Manufacturing Enterprises."
- Introduced by: Senator Abercrombie.

- Introduced by: Senator Cayetano.
- No. 300 "A Bill for an Act Relating to the Auditor."
- Introduced by: Senator Cayetano.
- No. 301 "A Bill for an Act Relating to the Budgetary Process."
- Introduced by: Senator Cayetano.
- No. 302 "A Bill for an Act Relating to the Budget."
- Introduced by: Senator Cayetano.
- No. 303 "A Bill for an Act Relating to a Council on Revenues."
- Introduced by: Senator Cayetano.
- No. 304 "A Bill for an Act Relating to the Disposition of Excess Revenues."
- Introduced by: Senator Cayetano.
- No. 305 "A Bill for an Act Relating to Public Finance."
- Introduced by: Senator Cayetano.
- No. 306 "A Bill for an Act Relating to Public Grants."
- Introduced by: Senator Cayetano.
- No. 307 "A Bill for an Act Relating to Income Taxation."

#### STANDING COMMITTEE REPORT

Senator Yamasaki, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 2) informing the Senate that Senate Concurrent Resolution Nos. 2 to 7, Senate Resolution Nos. 14 to 69, Senate Bill Nos. 242 to 287 and Governor's Message Nos. 38 to 40 have been printed and are ready for distribution.

On motion by Senator Yamasaki, seconded by Senator George and carried, the report of the Committee was adopted.

#### ORDER OF THE DAY

#### REFERRAL OF SENATE BILLS

The President made the following committee assignments of bills that were introduced on Monday, January 29, 1979:

Senate Bills Referred to:

- No. 242 Committee on Human Resources, then to the Committee on Ways and Means
- No. 243 Committee on Health, then to

- the Committee on Ways and Means
- No. 244 Committee on Ecology, Environment and Recreation, then to the Committee on Ways and Means
- No. 245 Committee on Agriculture, then to the Committee on Ways and Means
- No. 246 Committee on Education, then to the Committee on Ways and Means
- No. 247 Committee on Health, then to the Committee on Consumer Protection and Commerce
- No. 248 Committee on Education, then to the Committee on Ways and Means
- No. 249 Committee on Agriculture, then to the Committee on Ways and Means
- No. 250 Committee on Human Resources, then to the Committee on Ways and Means
- No. 251 Committee on Agriculture, then to the Committee on Ways and Means
- No. 252 Committee on Education, then to the Committee on Ways and Means
- No. 253 Committee on Human Resources, then to the Committee on Ways and Means
- No. 254 Committee on Human Resources, then to the Committee on Ways and Means
- No. 255 Committee on Human Resources, then to the Committee on Ways and Means
- No. 256 Committee on Health, then to the Committee on Ways and Means
- No. 257 Committee on Health, then to the Committee on Ways and Means
- No. 258 Committee on Economic Development, then to the Committee on Ways and Means
- No. 259 Committee on Intergovernmental Relations, then to the Committee on Ways and Means
- No. 260 Committee on Consumer Protection and Commerce, then to the Committee on Judiciary
- No. 261 Committee on Education, then to the Committee on Ways and Means
- No. 262 Committee on Education, then to the Committee on Ways and Means

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| No. 263 | Committee on Education, then to the Committee on Ways and Means                        | Senate<br>Concurrent<br>Resolution  | Referred to:   |
| No. 264 | Committee on Consumer Protection and Commerce, then to the Committee on Ways and Means | No. 2   | Committee on Consumer Protection and Commerce  |
| No. 265 | Committee on Economic Development, then to the Committee on Ways and Means             | RE-REFERRAL OF<br>SENATE BILLS  |  |
| No. 266 | Committee on Ways and Means  | The President made the following re-referral of bills that were introduced on Friday, January 26, 1979:   |  |
| No. 267 | Committee on Ways and Means  | Senate Bills  |  |
| No. 268 | Committee on Intergovernmental Relations, then to the Committee on Ways and Means      | Referred to:  |  |
| No. 269 | Committee on Judiciary   | No. 62  | Committee on Economic Development, then to the Committee on Ways and Means             |
| No. 270 | Committee on Housing and Hawaiian Homes, then to the Committee on Ways and Means       | No. 72  | Committee on Economic Development, then to the Committee on Ways and Means             |
| No. 271 | Committee on Judiciary   | No. 80  | Committee on Consumer Protection and Commerce, then to the Committee on Ways and Means |
| No. 272 | Committee on Judiciary   | At 11:40 o'clock a.m., the Senate stood in recess subject to the call of the Chair.   |  |
| No. 273 | Committee on Judiciary   | The Senate reconvened at 11:42 o'clock a.m.   |  |
| No. 274 | Committee on Judiciary   | Senator Carroll then rose to speak on a point of personal privilege and stated as follows:  |  |
| No. 275 | Committee on Judiciary   | "Mr. President, I'm aggrieved because of matters which transpired on the floor of the Senate on January 25, 1979.   |  |
| No. 276 | Committee on Judiciary   | "Prior to the appointment of the Sergeant at Arms, or his election actually, if you will, an opinion as to whether or not a resident alien could so serve was requested of the Attorney General. Based on that opinion, apparently our Sergeant at Arms was unanimously elected. I personally did not see that opinion except for a few brief moments prior to the adoption of the resolution electing the Sergeant at Arms and the Clerk. Since that time, I've studied this matter carefully with the Senate Republican Attorney. |  |
| No. 277 | Committee on Judiciary   | "Pursuant to that study, I prepared a letter to the Attorney General, a copy of which I have sent to you and I've also furnished each member of the Senate with a copy.   |  |
| No. 278 | Committee on Judiciary   | "The Attorney General yesterday informed me that sometime this week a new opinion will be forthcoming.  |  |
| No. 279 | Committee on Judiciary   | "Mr. President, the opinion which was transmitted to your office was flimsy, nondefinitive and in my opinion, and   |  |
| No. 280 | Committee on Judiciary   |   |  |
| No. 281 | Committee on Judiciary   |   |  |
| No. 282 | Committee on Ways and Means  |   |  |
| No. 283 | Committee on Judiciary   |   |  |
| No. 284 | Committee on Housing and Hawaiian Homes, then to the Committee on Ways and Means       |   |  |
| No. 285 | Committee on Human Resources, then to the Committee on Judiciary                       |   |  |
| No. 286 | Committee on Human Resources, then to the Committee on Judiciary                       |   |  |
| No. 287 | Committee on Consumer Protection and Commerce, then to the Committee on Judiciary      |   |  |

RE-REFERRAL OF A  
SENATE CONCURRENT RESOLUTION

The President made the following re-referral of a senate concurrent resolution that was offered on Monday, January 29, 1979:

in the opinion, I might add, of the Senate Republican Attorney, perhaps not a proper statement of the law.

"Now, if you examine the Hawaii Revised Statutes, 781-A and B, we find that, as it was amended in 1976, there certainly is a provision whereby an employee of the state may be a resident alien.

"Now, without entering into a discussion of what is and is not an officer, an examination of the Attorney General's Opinion cites the power and the authority that is provided in the Senate Rules which allows the Sergeant at Arms to arrest and detain members of this august Body including, if you will, your Senate Republicans.

"Now, Mr. President, I do not say categorically that the Attorney General's Opinion is wrong, but I do say that it was shabbily prepared, it is not definitive, and very probably, the conclusion is not only not a correct statement of the law but, very likely, in direct contravention of the law.

"Now, I am aggrieved by that opinion. I am aggrieved by the attitude that the Attorney General exhibits to this Honorable Body by the submission of this opinion to you. It shows to me, Mr. President, a 'devil may care' attitude at best--and at worst, it is a thinly disguised showing of contempt for the Senate and for the citizens of this state. I am aggrieved by this and I insist that the record so reflect.

"Thank you, Mr. President."

The President then remarked as follows:

"Senator Carroll, I think you have stated your opinion as a legal person. We have called on the Attorney General to rule on behalf of myself and the Senate. We find a difference of opinion. I hope this can be resolved in the next few days.

"I have not had an opportunity to dialogue with the Attorney General on another opinion. Till such time, the chair rules that, as far as Mr. Ben Villaflor is concerned, he is the Sergeant at Arms, based on the authority given to me as President, by election of this Body. Until a new opinion is forthcoming, we will view this as an appointment which is in good standing."

Senator Carroll then responded to the President as follows:

"Mr. President, in my comments, I am in no way attacking either Mr. Villaflor or the appointment or the election, if you will. I am simply attacking the single point of the shabby preparation of opinion for the use of this Honorable Body, and that is the thrust and extent of my remarks."

#### ADJOURNMENT

At 11:52 o'clock a.m., on motion by Senator Mizuguchi, seconded by Senator Anderson and carried, the Senate adjourned until 11:30 o'clock a.m., Wednesday, January 31, 1979, in memory of the late Margaret Lum, mother of Senator T. C. Yim.