

FIFTEENTH DAY

Tuesday, February 6, 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 Robert Hicks, Faith Baptist Church, after which the Roll was called showing all Senators present, with the exception of Senators Saiki and Ushijima, who were excused.

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

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. '66 to '68) were read by the Clerk and were disposed of as follows:

A message from the Governor (Gov. Msg. No. 66), transmitting the Annual Report for Fiscal Year 1977-78 of the Public Utilities Commission in response to Act 165, Session Laws of Hawaii 1976, was referred to the Committee on Public Utilities.

A message from the Governor (Gov. Msg. No. 67), transmitting Volumes I and II, December, 1978, of the Statewide Transportation Plan prepared by the Statewide Transportation Council and the Department of Transportation in response to Chapter 279-A, HRS, was referred jointly to the Committee on Transportation and the Committee on Ways and Means.

A message from the Governor (Gov. Msg. No. 68), transmitting a report on the Capital Infusion Promotion Program prepared by the Economic Development Division of the Department of Planning and Economic Development in response to H.R. No. 25, H.D. 1 (1978) and H.C.R. No. 10, H.D. 1 (1978), was referred to the Committee on Economic Development.

HOUSE COMMUNICATION

A communication from the House (Hse. Com. No. 7), transmitting House Bill No. 11, H.D. 1, which passed Third Reading in the House of Representatives on February 6, 1979, was read by the Clerk and was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.B. No. 11, H.D. 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS TO PROVIDE FOR THE EXPENSES OF THE LEGISLATURE, THE LEGISLATIVE AUDITOR, THE LEGISLATIVE REFERENCE BUREAU, AND THE OMBUDSMAN." passed First

Reading by title and was placed on the calendar for further consideration on Wednesday, February 7, 1979.

SENATE CONCURRENT RESOLUTION

A concurrent resolution (S.C.R. No. 15), entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE LEGISLATIVE AUDITOR TO EXAMINE THE FINANCIAL STATEMENTS AND OPERATIONS AND ASCERTAIN THE RETURN ON CAPITAL OF THE HAWAII NEWSPAPER AGENCY, HONOLULU ADVERTISER, AND HONOLULU STAR-BULLETIN", was jointly offered by Senators Kawasaki, Abercrombie, Kuroda, Young, Yim, Cayetano, Chong, Ajifu, Campbell, Toyofuku, Carpenter, Mizuguchi and Wong, and was read by the Clerk.

By unanimous consent, S.C.R. No. 15 was referred to the Committee on Consumer Protection and Commerce, then to the Committee on Legislative Management.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 90 to 93) were read by the Clerk and were disposed of as follows:

A resolution (S.R. No. 90), entitled: "SENATE RESOLUTION REQUESTING THE LEGISLATIVE AUDITOR TO EXAMINE THE FINANCIAL STATEMENTS AND OPERATIONS AND ASCERTAIN THE RETURN ON CAPITAL OF THE HAWAII NEWSPAPER AGENCY, HONOLULU ADVERTISER, AND HONOLULU STAR-BULLETIN", was jointly offered by Senators Kawasaki, Abercrombie, Young, Yim, Cayetano, Chong, Mizuguchi, Carpenter, Toyofuku, Campbell, Kuroda, Wong and Ajifu.

By unanimous consent, S.R. No. 90 was referred to the Committee on Consumer Protection and Commerce, then to the Committee on Legislative Management.

At 11:35 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:45 o'clock a.m.

At this time, Senator Anderson rose to state as follows:

"Mr. President, if I may on your referral, I believe these two resolutions (S.C.R. No. 15 and S.R. No. 90)--well, the intent is proper because I believe it is the responsibility of the legislature to make sure that the taxpayer and the citizens of Hawaii are being protected.

"I happen to believe that the intent of these two resolutions asking the Legislative Auditor to do this audit is not the vehicle to use. Our reading of the statute--responsibilities of the Legislative Auditor are somewhat confining..."

Senator O'Connor then remarked: "Mr. President, the matter the speaker is referring to should properly be taken up in the committees to which these matters are referred, not here at this time on a referral. If the argument is over the referral or question of the referral, that may be proper, but not the argument that is being made by the speaker."

Senator Anderson then requested a ruling on his point of order.

Senator O'Connor then said: "The point of information, Mr. President, is the introduction of the bills (offering of resolutions), and not the referrals."

The President then replied as follows:

"Senator Anderson, I think the point made by Senator O'Connor is correct--that the referral process is merely a process by which legislation is put before a committee. That committee will determine whether or not the passage of such a particular piece of legislation is to be put in its final form, and I am sure that any kind of interpretation as to whether or not this is proper will be made at the time in which the hearing is held."

Senator Anderson then added to his concern as follows:

"Mr. President, I do not believe that these two resolutions are the purview of the committee, I do not believe they are going to be the responsibility of this committee, and I would not like to see two resolutions with good intent to be misused and not be done constructively. I think the Attorney General is the proper agency since they are the enforcing agency and if these two titles had directed the Attorney General to do this study, I would not be in disagreement."

"It's not the referral, Mr. President, it's the intent and the title and the studying agency, rather than the intent of the merit of the resolutions itself."

Senator Abercrombie then added and questioned as follows:

"Mr. President, this is not a point of information, but I believe it's in order, inasmuch as my name appears as one of the cointroducers of the resolutions, to state that if there is a question as to the intent, it can be settled by the process of negotiation, by the process of discussion

and public hearing. I don't think it's anybody's business to tell me what my intent is or where I want to go with these resolutions. I'm perfectly willing to have it discussed as a public matter and whether it's appropriate or not can be discussed at that time.

"Now, if we're going to do this on every resolution, let alone any bill that comes up, to decide whether or not titles are correct before we even have referrals, then the business of this Body is going to be delayed immeasurably. And I would like to have a clear understanding of your ruling to Senator O'Connor--I suppose then it is a point of information.

"Did you contend in your ruling that when resolutions and/or bills come before this Body that you will refer them under the system that you have outlined and that their appropriateness, whether as to title or intent, will be decided by the committee and not on the floor of this house at the time of referral? Is that a correct interpretation?"

The President replied as follows:

"Senator Abercrombie, my ruling to Senator O'Connor was that his point is well taken.

"I allowed Senator Anderson to complete his remarks and I'm allowing you to do that. The Chair has referred the matter to committee--it is now in the committees. If there is any discussion here on the floor, it should be an objection to appeal the ruling of the Chair.

"The Chair has now assigned those two resolutions to the Consumer Protection and Commerce Committee and the Legislative Management Committee."

Senator Abercrombie then asked: "And this will be the procedure henceforth?"

The President replied as follows:

"I would hope so--I would hope that if someone disagrees with the ruling of the Chair, that we take a recess and discuss the matter. There is always the procedure of re-referral of a bill and if a member of this Body tells the President that he feels strongly about an issue and argues his case, I for one will listen, and if the merits' won, I will re-refer the bill."

Senator Abercrombie then added:

"Mr. President, the reason I bring this up is that I don't think the argument is about the referral. The argument being brought up was about the appropriateness of the resolutions, and I don't

think that the appropriateness of a bill or resolution, if I understand Senator O'Connor's remarks correctly and your answer correctly, the appropriateness of a bill or resolution is not to be discussed at the time of referral. Is that correct?"

The President answered: "However, Senator Abercrombie, people can appeal the ruling of the Chair."

Senator Abercrombie then remarked: "Okay, I'll do the same if I think I need to, but I just think that it's important that we understand what it is we're doing here if we're going to have proper conduct of business, then whatever a member feels is pertinent to the public purpose, and has put it in resolution or bill form, needs to be referred to committees."

"Now, if we want to have an open debate on the intent and appropriateness of bills and resolutions as opposed to whether or not the referral is correct or not with every bill or resolution that comes in, it's fine with me. I get paid every day and we can stay here for twelve months."

Senator Kawasaki then rose to state: "Mr. President, rising on a point of information and to buttress support of your ruling, may I just read one line of an Attorney General's Opinion requested by the ..."

The President then said: "Senator Kawasaki, excuse the Chair for interrupting. The resolutions will be discussed in the committee. Thank you very much."

A resolution (S.R. No. 91), entitled: "SENATE RESOLUTION EXPRESSING BELIEF THAT THE MAJOR MINING CONSORTIA SHOULD FUND ALL STUDIES AND RESEARCH RELATING TO THE ESTABLISHMENT OF MANGANESE PROCESSING PLANTS IN HAWAII AND REQUESTING THE DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT TO WITHHOLD ALL STATE FUNDS FOR SUCH PURPOSES", was offered by Senator Carroll.

By unanimous consent, S.R. No. 91 was referred to the Committee on Economic Development, then to the Committee on Ways and Means.

A resolution (S.R. No. 92), entitled: "SENATE RESOLUTION EXTENDING CONGRATULATIONS TO HONOLULU YOUNG BUDDHIST ASSOCIATION AND TO ITS NEWLY ELECTED OFFICERS", was jointly offered by Senators Toyofuku, Chong, Mizuguchi, Kuroda, Takitani, Abercrombie, Cayetano, O'Connor, Campbell, Hara, Carroll, Anderson, Ajifu and Cobb.

On motion by Senator Toyofuku, seconded by Senator Chong and carried, S.R. No. 92 was adopted.

A resolution (S.R. No. 93), entitled: "SENATE RESOLUTION REQUESTING A STUDY ON THE SUBJECT OF TELECOMMUNICATIONS", was offered by Senator Chong.

By unanimous consent, S.R. No. 93 was referred to the Committee on Public Utilities, then to the Committee on Legislative Management.

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, February 7, 1979:

Senate Bills

No. 485 "A Bill for an Act Relating to Firearms."

Introduced by: Senators Kawasaki, Cobb, Yamasaki, Takitani, Chong, Kuroda, Wong, Abercrombie and Carpenter.

No. 486 "A Bill for an Act Relating to Taxation for the Beautification and Improvement of Waikiki and Other Resort Areas."

Introduced by: Senator Carroll.

No. 487 "A Bill for an Act Relating to Limited and Temporary Licensing of Physicians and Surgeons."

Introduced by: Senators Carpenter, Chong, Campbell, Takitani and Abercrombie.

No. 488 "A Bill for an Act Relating to Physicians and Surgeons."

Introduced by: Senators Carpenter, Chong, Campbell, Mizuguchi, Takitani and Abercrombie.

No. 489 "A Bill for an Act Relating to Support of Mental Health-Related Programs."

Introduced by: Senators Carpenter, Campbell, Chong, Mizuguchi, Takitani and Abercrombie.

No. 490 "A Bill for an Act Relating to Developmentally Disabled Children."

Introduced by: Senators Carpenter, Campbell, Takitani, Chong and Abercrombie.

No. 491 "A Bill for an Act Relating to Biofeedback Therapy."

Introduced by: Senators Carpenter,

- Chong, Campbell, Mizuguchi, Takitani and Abercrombie.
- No. 492 "A Bill for an Act Relating to Hemophilia."
Introduced by: Senators Carpenter, Campbell, Takitani, Chong and Abercrombie.
- No. 493 "A Bill for an Act Relating to Horizontal Property Regimes."
Introduced by: Senator Abercrombie.
- No. 494 "A Bill for an Act Relating to the Landlord-Tenant Code."
Introduced by: Senator Abercrombie.
- No. 496 "A Bill for an Act Making an Appropriation for a Nursing Continuing Education Fund."
Introduced by: Senator Abercrombie.
- No. 497 "A Bill for an Act Making an Appropriation for Capital Improvements at Campus Radio Station KTUH at the University of Hawaii, Manoa."
Introduced by: Senator Abercrombie.
- No. 498 "A Bill for an Act Relating to Facilities for the Elderly."
Introduced by: Senators Chong, Abercrombie, Carroll and Yee.
- No. 499 "A Bill for an Act Making an Appropriation for Capital Improvement Projects for Roosevelt High School, Oahu."
Introduced by: Senators Chong, Carroll and Yee.
- No. 500 "A Bill for an Act Relating to Minors."
Introduced by: Senator Chong, by request.
- No. 501 "A Bill for an Act Relating to Labor Disputes, Stevedoring Industry."
Introduced by: Senator Carroll.
- No. 502 "A Bill for an Act Relating to the Creation of the Labor Dispute Commission."
Introduced by: Senator Carroll.
- No. 503 "A Bill for an Act Relating to Spouse Abuse."
Introduced by: Senator Carroll.
- No. 504 "A Bill for an Act Relating to Computer Crimes."
Introduced by: Senator Carroll.
- No. 505 "A Bill for an Act Relating to Use of Dangerous Weapons in Certain Offenses."
Introduced by: Senator Carroll.
- No. 506 "A Bill for an Act Relating to Arrests."
Introduced by: Senator Carroll.
- No. 507 "A Bill for an Act Relating to Bail."
Introduced by: Senator Carroll.
- No. 508 "A Bill for an Act Relating to the Penal Code."
Introduced by: Senator Carroll.
- No. 509 "A Bill for an Act Relating to Evidence."
Introduced by: Senators Carroll and George.
- No. 510 "A Bill for an Act Relating to Bail."
Introduced by: Senator Carroll.
- No. 511 "A Bill for an Act Relating to Murder."
Introduced by: Senator Carroll.
- No. 512 "A Bill for an Act Relating to Use of Dangerous Weapons in Certain Offenses."
Introduced by: Senator Carroll.
- No. 513 "A Bill for an Act Proposing Amendments to Article V of the Hawaii Constitution to Provide for an Elective Office of Attorney General."
Introduced by: Senators Carroll and George.
- No. 514 "A Bill for an Act Relating to Health Insurance."
Introduced by: Senators Kuroda, Chong, Kawasaki, Young, Mizuguchi, Yamasaki, Cobb, Takitani, Campbell and Carroll.
- No. 515 "A Bill for an Act Making an Appropriation for a Librarian Position for Pearl City High School, Oahu."
Introduced by: Senators Kuroda, Mizuguchi, Cayetano, Chong, Young, Yamasaki, Campbell, Takitani, Toyofuku, Carpenter, Abercrombie, George, Carroll and Ajifu.
- No. 516 "A Bill for an Act Making

an Appropriation to Ensure Continued Operation of the Infant and Child Development Centers on Oahu and the Neighbor Islands."

Introduced by: Senators Kuroda, Carpenter, Chong, O'Connor, Toyofuku, Cobb, Young, Mizuguchi, Yamasaki, Carroll, Cayetano, Kawasaki, Takitani, Ajifu and George.

No. 517 "A Bill for an Act Relating to the Office of Hawaiian Affairs."

Introduced by: Senators Young, Campbell, Cayetano, Hara, Ajifu, Carpenter, Yim, Toyofuku, Kuroda, Takitani, Soares, Chong and Abercrombie.

No. 518 "A Bill for an Act Relating to the Limitation of Actions."

Introduced by: Senators Kawasaki, Abercrombie, Carpenter, Kuroda, Takitani and Cayetano.

No. 519 "A Bill for an Act Relating to the Public Utilities Commission."

Introduced by: Senators Kawasaki, Wong, Abercrombie, Carpenter, Kuroda, Takitani and Cayetano.

No. 520 "A Bill for an Act Relating to Agricultural Loans and Fishing Vessel Loans."

Introduced by: Senators Kawasaki, Abercrombie, Carpenter, Kuroda, Takitani and Cayetano.

No. 521 "A Bill for an Act Making an Appropriation of \$739,000 to the State Department of Transportation to Implement the Transfer of Wilson Tunnel and Kahekili Highway from the City and County of Honolulu to the State of Hawaii."

Introduced by: Senators Kawasaki, Abercrombie, Carpenter, Kuroda and Takitani.

No. 522 "A Bill for an Act Relating to Firearms."

Introduced by: Senators Kawasaki, Cobb, Wong, Abercrombie, Takitani and Cayetano.

No. 523 "A Bill for an Act Relating to Night Hunting."

Introduced by: Senators Kawasaki, Cobb, Wong, Abercrombie, Carpenter and Cayetano.

No. 524 "A Bill for an Act Relating to Agricultural Development."

Introduced by: Senators Carpenter,

Toyofuku, Young, Takitani, Chong, Hara, Kuroda and Cayetano.

No. 525 "A Bill for an Act Making an Appropriation for Water Development Projects, Hawaii County."

Introduced by: Senators Carpenter, Hara, Kuroda and Cayetano.

No. 526 "A Bill for an Act Making an Appropriation for Alcoholism Programs."

Introduced by: Senators Carpenter, Chong, Cayetano, Hara and Kuroda.

No. 527 "A Bill for an Act Making an Appropriation for the Developmentally Disabled."

Introduced by: Senators Carpenter, Cayetano, Chong, Hara and Kuroda.

No. 528 "A Bill for an Act Relating to the State Agricultural Loan Program."

Introduced by: Senators Carpenter, Toyofuku, Young, Takitani, Chong, Hara, Kuroda and Cayetano.

No. 529 "A Bill for an Act Making an Appropriation for Fish Aggregating Buoy Program."

Introduced by: Senators Carpenter, Toyofuku, Hara, Kuroda, Chong, Takitani, Young and Cayetano.

No. 530 "A Bill for an Act Making an Appropriation for an East Hawaii Art and Cultural Center, Hawaii."

Introduced by: Senators Carpenter, Toyofuku, Hara, Chong, Takitani, Young, Kuroda and Cayetano.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, the following bill was referred to print and was placed on the calendar for further consideration on Wednesday, February 7, 1979:

Senate Bill

No. 495 "A Bill for an Act Relating to the Creation of a Nursing Continuing Education Fund."

Introduced by: Senator Abercrombie.

STANDING COMMITTEE REPORT

Senator Yamasaki, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 9) informing the Senate that Senate Concurrent Resolution No. 14, Senate Resolution No. 89 and Senate Bill Nos. 453 to

484 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, February 5, 1979:

Senate Bills Referred to:

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| No. 453 | Committee on Human Resources, then to the Committee on Ways and Means | No. 470 | Committee on Health, then to the Committee on Ways and Means |
| No. 454 | Committee on Human Resources, then to the Committee on Ways and Means | No. 471 | Committee on Intergovernmental Relations, then to the Committee on Ways and Means |
| No. 455 | Committee on Housing and Hawaiian Homes, then to the Committee on Consumer Protection and Commerce | No. 472 | Jointly to the Committee on Health and the Committee on Education, then to the Committee on Judiciary |
| No. 456 | Committee on Health, then to the Committee on Ways and Means | No. 473 | Committee on Health, then to the Committee on Judiciary |
| No. 457 | Committee on Health, then to the Committee on Ways and Means | No. 474 | Committee on Human Resources, then to the Committee on Ways and Means |
| No. 458 | Committee on Health, then jointly to the Committee on Legislative Management and the Committee on Ways and Means | No. 475 | Committee on Health, then to the Committee on Consumer Protection and Commerce |
| No. 459 | Committee on Consumer Protection and Commerce, then to the Committee on Judiciary | No. 476 | Committee on Judiciary |
| No. 460 | Committee on Public Utilities, then to the Committee on Ways and Means | No. 477 | Committee on Judiciary, then to the Committee on Ways and Means |
| No. 461 | Committee on Public Utilities, then to the Committee on Ways and Means | No. 478 | Committee on Intergovernmental Relations, then to the Committee on Judiciary, then to the Committee on Ways and Means |
| No. 462 | Committee on Economic Development, then to the Committee on Ways and Means | No. 479 | Committee on Consumer Protection and Commerce, then to the Committee on Judiciary |
| No. 463 | Jointly to the Committee on Health and the Committee on Education, then to the Committee on Ways and Means | No. 480 | Committee on Ecology, Environment and Recreation, then to the Committee on Judiciary |
| No. 464 | Committee on Education, then to the Committee on Ways and Means | No. 481 | Committee on Judiciary, then to the Committee on Ways and Means |
| No. 465 | Committee on Education, then to the Committee on Ways and Means | No. 482 | Committee on Judiciary, then to the Committee on Ways and Means |
| No. 466 | Committee on Ecology, Environment and Recreation, then to the Committee on Ways and Means | No. 483 | Committee on Ecology, Environment and Recreation, then to the Committee on Judiciary |
| No. 467 | Committee on Human Resources, then to the Committee on Ways and Means | No. 484 | Committee on Judiciary, then to the Committee on Ways and Means |
| No. 468 | Committee on Health, then to the Committee on Ways and Means | | |
| No. 469 | Committee on Health, then to | | |

the Committee on Ways and Means

No. 470 Committee on Health, then to the Committee on Ways and Means

No. 471 Committee on Intergovernmental Relations, then to the Committee on Ways and Means

No. 472 Jointly to the Committee on Health and the Committee on Education, then to the Committee on Judiciary

No. 473 Committee on Health, then to the Committee on Judiciary

No. 474 Committee on Human Resources, then to the Committee on Ways and Means

No. 475 Committee on Health, then to the Committee on Consumer Protection and Commerce

No. 476 Committee on Judiciary

No. 477 Committee on Judiciary, then to the Committee on Ways and Means

No. 478 Committee on Intergovernmental Relations, then to the Committee on Judiciary, then to the Committee on Ways and Means

No. 479 Committee on Consumer Protection and Commerce, then to the Committee on Judiciary

No. 480 Committee on Ecology, Environment and Recreation, then to the Committee on Judiciary

No. 481 Committee on Judiciary, then to the Committee on Ways and Means

No. 482 Committee on Judiciary, then to the Committee on Ways and Means

No. 483 Committee on Ecology, Environment and Recreation, then to the Committee on Judiciary

No. 484 Committee on Judiciary, then to the Committee on Ways and Means

At this time, Senator Carpenter introduced to the members of the Senate Miss Carol Lee Devito of Wayne State University and Mr. Peter Holmes of the Federal Trade Commission, who are here to participate in the Senate Health Committee hearing on generic drug substitution.

At 11:56 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:58 o'clock a.m.

ADJOURNMENT

At 12:00 o'clock noon, on motion by Senator Mizuguchi, seconded by Senator Anderson and carried, the Senate adjourned until 11:30 o'clock a.m., Wednesday, February 7, 1979.