

FIFTY-FOURTH DAY

Wednesday, April 11, 1979

The Senate of the Tenth Legislature of the State of Hawaii, Regular Session of 1979, convened at 11:00 o'clock a.m., with the President in the Chair.

The Divine Blessing was invoked by Reverend Charles Hasegawa, Honpa Hongwanji Mission, Hawaii Betsuin, after which the Roll was called showing all Senators present with the exception of Senators Abercrombie, Anderson, Carroll, Yim and Young, who were excused.

The President announced that he had read and approved the Journal of the Fifty-Third Day.

The following introductions were made to the members of the Senate:

Senator Toyofuku introduced a group from the Immigrant Services Department of the Susannah Wesley Community Center, accompanied by their director Mr. Roy Austria.

Senator Carpenter introduced Lee-Ann Nishiguchi and Debra Rychener students from Ka'u High School of the Big Island, accompanied by their Vice Principal Mr. John Sosa.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 117 and 118) were read by the Clerk and were disposed of as follows:

A message from the Governor (Gov. Msg. No. 117), transmitting his statement of objections to House Bill No. 402 which he has returned to the House without his approval and which reads as follows:

"STATE OF HAWAII EXECUTIVE CHAMBERS

April 10, 1979

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 402

Honorable Members
Tenth Legislature
State of Hawaii

Pursuant to Section 17, Article III of the Hawaii State Constitution, I am returning herewith without my approval, House Bill No. 402 entitled, 'A Bill for an Act Relating to Firearms and Ammunition.'

The purpose of this Bill is to clarify the penalty provisions of Sections 134-8 and -9, Hawaii Revised Statutes, by

specifying that the penalty provisions contained therein take precedence over the Hawaii Penal Code.

While I appreciate the fact that the legislative power, vested in the Legislature, extends to all rightful subjects of legislation not inconsistent with the Constitutions of the State of Hawaii and the United States, I am nevertheless constrained to return the Bill without my approval.

Under Section 701-107 (7), Hawaii Revised Statutes, all penal statutes, other than those provided in the Hawaii Penal Code, must be governed by the Penal Code. Therefore, but for House Bill No. 402, Sections 134-8 and -9 constitute Class 'C' felonies. I recognize that the Legislature has the prerogative to specify different penalties than that which is required under the Hawaii Penal Code.

However, it is incumbent upon the Legislature, in rendering its intent, to make it absolutely clear and consistent with other similar statutes.

The existing Section 134-10, Hawaii Revised Statutes, provides a similar penalty as that which exists in Sections 134-8 and -9. However, the Legislature did not deal with Section 134-10 in House Bill No. 402. Are we to construe Section 134-10 as providing a Class 'C' felony? The fact that the Legislature saw fit to clarify its intent with respect to Sections 134-8 and -9, we must assume that it intended Section 134-10 would be construed as a Class 'C' felony.

Rather than enact House Bill No. 402 into law and thereby confuse the interpretation of Sections 134-8 through 134-10, I am returning the Bill to the Legislature without my approval.

Respectfully,

/s/ George R. Ariyoshi

GEORGE R. ARIYOSHI
Governor of Hawaii",

was placed on file.

A message from the Governor (Gov. Msg. No. 118), transmitting a report prepared by the Department of Health in response to Senate Resolution No. 23 (1978), which requested a review of the Department of Health dental services, was referred to the Committee on Health.

DEPARTMENTAL COMMUNICATION

A communication from the Honorable Jean King, Lieutenant Governor of the State of Hawaii, (Dept. Com. No. 14), acknowledging receipt of Senate Resolution No. 357 (1979) which expressed support for a state-wide observation of Earth Day for Friday, April 27, 1979, was read by the Clerk and was placed on file.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 518 to 526) were read by the Clerk and were disposed of as follows:

A communication from the House (Hse. Com. No. 518), informing the Senate that the House had requested a conference on House Bill No. 417, H.D. 2, in consequence of which on April 10, 1979, the Speaker appointed Representatives Larsen, Chairman, Blair, Fukunaga, Kawakami, Toguchi and Narvaes as Managers on the part of the House for the consideration of said amendments, was placed on file.

A communication from the House (Hse. Com. No. 519), informing the Senate that the House had requested a conference on House Bill No. 732, in consequence of which on April 10, 1979, the Speaker appointed Representatives Kawakami, Chairman, Hashimoto, Holt, Morioka and Narvaes as Managers on the part of the House for the consideration of said amendments, was placed on file.

A communication from the House (Hse. Com. No. 520), informing the Senate that the House had requested a conference on House Bill No. 890, H.D. 1, in consequence of which on April 10, 1979, the Speaker appointed Representatives Kawakami, Chairman, Fukunaga, Holt, Stanley, D. Yamada and Anderson as Managers on the part of the House for the consideration of said amendments, was placed on file.

A communication from the House (Hse. Com. No. 521), informing the Senate that the House had requested a conference on House Bill No. 1252, H.D. 2, in consequence of which on April 10, 1979, the Speaker appointed Representatives Uechi, Chairman, Holt, Morioka, Suwa, Toguchi, Uwaine and Narvaes as Managers on the part of the House for the consideration of said amendments, was placed on file.

A communication from the House (Hse. Com. No. 522), informing the Senate that the House had requested a conference on House Bill No. 1642, H.D. 1, in consequence of which on April 10, 1979, the Speaker appointed Representatives Larsen, Chairman, Kawakami, Toguchi, Sakamoto and Anderson as Managers on the part of the House

for the consideration of said amendments, was placed on file.

A communication from the House (Hse. Com. No. 523), informing the Senate that pursuant to the disagreement of the Senate to the amendments proposed by the House to Senate Bill No. 77, S.D. 3, and the request for a conference on the subject matter of said amendments, on April 10, 1979, the Speaker appointed Representatives Uechi, Chairman, Inaba, Kawakami, Sakamoto, Takitani and Anderson as Managers on the part of the House for the consideration of said amendments, was placed on file.

A communication from the House (Hse. Com. No. 524), informing the Senate that pursuant to the disagreement of the Senate to the amendments proposed by the House to Senate Bill No. 1373, S.D. 1, and the request for a conference on the subject matter of said amendments, on April 10, 1979, the Speaker appointed Representatives Lunasco and Suwa, Co-Chairmen, Inaba, Morioka, Say and Marumoto as Managers on the part of the House for the consideration of said amendments, was placed on file.

A communication from the House (Hse. Com. No. 525), informing the Senate that pursuant to the disagreement of the Senate to the amendments proposed by the House to Senate Bill No. 1657, S.D. 2, and the request for a conference on the subject matter of said amendments, on April 10, 1979, the Speaker appointed Representatives Uechi, Chairman, Crozier, Inaba, Sakamoto, Suwa, Takitani and Anderson as Managers on the part of the House for the consideration of said amendments, was placed on file.

A communication from the House (Hse. Com. No. 526), informing the Senate that pursuant to the disagreement of the Senate to the amendments proposed by the House to Senate Bill No. 1742, S.D. 1, and the request for a conference on the subject matter of said amendments, on April 10, 1979, the Speaker appointed Representatives Suwa, Chairman, Morioka, Crozier, de Heer, Fukunaga, Hashimoto, Holt, Ige, Inaba, Kobayashi, Kunimura, Sakamoto, Takitani, Lacy, Narvaes and Sutton as Managers on the part of the House for the consideration of said amendments, was placed on file.

SENATE CONCURRENT RESOLUTION

A concurrent resolution (S.C.R. No. 120), entitled: "SENATE CONCURRENT RESOLUTION COMMENDING DEAN SHOSUKE GOTO FOR HIS LONGSTANDING DEDICATION AND EFFORT IN PROMOTING DIVERSIFIED AGRICULTURE THROUGH THE TRAINING OF UNDERGRADUATE STUDENTS AT THE UNIVERSITY OF HAWAII PEARL

CITY INSTRUCTIONAL FACILITY", was jointly offered by Senators Kuroda, Young, Mizuguchi, Kawasaki, Wong, Yamasaki, Ushijima, Carroll, Soares, Cobb, George, Hara, Chong, Ajifu, Campbell, Yim, Cayetano, Carpenter, Saiki, Toyofuku, Takitani, Abercrombie and O'Connor, was read by the Clerk.

On motion by Senator Kuroda, seconded by Senator Cayetano and carried, S.C.R. No. 120 was adopted.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 449 to 454) were read by the Clerk and were disposed of as follows:

A resolution (S.R. No. 449), entitled: "SENATE RESOLUTION CONGRATULATING AND COMMENDING PROFESSIONAL FOOTBALL PLAYERS FROM HAWAII", was jointly offered by Senators Yee, Young, Chong, Toyofuku, Cobb, Yim, Takitani, George, Campbell, Carpenter, Kuroda, Yamasaki, Anderson, Soares, Mizuguchi and Cayetano.

Senator Yee moved that S.R. No. 449 be adopted, seconded by Senator Hara.

At this time, Senator Yee rose to comment as follows:

"Mr. President, I would like to say that we think our professional football athletes from Hawaii do a tremendous service for the state because football is a most watched game on television. Every time a professional game is played, invariably the announcer mentions someone from the State of Hawaii. I think this builds tremendous public relations for the state and I know that we in Hawaii are very proud to have our boys playing on professional teams.

"Senate Resolution No. 449 is congratulating and extending our appreciation to all the local football players on professional teams. Senate Resolution No. 450 is for Russ Francis because he has agreed to be roasted on the evening of April 14th at the Sheraton Waikiki Hotel and he's doing it in behalf of the Boys' Club of Honolulu. All proceeds from this event will go to the Boys' Club."

The motion was put by the Chair and carried and S.R. No. 449 was adopted.

A resolution (S.R. No. 450), entitled: "SENATE RESOLUTION CONGRATULATING AND COMMENDING RUSS FRANCIS FOR HIS ACCOMPLISHMENTS AS A PROFESSIONAL FOOTBALL PLAYER AND HAWAII'S GOODWILL AMBASSADOR", was jointly offered by Senators Yee, Hara, Young, Chong, Toyofuku, Cobb, Yim, Takitani, George, Campbell, Carpenter, Kuroda, Yamasaki,

Anderson, Soares, Mizuguchi and Cayetano.

On motion by Senator Yee, seconded by Senator Hara and carried, S.R. No. 450 was adopted.

At this time, Senator Yee introduced to the members of the Senate "the most esteemed player from Hawaii, with the New England Patriots, Russ Francis"; an alumnus from Punahou School and with the Kansas City Chiefs, Kale Ane; and from St. Louis High School, with the San Diego Chargers, Hal Stringert. Senator Yee presented certified copies of the resolution to the honorees and Senators Saiki and George presented leis to Kale Ane and Hal Stringert, respectively, while Ms. Carol Zachary was requested to present a lei to Russ Francis.

At 11:16 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:19 o'clock a.m.

A resolution (S.R. No. 451), entitled: "SENATE RESOLUTION EXTENDING CONGRATULATIONS TO CITY BANK ON ITS 20TH ANNIVERSARY", was jointly offered by Senators Kawasaki, Anderson, Yim, Soares, Yamasaki, Saiki, George, Campbell, Yee, Ushijima, Cayetano, Takitani, Young, Ajifu, Wong, Hara, Chong, Toyofuku, Cobb, Carroll, O'Connor, Abercrombie, Carpenter, Kuroda and Mizuguchi.

On motion by Senator Kawasaki, seconded by Senator Yee and carried, S.R. No. 451 was adopted.

At this time, Senator Kawasaki stated as follows:

"Mr. President, I just want to briefly inform the members of this Body about Mr. Morita's background. You, of course, know of his very illustrious public service career. He was the chief attorney or the 'head man' in the attorney's office, what is now comparable to the corporation council of the City and County. He was appointed by the legendary Mayor Wilson some three decades ago and he was head of that agency for many years.

"Mr. Morita took reigns as chief executive officer of City Bank and has, with his imagination, his vigorous energy, made it into one of the top banks of this state, I think, the fifth out of eight banks that we have here.

"What you don't know is that, while

he may be an outstanding banker, I've had the occasion to go fishing with this gentleman, and do you know that he doesn't even know how to tie a hook on a fishline and after he's caught a few fishes, he doesn't even know how to take it off the hook; but, that's because of his great devotion to his banking duties.

"I just want to let you know that there are some other facts to this gentleman's career, his personality, and his character that are not quite known to the public. He is, otherwise, a good banker."

Senator Kawasaki then introduced to the members of the Senate Mr. Richard Okinaka, President and Chief Operating Officer of City Bank, and Mr. James Morita, Chief Executive Officer and Chairman of the Board of City Bank, and presented them with certified copies of the resolution.

At 11:21 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:23 o'clock a.m.

A resolution (S.R. No. 452), entitled: "SENATE RESOLUTION COMMENDING CAROL ZACHARY ON THE OCCASION OF HER RETIREMENT AS EXECUTIVE DIRECTOR OF COMMON CAUSE/HAWAII", was jointly offered by Senators George, O'Connor, Cobb, Chong, Yee, Anderson, Young, Toyofuku, Campbell, Hara, Kuroda, Ushijima, Carroll, Yamasaki, Saiki, Ajifu, Kawasaki, Yim, Cayetano, Soares, Takitani, Mizuguchi, Carpenter and Abercrombie.

On motion by Senator George, seconded by Senator O'Connor and carried, S.R. No. 452 was adopted.

Senator George, before introducing the honoree, stated as follows:

"Mr. President, I didn't make a moving speech in behalf of soliciting votes for this resolution because, as I hope our honoree will notice, it was signed by every member of this Senate. It's a real delight to be able to present to the members of the Senate today Carol Zachary who is the honoree of this resolution.

"Carol, to me, is the epitome of citizen participation in government. As a matter of fact, she participated to such an extent during the last four years while she has been the voice of Common Cause in the legislature that at times it seems she was a member of the committee. We asked her advice often, we followed it often. As all of us know, we didn't always agree with her, we didn't always follow the advice, but we all admired

her and I think, probably, she set for us an example of tireless enthusiasm which all of us would do well to emulate."

Senator George then introduced Ms. Zachary and presented her with a certified copy of the resolution, while Senator O'Connor presented her with a lei.

Also introduced were the parents of Ms. Zachary who were sitting in the gallery.

At 11:25 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:27 o'clock a.m.

A resolution (S.R. No. 453), entitled: "SENATE RESOLUTION WELCOMING AND EXTENDING A WARM ALOHA TO FRANK NORDY HOFFMAN, SERGEANT-AT-ARMS OF THE UNITED STATES SENATE", was jointly offered by Senators Wong, Kawasaki, Cayetano, Ushijima, Takitani, Toyofuku, Young, Yamasaki, Yim, Mizuguchi, Anderson, Campbell, Carpenter, Chong, O'Connor, Kuroda, Cobb, Hara, George, Yee, Abercrombie, Carroll, Soares, Ajifu and Saiki.

On motion by Senator Kawasaki, seconded by Senator Cayetano and carried, S.R. No. 453 was adopted.

At this time, Senator Kawasaki introduced to the members of the Senate the honoree, Mr. Frank Nordy Hoffman, his wife Joanne, and daughter Eileen, who were accompanied by Mr. David Peters of Senator Dan Inouye's staff and Mr. Tucker Gratz. Senator Kawasaki then presented a certified copy of the resolution to Mr. Hoffman and Senators Saiki, Carpenter and Cayetano presented leis to Mr. Hoffman, Mrs. Hoffman and their daughter Eileen, respectively.

At 11:29 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:32 o'clock a.m.

A resolution (S.R. No. 454), entitled: "SENATE RESOLUTION COMMENDING DEAN SHOSUKE GOTO FOR HIS LONGSTANDING DEDICATION AND EFFORT IN PROMOTING DIVERSIFIED AGRICULTURE THROUGH THE TRAINING OF UNDERGRADUATE STUDENTS AT THE UNIVERSITY OF HAWAII PEARL CITY INSTRUCTIONAL FACILITY", was jointly offered by Senators Kuroda, Young, Mizuguchi, Kawasaki, Wong, Yamasaki, Ushijima, Carroll, Soares, Cobb, George, Hara, Campbell, Chong, Ajifu, Yim, Cayetano, Carpenter, Toyofuku, Saiki, Takitani, Abercrombie

and O'Connor.

On motion by Senator Kuroda, seconded by Senator Cayetano and carried, S.R. No. 454 was adopted.

STANDING COMMITTEE REPORTS

Senator Yamasaki, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 998) informing the Senate that Senate Resolution No. 448 and Standing Committee Report Nos. 992 to 997 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.

Senator Yim, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 999) recommending that House Concurrent Resolution No. 42 be adopted.

On motion by Senator Carpenter, seconded by Senator Mizuguchi and carried, the report of the Committee was adopted and H.C.R. No. 42, entitled: "HOUSE CONCURRENT RESOLUTION COMMENDING THE STATE BOARD OF LAND AND NATURAL RESOURCES FOR THEIR EFFORTS TO STRENGTHEN AGRICULTURAL WATER RESOURCE PROGRAMS IN WAIMANALO, OAHU, AND URGING THE BOARD TO INTENSIFY ACTIVITIES TO UPGRADE THE AGRICULTURAL WATER SYSTEMS IN WAIMANALO", was adopted.

Senators Carpenter and Chong, for the Committees on Health and Public Utilities, presented a joint report (Stand. Com. Rep. No. 1000) recommending that Senate Resolution No. 44, as amended in S.D. 1, be adopted.

On motion by Senator Carpenter, seconded by Senator Chong and carried, the joint report of the Committees was adopted and S.R. No. 44, S.D. 1, entitled: "SENATE RESOLUTION RELATING TO A FEASIBILITY STUDY OF INCLUSION OF A SURVIVAL GUIDE IN THE PHONE DIRECTORY ON ALL ISLANDS", was adopted.

Senator Toyofuku, for the Committee on Human Resources, presented a report (Stand. Com. Rep. No. 1001) recommending that House Concurrent Resolution No. 7, H.D. 1, be adopted.

On motion by Senator Toyofuku, seconded by Senator Yamasaki and carried, the report of the Committee was adopted and H.C.R. No. 7, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES

CONGRESS TO INCREASE FUNDS AVAILABLE UNDER VOCATIONAL REHABILITATION ACT, AS AMENDED, AND TITLE XX OF THE SOCIAL SECURITY ACT, SO THAT THE VOCATIONAL/SOCIAL REHABILITATION SERVICES IN HAWAII MAY RECEIVE ADEQUATE FUNDING", was adopted.

ORDER OF THE DAY

MATTER DEFERRED
FROM APRIL 10, 1979

Senate Bill No. 1373, S.D. 1, H.D. 1:

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 1373, S.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Campbell and Cayetano, Co-Chairmen, and Ajifu, as Managers on the part of the Senate at such conference.

THIRD READING

Standing Committee Report No. 987 (H.B. No. 1659):

On motion by Senator Carpenter, seconded by Senator Campbell and carried, Stand. Com. Rep. No. 987 was adopted and H.B. No. 1659, entitled: "A BILL FOR AN ACT RELATING TO WASTEWATER TREATMENT PERSONNEL", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, none. Excused, 5 (Abercrombie, Anderson, Carroll, Yim and Young).

House Bill No. 498, H.D. 1:

Senator Cobb moved that H.B. No. 498, H.D. 1, having been read throughout, pass Third Reading, seconded by Senator Chong.

At this time, Senator O'Connor rose to speak on the measure and stated as follows:

"Mr. President, I direct the members' attention to the second sentence of the first section of this bill which would seem to allow one individual, if the articles or the charter were so amended, to perform all of the duties of the board of directors, and, of course, that individual could perform all the duties of the entire corporation.

"There is a technical problem with this particular sentence and this is the reason that I signed this committee report 'I do not concur.' However, I'm going to vote in favor of this bill because the balance of the bill contains provisions

which have long been needed in the Hawaii Corporate Law. I bring this matter to the attention of the members and place it on the records so that when this section of corporate law is again considered, the second sentence or the last sentence of this first section can be appropriately amended to indicate changes which we have made earlier this year in numbers of directors for certain kinds of corporations and their powers.

"It is rather ridiculous to have a large body of corporate law that have to do with directors of corporations, their responsibilities and duties, and simultaneously have one part of one sentence which allows the corporations of our state to subvert that entire section of corporate law. Thank you."

Senator Yee added as follows:

"Mr. President, I rise to speak in favor of the bill and I concur with the statements made by Senator O'Connor. I would appreciate that an appropriate amendment be made and introduced next year to correct this deficiency."

Senator Cobb then stated as follows:

"Mr. President, I would expect such an amendment to be forthcoming and received at an expeditious hearing in the committee."

The motion was put by the Chair and carried, and H.B. No. 498, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE POWERS OF BOARDS OF DIRECTORS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, none. Excused, 5 (Abercrombie, Anderson, Carroll, Yim and Young).

At 11:42 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:48 o'clock a.m.

CHANGE OF CONFERENCE COMMITTEE CHAIRMEN

Senate Bill No. 77, S.D. 3, H.D. 1:

The President appointed Senator Cayetano in place of Senator Takitani as Chairman, with Senator Takitani remaining as a Manager on the part of the Senate, at the conference to be held to consider the amendments proposed by the House to S.B. No. 77, S.D. 3.

Senate Bill No. 1657, S.D. 2, H.D. 1:

The President appointed Senator Cayetano in place of Senator Takitani as Chairman, with Senator Takitani remaining as a Manager on the part of the Senate, at the conference to be held to consider the amendments proposed by the House to S.B. No. 1657, S.D. 2.

House Bill No. 1252, H.D. 2, S.D. 1:

The President appointed Senator Cayetano in place of Senator Takitani as Chairman, with Senator Takitani remaining as a Manager on the part of the Senate, at the conference to be held to consider the amendments proposed by the Senate to H.B. No. 1252, H.D. 2.

ADJOURNMENT

At 11:50 o'clock a.m., on motion by Senator Mizuguchi, seconded by Senator Yee and carried, the Senate adjourned until 9:30 o'clock a.m., Thursday, April 11, 1979.