

SIXTEENTH DAY

Wednesday, February 6, 1980

The Senate of the Tenth Legislature of the State of Hawaii, Regular Session of 1980, convened at 11:30 o'clock a.m., with the President in the Chair.

The Divine Blessing was invoked by Reverend Toyahiko Kurasawa of the Jodo Mission, after which the Roll was called showing all Senators present, with the exception of Senators Chong, Machida, Saiki and Ushijima who were excused.

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

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

Senator Anderson introduced a group of 31 senior citizens from the Hui Hauoli O'Aina Haina Club.

Senator Cayetano introduced Mr. Gary Maestas from Los Angeles, California, who works for the San Diego Legal Aid Office.

MESSAGE FROM THE GOVERNOR

A message from the Governor (Gov. Msg. No. 50), transmitting a report prepared by the Department of Transportation in response to S.R. No. 35 (1979) which requested the Department of Education and the Department of Transportation to determine the feasibility of staggered school hours to alleviate traffic congestion, was read by the Clerk and was referred jointly to the Committee on Education and the Committee on Transportation.

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 THE CITY COUNCIL OF THE CITY AND COUNTY OF HONOLULU TO WORK TOWARDS AND APPROPRIATE MONEYS FOR THE ESTABLISHMENT OF MORE BIKEWAYS", was offered by Senator Carroll.

By unanimous consent, S.R. No. 70 was referred to the Committee on Transportation.

A resolution (S.R. No. 71), entitled: "SENATE RESOLUTION REQUESTING THE MAYOR OF THE CITY AND COUNTY OF

HONOLULU TO WORK TOWARDS THE ESTABLISHMENT OF MORE BIKEWAYS", was offered by Senator Carroll.

By unanimous consent, S.R. No. 71 was referred to the Committee on Transportation.

A resolution (S.R. No. 72) relating to the Senate employees' compensation was jointly offered by Senators Mizuguchi and Anderson.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, S.R. No. 72 was adopted.

A resolution (S.R. No. 73), entitled: "SENATE RESOLUTION REQUESTING A STUDY ON THE CAPACITY OF CORRECTIONAL FACILITIES IN HAWAII", was jointly offered by Senators Machida and Yamasaki.

By unanimous consent, S.R. No. 73 was referred to the Committee on Judiciary, 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 Thursday, February 7, 1980:

Senate Bills

No. 2326-80 "A Bill for an Act Relating to Displaced Homemakers."

Introduced by: Senator Young.

No. 2327-80 "A Bill for an Act Relating to the Office of Hawaiian Affairs."

Introduced by: Senator Young, by request.

No. 2328-80 "A Bill for an Act Making an Appropriation to the Hawaiian Loan Guarantee Fund."

Introduced by: Senator Young.

No. 2329-80 "A Bill for an Act Relating to Deferred Acceptance of Guilty Plea."

Introduced by: Senators Machida and Yamasaki.

No. 2330-80 "A Bill for an Act Relating

to Sexual Abuse."

Introduced by: Senators Machida and Yamasaki.

No. 2331-80 "A Bill for an Act Relating to Young Adult Defendants."

Introduced by: Senators Machida and Yamasaki.

No. 2332-80 "A Bill for an Act Relating to Manslaughter."

Introduced by: Senators Machida and Yamasaki.

No. 2333-80 "A Bill for an Act Relating to the Uniform Controlled Substances Act."

Introduced by: Senators Machida and Yamasaki.

No. 2334-80 "A Bill for an Act Relating to the Penal Code."

Introduced by: Senators Machida and Yamasaki.

No. 2335-80 "A Bill for an Act Making an Appropriation for the Sugarcane Industry."

Introduced by: Senators Machida and Yamasaki.

No. 2336-80 "A Bill for an Act Making an Appropriation for the Office of Library Services."

Introduced by: Senator Campbell

No. 2337-80 "A Bill for an Act Relating to Construction of High-Voltage Electric Transmission Lines."

Introduced by: Senators Soares and O'Connor.

No. 2338-80 "A Bill for an Act Making an Appropriation for School Projects Located in the Maui School District."

Introduced by: Senators Yamasaki and Machida.

No. 2339-80 "A Bill for an Act Making an Appropriation for Improvements to Mala Pier Facility, Lahaina, Maui."

Introduced by: Senators Yamasaki and Machida.

No. 2340-80 "A Bill for an Act Making an Appropriation for Makena La Perouse State Park, Maui."

Introduced by: Senators Yamasaki and Machida.

No. 2341-80 "A Bill for an Act Making an Appropriation for the Restoration of Historical Structures in Maui County."

Introduced by: Senators Yamasaki and Machida.

No. 2342-80 "A Bill for an Act Making an Appropriation for the Construction of Residential Subdivision at Paukakalo, Maui."

Introduced by: Senators Yamasaki and Machida.

No. 2343-80 "A Bill for an Act Making an Appropriation for Construction of Honoapiilani Highway, Lahaina, Maui."

Introduced by: Senators Yamasaki and Machida.

No. 2344-80 "A Bill for an Act Making an Appropriation for Modernization and Renovation of Kula Hospital, Maui."

Introduced by: Senators Yamasaki and Machida.

No. 2345-80 "A Bill for an Act Making an Appropriation for Highway Projects Located on the Island of Molokai."

Introduced by: Senators Yamasaki and Machida.

No. 2346-80 "A Bill for an Act Making an Appropriation for Highway Projects Located on the Island of Maui."

Introduced by: Senators Yamasaki and Machida.

No. 2347-80 "A Bill for an Act Making an Appropriation for the Realignment of Hana Highway from the Vicinity of Kuau Toward Hookipa Park, Maui."

Introduced by: Senators Yamasaki and Machida.

No. 2348-80 "A Bill for an Act Making an Appropriation for Water Sources Investigation and Development, Maui."

Introduced by: Senators Yamasaki and Machida.

No. 2349-80 "A Bill for an Act Making an Appropriation for Capital Improvement Projects at Kahului Airport, Maui."

Introduced by: Senators Yamasaki and Machida.

No. 2350-80 "A Bill for an Act Making

an Appropriation for the Construction of Improvements at Kahului Harbor, Maui."

Introduced by: Senators Yamasaki and Machida.

No. 2351-80 "A Bill for an Act Making an Appropriation for the Construction of Water Treatment Facilities in the County of Maui."

Introduced by: Senators Yamasaki and Machida.

No. 2352-80 "A Bill for an Act Making Supplemental Appropriation for Molokai General Hospital Subsidy."

Introduced by: Senators Yamasaki and Machida.

No. 2353-80 "A Bill for an Act Making an Appropriation for Molokai Water System Improvement, Molokai."

Introduced by: Senators Yamasaki and Machida.

No. 2354-80 "A Bill for an Act Making an Appropriation for Central Maui Water Project, County of Maui."

Introduced by: Senators Yamasaki and Machida.

STANDING COMMITTEE REPORT

Senator Yamasaki, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 16-80) informing the Senate that Senate Concurrent Resolution No. 13, Senate Resolution Nos. 67 to 69, Senate Bill Nos. 2298-80 to 2325-80, Spec. Com. Rep. No. 2-80 and Stand. Com. Rep. No. 15-80 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.

At 11:41 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:57 o'clock a.m.

ORDER OF THE DAY

THIRD READING

Senate Bill No. 2134-80:

Senator Carpenter moved that S.B. No. 2134-80, having been read throughout, pass Third Reading, seconded by Senator Mizuguchi.

At this time, Senator Carpenter rose

to speak in favor of the measure and stated as follows:

"Mr. President, I believe this Body certainly is aware of the ramifications of the generic substitution bill before us. The subject matter went through extensive and thorough hearings last year and again this year. The bill that is before us today contains a similar format and substance and was agreed to last year when there was consensus agreement in both the House and the Senate.

"The previous bill was vetoed by the Governor due to a constitutional defect. That defect has been corrected and the essence of this new bill will be to pass on a considerable amount of savings to our consumers, who are primarily the frail elderly, in the order of magnitude of \$1,000,000 per year.

"I hope that all of the members of this Honorable Body will support this legislation so that we can move it as rapidly as possible to accomplish its intent."

Senator Campbell added his remarks in favor of the measure as follows:

"Mr. President, I have just a few remarks that I'd like to make in support of the bill and add a few statements to the remarks made by the Chairman of the Health Committee.

"As a representative of this legislature, I attended the first National Conference on Generic Drugs which was held in Washington, D.C. It was at that conference that the Food and Drug Administration and the Federal Trade Commission, for the very first time in their history, took a very strong stand in favor of generic drug substitution as a means of reducing medical costs for our citizenry.

"This bill makes it possible for Hawaii's people to save a tremendous amount of their income when it comes to medical costs; therefore, I very strongly urge the passage of this bill by this Body.

"Thank you very much."

Senator Carroll also rose to add his remarks in support of the measure as follows:

"Mr. President, I rise to speak in favor of this bill with a reservation which I would like noted for the record.

"In the provision which calls for

the formulary, we are asking that the druggists of the state substitute, based upon a list which is primarily produced by the Federal Drug Administration. Their track record is, I believe, poor and I therefore do not have a lot of trust in their office.

"The effect of this bill is to mandate the use of these drugs for our citizens and I believe that the impact of this mandate will be that any doctor and druggist complying with the terms of this bill will not be liable for any injuries suffered by a person so using those drugs, and, unfortunately, the State of Hawaii is going to be liable. I believe that the group that is going to be in charge of overseeing the administration of this, particularly, our Department of Health, is going to have to watch with an 'eagle eye' every item that is listed on it that is turned over to the formulary. It is with that reservation that I urge that we all vote 'aye' on the measure."

Senator Anderson then rose to support the measure and stated as follows:

"Mr. President, I'll support this measure although there are parts of it that trouble me and I did 'neck' with this last year. I'd like to believe that the passage of this bill is in fact going to save many millions of dollars to our people.

"I think the committees have worked hard on this bill and have done their best to put out a piece of legislation that we should all support.

"As a practical measure, I don't like removing the liability from the dispensers.

"On the question of price, if there is any tremendous move to generic drugs by any great volume - when you get into the millions of dollars - as a businessman trying to operate a business, if you have a fixed overhead, all I can see is generic drugs increasing in price to narrow the gap.

"Today, there is no demand for generic drugs, so as a businessman I would imagine there is no market. The price spread between a prescription drug and a generic drug could be great. The moment there is a demand for anything - the generic drug demand - the particular prescription company or drugstore trying to meet its overhead and maintain a qualified staff would have to increase its price to pay the salaries and the benefits and the government demands.

"All I can see at this point is that the more popular generic drugs become the greater the price increase will be. Maybe in the future, price control or looking at that fluctuating price in the next year

or two would be worth looking into."

Senator Cobb also added his comments in favor of the measure and stated as follows:

"Mr. President, a brief observation speaking in favor of the bill is that, first of all, almost 40 states now have generic drug laws.

"Coming to the point of using a formulary, although the federal formulary has not received the final approval of the FDA, most of the states do derive their list of substitutable drugs from that proposed list.

"Secondly, in terms of the experience gained from other states relative to the cost savings, it has been found in testimony presented to our joint committees, that there is a rather substantial consumer savings.

"Even though generic drugs do become more in demand, it's a question of availability of supply, and we found that even in large states where generic drugs are available there's not that much of an increase in the cost of the generic equivalent, and it gives the consumer that much more of a choice relative to his own savings."

The motion was put by the Chair and carried and S.B. No. 2134-80, entitled: "A BILL FOR AN ACT RELATING TO FOOD, DRUGS, AND COSMETICS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused, 4 (Chong, Machida, Saiki and Ushijima).

REFERRAL OF SENATE BILLS

The President made the following committee assignments of bills that were introduced on Tuesday, February 5, 1980:

Senate Bills Referred to:

No. 2298-80 Committee on Ecology, Environment and Recreation, then to the Committee on Ways and Means

No. 2299-80 Committee on Intergovernmental Relations, then to the Committee on Ways and Means

No. 2300-80 Committee on Ecology, Environment and Recreation, then to the Committee on Ways and Means

No. 2301-80 Committee on Health, then to the Committee on Judiciary

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| No. 2302-80 | Committee on Human Resources,
then to the Committee on Ways and Means | Means |
| No. 2303-80 | Committee on Health, then
to the Committee on Ways and Means | No. 2319-80 Committee on Judiciary |
| No. 2304-80 | Committee on Human Resources | No. 2320-80 Committee on Human
Resources, then to the Committee
on Ways and Means |
| No. 2305-80 | Committee on Consumer
Protection and Commerce | No. 2321-80 Committee on Consumer
Protection and Commerce |
| No. 2306-80 | Committee on Ways and
Means | No. 2322-80 Committee on Housing
and Hawaiian Homes, then to the
Committee on Consumer Protection
and Commerce |
| No. 2307-80 | Committee on Ways and
Means | No. 2323-80 Committee on Human Resources,
then to the Committee on Ways and
Means |
| No. 2308-80 | Committee on Ways and
Means | No. 2324-80 Committee on Human Resources |
| No. 2309-80 | Committee on Ways and
Means | No. 2325-80 Committee on Education,
then to the Committee on Ways and
Means |
| No. 2310-80 | Committee on Ways and
Means | |
| No. 2311-80 | Committee on Ways and
Means | |
| No. 2312-80 | Committee on Ways and
Means | |
| No. 2313-80 | Committee on Ways and
Means | |
| No. 2314-80 | Committee on Ways and
Means | |
| No. 2315-80 | Committee on Ways and
Means | |
| No. 2316-80 | Committee on Ways and
Means | |
| No. 2317-80 | Committee on Ways and
Means | |
| No. 2318-80 | Committee on Ways and | |

RE-REFERRAL OF
A SENATE BILL

The President made the following
re-referral of a bill that was introduced
on Monday, January 28, 1980:

Senate Bill Referred to:

No. 2071-80 Committee on Judiciary,
then to the Committee on Ways and
Means

ADJOURNMENT

At 12:09 o'clock p.m., on motion
by Senator Mizuguchi, seconded by
Senator Anderson and carried, the
Senate adjourned until 11:30 o'clock
a.m., on Thursday, February 7,
1980.