

## FORTY-FIRST DAY

Thursday, March 20, 1980

The Senate of the Tenth Legislature of the State of Hawaii, Regular Session of 1980, convened at 11:00 o'clock a.m., with the President in the Chair.

The Divine Blessing was invoked by the Reverend Jack Belton of the United Methodist Church of Ewa Beach, after which the Roll was called showing all Senators present with the exception of Senator Ajifu and Saiki, who were excused.

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

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

Senator Kuroda introduced Mr. Karl T. Kurtz from Denver, Colorado. Mr. Kurtz is the Director of Operations for the National Conference of State Legislatures (NCSL).

Senator Machida introduced 55 students from the eighth grade at Iao School on the island of Maui, with their teachers, Mr. Ken Nomura and Mr. Glen Shibuya; parents, Mr. and Mrs. Fusao Nishibun, Mrs. Masae Borge, Mrs. Maybelle Kageyama and Mrs. Francis Nakamoto; and a staff member of the Department of Education, Mrs. Shigeko Ogawa.

Senator Hara then introduced fourteen students from various high schools on the island of Hawaii who are participating in the Legislative Experience Program, together with their supervisor, Ms. Marsha Oato.

Senator Toyofuku introduced twelve student leaders from the island of Kauai with their advisors, Mrs. Janice Nitta, Mrs. Joan Shaw and Mr. Allen Yamada.

Senator Abercrombie then made an introduction as follows:

"Mr. President, I would like to make an introduction of two people who are on the floor of the Senate. I shall be introducing a resolution in respect of both gentlemen who are here and some of the other people who were participating in the Hawaii International Powerlifting Championship last night.

"We did not have the resolution today as we were not sure who would be able to attend today. Unfortunately many of the people who were participating left very early this morning on the

plane, but I would like to give the members here an opportunity to meet them.

"First of all, I'd like to introduce to the members and to the audience assembled here, the organizer of the Hawaii International Powerlifting Championship. He is in the super heavyweight class. I used to lift weights with him up at the University of Hawaii when he was a good deal lighter than the 334 pounds he is right now.

"I want to indicate to you that as a result of the work that he has done that Hawaii has become the premier place in the United States, in fact, worldwide, because the members in attendance last night in terms of competition were in fact international champions, including Lars Hedlund whom you may have seen on the Super Stars Sports Spectacular.

"The other person whom you saw who was playing in the competition and winning in the competition representing Hawaii was the gentleman I want to introduce now, Mr. Gus Rethwisch.

"For contrast to Gus, I would like to introduce to you a friend from New Zealand, the kiwi country as Senator Hara says, the world champion, international champion, pound for pound the strongest man in the world. It is a genuine pleasure to introduce to this body a man who has won the world championship in 1972, 1973, 1974 and 1978. In 1979 he was second in the world with the world record total of 1,344 pounds in the powerlifting, which, as many of you may know, and for those of you who don't, is to be able to take the weight on your shoulder, to squat with the weight, come back up with it, to take weight off the bench and bring it to your chest, push it back up, and the dead-lift, which is to lift weight from the floor and stand straight up with it.

"Now I would like to introduce to you a gentleman at the height of 4 foot 11 inches and the weight of 123 pounds, Mr. Precious McKenzie.

"Mr. President, I would like to add that one of the people who was unable to make it with us here today was Mr. Dwayne Fely from Kahuku. For those senators who may want to get in touch with him if they need some heavy lifting done, he is in fact at 19 years of age, the strongest teenager in the world. He just managed last night to bench-press 512 pounds, so if you happen to be out Kahuku way and if you see the sun being blotted out, chances are it's Dwayne."

Senators George and Young presented

leis to Mr. Rethwisch and Mr. McKenzie.

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.

#### MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 108 and 109) were read by the Clerk and were disposed of as follows:

A message from the Governor (Gov. Msg. No. 108), transmitting the 1979 Annual Report to the Governor as prepared by the Progressive Neighborhoods Program Task Force, was referred to the Committee on Human Resources.

A message from the Governor (Gov. Msg. No. 109), transmitting a report entitled, "Job Sharing as a Management Tool", a feasibility study of the concept of job sharing for Hawaii State Civil Service System employees, which was prepared by the Department of Personnel Services, was referred to the Committee on Human Resources.

#### HOUSE COMMUNICATION

A communication from the House (Hse. Com. No. 310), transmitting House Concurrent Resolution No. 106 which was adopted by the House of Representatives on March 19, 1980, was read by the Clerk and was placed on file.

On motion by Senator Mizuguchi, seconded by Senator Anderson and carried, H.C.R. No. 106, entitled: "HOUSE CONCURRENT RESOLUTION WELCOMING THE 61ST ANNUAL CONVENTION OF THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA, INC.", was adopted.

#### SENATE CONCURRENT RESOLUTIONS

The following concurrent resolutions (S.C.R. Nos. 41 to 43) were read by the Clerk and were disposed of as follows:

A concurrent resolution (S.C.R. No. 41), entitled: "SENATE CONCURRENT RESOLUTION CONGRATULATING MR. LES EHRINGER, ALSO KNOWN AS 'UNITED'S AMBASSADOR TO HAWAII', ON HIS RETIREMENT", was jointly offered by Senators Soares, Young, Yamasaki, Kawasaki, Carpenter, O'Connor, George, Mizuguchi, Chong, Ushijima, Wong, Anderson, Carroll, Campbell, Cobb and Machida.

Senator Soares moved that S.C.R.

No. 41 be adopted, seconded by Senator Young.

Senator Soares then spoke for the adoption of the resolution as follows:

"Mr. President, this evening in Chicago, Illinois, there will be a banquet honoring Mr. Les Ehringer, known as Hawaii's Ambassador with United Air Lines, and I'm sorry I couldn't get this resolution to Chicago to be presented to him tonight.

"Mr. Ehringer has been working throughout his career on Hawaii's behalf, in sponsoring a number of conferences of other carriers throughout the country, to come to Hawaii and thereby promoting Hawaii through these conferences and marketing programs, golf and tennis tournaments, etc. He has always called Hawaii his home.

"Mr. President, I urge the members of the Senate to support this resolution for a man who has done so much for this State. Thank you."

The motion was put by the Chair and carried, and S.C.R. No. 41 was adopted.

A concurrent resolution (S.C.R. No. 42), entitled: "SENATE CONCURRENT RESOLUTION REQUESTING SPEEDY ACTION OF THE UNITED STATES SENATE TO RATIFY THE HUMAN RIGHTS COVENANTS", was jointly offered by Senators Chong, Carpenter, Yim, Cayetano, Kuroda, Carroll, Ajifu, Yamasaki, Toyofuku and O'Connor.

By unanimous consent, S.C.R. No. 42 was referred to the Committee on Judiciary.

A concurrent resolution (S.C.R. No. 43), entitled: "SENATE CONCURRENT RESOLUTION REQUESTING A JOINT INTERIM COMMITTEE TO DETERMINE WHETHER A LIMITATION ON THE NUMBER OF BILLS WHICH MAY BE INTRODUCED DURING A REGULAR SESSION SHOULD BE ESTABLISHED", was jointly offered by Senators Cobb, Carroll, George, Kuroda, Mizuguchi, Machida, Carpenter, Ushijima, Yee, Toyofuku and Campbell.

By unanimous consent, S.C.R. No. 43 was referred to the Committee on Legislative Management.

#### SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 195 to 202) were read by the Clerk and were disposed of as follows:

A resolution (S.R. No. 195), entitled: "SENATE RESOLUTION CONGRATULATING MR. LES EHRINGER, ALSO KNOWN AS 'UNITED'S AMBASSADOR TO HAWAII', ON HIS RETIREMENT", was jointly offered by Senators Soares, Young, Yamasaki,

Kawasaki, Carpenter, O'Connor, George, Mizuguchi, Chong, Ushijima, Wong, Anderson, Carroll, Cobb, Campbell and Machida.

On motion by Senator Soares, seconded by Senator Young and carried, S.R. No. 195 was adopted.

A resolution (S.R. No. 196), entitled: "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION TO CONSIDER THE ACT IV BLANCHE POPE ELEMENTARY SCHOOL AS A MODEL FOR THE HAWAIIAN EDUCATION PROGRAM", was jointly offered by Senators Ajifu and Young.

By unanimous consent, S.R. No. 196 was referred jointly to the Committee on Education and the Committee on Housing and Hawaiian Homes.

A resolution (S.R. No. 197), entitled: "SENATE RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A FEASIBILITY STUDY AND PREPARE A PLAN FOR A UNIFORM STATE MEDICAL EXAMINER SYSTEM", was offered by Senator O'Connor.

By unanimous consent, S.R. No. 197 was referred to the Committee on Judiciary, then to the Committee on Legislative Management.

A resolution (S.R. No. 198), entitled: "SENATE RESOLUTION IN COMMEMORATION OF DAVID WARD", was jointly offered by Senators Kawasaki, Kuroda, O'Connor, Toyofuku, Young, Cobb, Ushijima, Campbell, Mizuguchi, Wong, Yamasaki, Yee, Yim, Hara, Machida, Carpenter, Anderson, Soares, Ajifu, Carroll, George, Cayetano, Abercrombie and Chong.

Senator Kawasaki moved that S.R. No. 198 be adopted, seconded by Senator Kuroda.

Senator Kawasaki then spoke for the resolution as follows:

"Mr. President, it is with a definite feeling of sadness that I urge the unanimous adoption of this resolution.

"Mr. David Ward, as you know, has served as the Professor of Journalism at the University of Hawaii, and on his own volition, came to testify at the hearings held by the Judiciary Committee and the Consumer Protection and Commerce Committee regarding the newspaper bills and resolutions. He did this on his own volition and added much to our knowledge of what was wrong with the present Newspaper Preservation Act on the books in the State here. We will miss his very

cogent analysis of what he thinks a free press should be. We hope that there will be someone at the University campus to take his place someday.

"Mr. President, we do want to express to his wife and family our deepest sympathy and condolences. I urge the unanimous adoption of this resolution."

Senator Abercrombie spoke in agreement thereto as follows:

"Mr. President, I want to add my comments to those of the previous speaker, over and above the circumstances of professional confidences that Mr. Ward possessed and his willingness and ability to testify on things in respect of the newspapers and journalism in general here in the Legislature.

"His activity at the University of Hawaii is something that the University is going to miss and find very, very difficult to replace, and his friendship to me over the years is something that I will miss and will never be able to replace. Thank you."

The motion was put by the Chair and carried, and S.R. No. 198 was adopted.

A resolution (S.R. No. 199), entitled: "SENATE RESOLUTION REQUESTING SPEEDY ACTION OF THE UNITED STATES SENATE TO RATIFY THE HUMAN RIGHTS COVENANTS", was jointly offered by Senators Chong, Carpenter, Yim, Cayetano, Ajifu, Kuroda, Yamasaki, O'Connor, Toyofuku and Carroll.

By unanimous consent, S.R. No. 199 was referred to the Committee on Judiciary.

A resolution (S.R. No. 200), entitled: "SENATE RESOLUTION REQUESTING A JOINT INTERIM COMMITTEE TO DETERMINE WHETHER A LIMITATION ON THE NUMBER OF BILLS WHICH MAY BE INTRODUCED DURING A REGULAR SESSION SHOULD BE ESTABLISHED", was jointly offered by Senators Cobb, Kuroda, Mizuguchi, George, Machida, Carpenter, Carroll, Yee, Ushijima, Toyofuku and Campbell.

By unanimous consent, S.R. No. 200 was referred to the Committee on Legislative Management.

A resolution (S.R. No. 201), entitled: "SENATE RESOLUTION CONGRATULATING AND COMMENDING THE MILILANI TOWN JAYCEES FOR THEIR OUTSTANDING COMMUNITY SERVICE AND STATE AWARDS", was jointly offered by Senators Young, Mizuguchi, Cayetano, Kuroda, Cobb, Machida, Toyofuku, Ushijima, Yamasaki, Kawasaki, Chong, Campbell, George, Carroll, Saiki, Anderson, Ajifu, Carpenter, Wong, Soares, Abercrombie, O'Connor, Yee, Hara and Yim.

On motion by Senator Young, seconded by Senator Mizuguchi and carried, S.R. No. 201 was adopted.

A resolution (S.R. No. 202), entitled: "SENATE RESOLUTION EXTENDING CONGRATULATIONS TO THE 442ND VETERANS CLUB OF HONOLULU ON ITS OBSERVANCE OF THE THIRTY-SEVENTH ANNIVERSARY MARKING THE FORMATION OF THE 442ND REGIMENTAL COMBAT TEAM", was jointly offered by Senators Ushijima, Machida, Cayetano, Kuroda, Hara, Yamasaki, Ajifu, Chong, Cobb, Carpenter, Carroll, Anderson, Yee, Campbell, George, Kawasaki, Young, Soares, Toyofuku and Wong.

On motion by Senator Ushijima, seconded by Senator Machida and carried, S.R. No. 202 was adopted.

#### STANDING COMMITTEE REPORTS

Senator Yamasaki, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 737-80) informing the Senate that Senate Concurrent Resolution No. 40 and Senate Resolution No. 194 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 Toyofuku, for the Committee on Human Resources, presented a report (Stand. Com. Rep. No. 738-80) recommending that House Bill No. 2073-80, H.D. 1, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Toyofuku, seconded by Senator Yamasaki and carried, the report of the Committee was adopted and H.B. No. 2073-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO VOCATIONAL REHABILITATION", passed Second Reading and was placed on the calendar for Third Reading on Monday, March 24, 1980.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, the 48-hour notice was given on H.B. No. 2073-80, H.D. 1, S.D. 1.

Senator Kawasaki, for the Committee on Government Operations and Efficiency, presented a report (Stand. Com. Rep. No. 739-80) recommending that House Bill No. 2590-80, H.D. 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Senator Kawasaki, seconded by Senator Toyofuku and carried, the report of the Committee was adopted and H.B. No. 2590-80, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ADMINISTRATIVE PROCEDURE ACT", passed Second Reading and was referred to the Committee on Judiciary.

Senator Carpenter, for the Committee on Health, presented a report (Stand. Com. Rep. No. 740-80) recommending that House Bill No. 2945-80 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Carpenter, seconded by Senator Campbell and carried, the report of the Committee was adopted and H.B. No. 2945-80, entitled: "A BILL FOR AN ACT RELATING TO HEALTH", passed Second Reading and was referred to the Committee on Ways and Means.

Senator Cobb, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 741-80) recommending that Senate Concurrent Resolution No. 8 and Senate Resolution No. 40 be adopted.

On motion by Senator Cobb, seconded by Senator Chong and carried, the report of the Committee was adopted and

S.C.R. No. 8, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING A REVIEW ON RECOVERY OF STOLEN MOTORCYCLES" and

S.R. No. 40, entitled: "SENATE RESOLUTION REQUESTING A REVIEW ON RECOVERY ON STOLEN MOTORCYCLES",

were adopted.

#### ORDER OF THE DAY

##### THIRD READING

House Bill No. 1982-80:

On motion by Senator Yim, seconded by Senator Carpenter and carried, H.B. No. 1982-80, entitled: "A BILL FOR AN ACT RELATING TO DISPOSITION OF PUBLIC LANDS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ajifu and Saiki).

At 11:27 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:29 o'clock a.m.

Standing Committee Report No. 721-80 (H.B. No. 1983-80):

By unanimous consent, action on Stand. Com. Rep. No. 721-80 and H.B. No. 1983-80, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS", was deferred until Friday, March 21, 1980.

House Bill No. 2418-80, H.D. 1, S.D. 1:

On motion by Senator Yim, seconded by Senator Carpenter and carried, H.B. No. 2418-80, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY PRODUCTION FACILITIES IN AGRICULTURE DISTRICTS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ajifu and Saiki).

House Bill No. 2535-80, S.D. 1:

On motion by Senator Yim, seconded by Senator Carpenter and carried, H.B. No. 2535-80, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DISCLOSURE BY FUEL IMPORTERS, MANUFACTURERS, DISTRIBUTORS, AND EXPORTERS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ajifu and Saiki).

House Bill No. 713, S.D. 1:

Senator Cobb moved that H.B. No. 713, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Chong.

Senator Ushijima then asked for a ruling of the Chair as to a possible conflict of interest as he is associated with a bank.

The Chair ruled that there was a conflict and Senator Ushijima was excused from voting on the measure.

Senator Yee then requested a ruling of the Chair as to a possible conflict of interest as he also is associated with a bank.

The Chair ruled that there was a conflict and Senator Yee was excused

from voting on the bill.

The motion was then put by the Chair and carried, and H.B. No. 713, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BANKS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused, 4 (Ajifu, Saiki, Ushijima and Yee).

House Bill No. 714, S.D. 1:

Senator Chong requested a ruling of the Chair as to a possible conflict of interest as he is employed by a savings and loan organization.

The Chair ruled that there was no conflict and Senator Chong was allowed to vote on the measure.

On motion by Senator Cobb, seconded by Senator Chong and carried, H.B. No. 714, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SAVINGS AND LOAN ASSOCIATIONS", having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ajifu and Saiki).

#### RE-REFERRAL OF HOUSE BILLS

The President made the following re-referral of a House bill that was received on Monday, March 3, 1980:

House Bill      Referred to:

No. 2263-80, H.D. 1      Committee on Consumer Protection and Commerce, then to the Committee on Judiciary

The President then made the following re-referral of a House bill that was received on Thursday, March 6, 1980:

House Bill      Referred to:

No. 2359-80      Committee on Consumer Protection and Commerce, then to the Committee on Judiciary

#### RECONSIDERATION OF ACTION TAKEN

Senate Bill No. 1703, S.D. 1, H.D. 1, C.D. 2:

Senator O'Connor moved that the Senate reconsider its action taken on March 18, 1980 in passing S.B. No. 1703, S.D. 1, H.D. 1, C.D. 2 on Final Reading, seconded by Senator Cobb and carried.

On motion by Senator O'Connor, seconded by Senator Cobb and carried, S.B.

No. 1703, S.D. 1, H.D. 1, C.D. 2, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE XVII, SECTION 2, OF THE HAWAII CONSTITUTION TO SPECIFY VOTING PROCEDURE FOR CONSTITUTIONAL AMENDMENTS", was recommitted to the Committee on Conference.

At 11:32 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:33 o'clock a.m.

At this time, the Chair stated as follows:

"The Chair would like to make an announcement. I'm slightly embarrassed this morning. During yesterday's session while we were considering the nomination of James H. Wakatsuki to be a Circuit Court Judge, I made a ruling that may not be quite correct.

"It was my ruling that Senator Ajifu's substitute motion to reject the nomination

was in effect a motion to amend Standing Committee Report No. 725-80; the amendment being to delete the words 'consent to' and replace it with the word 'reject' in the committee report.

"However, after considering the floor comments of my learned colleague, Senator John Ushijima, and after reviewing prior practices in the Senate and the Rules of the Senate, I now conclude that my ruling was in error.

"It has not been nor is it now the practice of the Senate to amend committee reports on the floor. My apologies to my colleagues and my appreciation for their patience and understanding. Now let us carry on with the business of the Senate."

#### ADJOURNMENT

At 11:36 o'clock a.m., on motion by Senator Mizuguchi, seconded by Senator Anderson and carried, the Senate adjourned until 11:00 o'clock a.m., Friday, March 21, 1980.