

SIXTY-THIRD DAY

Wednesday, April 29, 1981

The Senate of the Eleventh Legislature of the State of Hawaii, Regular Session of 1981, convened at 11:30 o'clock p.m., with the President in the Chair.

The Divine Blessing was invoked by Senator W. Buddy Soares, after which the Roll was called showing all Senators present.

The President announced that he had read and approved the Journal of the Sixty-Second Day.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 330 to 335) were read by the Clerk and were disposed of as follows:

A message from the Governor (Gov. Msg. No. 330), transmitting copies of a report from the Inter-Agency Task Force for State Permit Simplification, "Preliminary Report of Findings and Recommendations," March 1981, pursuant to Senate Resolution No. 93 (1980) and House Resolution No. 76 (1980), was referred to the Committee on Economic Development.

A message from the Governor (Gov. Msg. No. 331), transmitting copies of the LANDSAT Project, State of Hawaii - Final Report of the Ad Hoc Committee on Remote Sensing, Department of Planning and Economic Development, was referred to the Committee on Economic Development.

A message from the Governor (Gov. Msg. No. 332), transmitting copies of the Annual Report of the Department of Agriculture, Fiscal Year 1980, was referred to the Committee on Agriculture.

A message from the Governor (Gov. Msg. No. 333), transmitting copies of the Annual Report of the Department of Taxation, 1979-1980, was referred to the Committee on Ways and Means.

A message from the Governor (Gov. Msg. No. 334), informing the Senate, in response to a request by the nominee, of the withdrawal of the nomination of Alice F. Guild to the Board of Regents, University of Hawaii, term to expire December 31, 1984, under Governor's Message No. 283, was placed on file.

In compliance with Gov. Msg. No. 334, the nomination listed under Gov. Msg. No. 283 was returned.

A message from the Governor (Gov.

Msg. No. 335), informing the Senate of the withdrawal of the nomination of George Kaahanui, Jr., to the Boxing Commission, term to expire December 31, 1984, under Governor's Message No. 319, was placed on file.

In compliance with Gov. Msg. No. 335, the nomination listed under Gov. Msg. No. 319 was returned.

DEPARTMENTAL COMMUNICATION

A communication from the Judiciary, Office of the Administrative Director of the Courts, State of Hawaii (Dept. Com. No. 27), transmitting copies of "Evaluation of Hawaii's Indeterminate Sentencing Law," Statewide Sentencing Project, March 1981, was read by the Clerk and was referred to the Committee on Judiciary.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 345 to 347) were read by the Clerk and were disposed of as follows:

A resolution (S.R. No. 345), entitled: "SENATE RESOLUTION CONGRATULATING GENERAL ALEXIS T. LUM ON HIS PROMOTION TO BRIGADIER GENERAL, HAWAII ARMY NATIONAL GUARD," was offered by Senators Kuroda, Cobb, Machida, Yamasaki, Uwayne, Young, Mizuguchi, Ushijima, O'Connor, Campbell, Holt, Kobayashi, George, Ajifu, Anderson, Soares, Saiki, Abercrombie and Toyofuku.

On motion by Senator Kuroda, seconded by Senator Cobb and carried, S.R. No. 345 was adopted.

A resolution (S.R. No. 346), entitled: "SENATE RESOLUTION RECOGNIZING THE TWENTY-FOURTH BIENNIAL ILWU CONVENTION AND EXTENDING A WARM WELCOME TO SENATOR JULIAN BOND, STATE SENATOR FROM THE STATE OF GEORGIA," was offered by Senators Yamasaki, Wong, Uwayne, Cayetano, Carpenter, Kuroda, Machida, Mizuguchi, Campbell, Yee, Ajifu, Kobayashi, Saiki, Ushijima, George, Kawasaki, Anderson, Cobb, Soares and O'Connor.

On motion by Senator Kuroda, seconded by Senator Cobb and carried, S.R. No. 346 was adopted.

A resolution (S.R. No. 347), entitled: "SENATE RESOLUTION RETURNING ALL BILLS, CONCURRENT RESOLUTIONS, AND RESOLUTIONS TO THE CLERK'S DESK," was offered by Senators Cobb and Yee.

On motion by Senator Cobb, seconded

by Senator Anderson and carried,
S.R. No. 347 was adopted.

STANDING COMMITTEE REPORTS

Senator Cobb, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 1115) recommending that the Senate advise and consent to the nomination of Thomas S. Shimabuku to the Boxing Commission, in accordance with Gov. Msg. No. 319.

Senator Cobb moved that Stand. Com. Rep. No. 1115 be received and placed on file, seconded by Senator Anderson and carried.

Senator Cobb then requested that Rule No. 33 of the Rules of the Senate be waived in order to consider the nomination of the candidate as presented in Stand. Com. Rep. No. 1115 and, by unanimous consent, the waiver was granted.

Senator Cobb then moved that the Senate advise and consent to the nomination of Thomas S. Shimabuku to the Boxing Commission, term to expire December 31, 1984, seconded by Senator Anderson.

At this time, Senator Holt asked if the chairman of the Consumer Protection Committee would yield to a question and Senator Cobb replied in the affirmative.

Senator Holt asked: "Senator Cobb, did you not tell me yesterday afternoon on this very floor that neither nominations for the Boxing Commission, George Kaahanui or Tom Shimabuku, were going to move out of committee because you were opposed to both nominations?"

Senator Cobb answered: "No, I indicated that there was only one name that other senators and I have had difficulty with."

Senator Holt further asked: "And that's the reason why Thomas Shimabuku's name is on the agenda for floor action this evening?"

Senator Cobb answered: "That and the committee's decision, based on the circulation of the committee report."

Senator Holt then rose to speak on the appointment as follows:

"Thank you, Senator Cobb.

"Mr. President, I rise to speak on the appointment because I feel that I have been personally aggrieved by the action taken on the nominations to the Boxing Commission by the Senate

Committee on Consumer Protection.

"Mr. President, on March 24, 1981, the Governor submitted the names of George Kaahanui and Tom Shimabuku for consideration and confirmation to the State Boxing Commission. For the record, Mr. President, I did not submit Mr. Kaahanui's name to the Governor for appointment to this commission. I heard about this contemplated appointment from various constituents in my district who contacted me and asked me to support his nomination because they felt he really deserved the job.

"Mr. President, I have known Mr. Kaahanui for many years as an avid supporter of youth boxing in the Puuhale area. His participation in the boxing community began even before I was conceived and long before I sought elective office.

"Mr. President, I watched the Senate committee's handling of the Bobby Lee appointment and quietly waited to see what they would do with Mr. Kaahanui's name. I did not approach any committee members because I felt Mr. Kaahanui was very qualified for the position and would receive a fair hearing by the committee during which they could evaluate his ability to be a boxing commissioner and come to a decision based on merit.

"Mr. President, the committee did not hold any formal confirmation hearing on the nomination of Mr. Kaahanui and up until yesterday I had hoped that the committee would move this name to the floor for our advice and consent, especially since the chairman in the Bobby Lee hearing publicly stated there were no real problems with either Mr. Kaahanui or the other nominee to the commission, Thomas Shimabuku.

"Mr. President, yesterday was the last day to deck any nominations for our advice and consent in order to meet the 24-hour requirement to vote this evening. The Senate Committee on Consumer Protection did not move either of the two earlier mentioned names to the floor, which I interpreted as an action to kill the nominations.

"As I said, I approached the chairman yesterday and when I asked him why he did not move the nomination of Mr. Kaahanui out of committee I expected him to give me a logical explanation as to why he held up the nomination. It was then I found out that Mr. Kaahanui was a victim of a personal vendetta directed at me by some senators and outsiders.

"Mr. President, I would not be upset if there was some other reason why Mr. Kaahanui was not confirmed, but

to tell me that his nomination was held up because other senators and outsiders did not want Mr. Kaahanui on the Boxing Commission because he helped me in my campaign is unconscionable. I refuse to accept that as a reason to hold up the nomination. Since when do we play personal politics with nominations? Whatever happened to merit? I don't know who the other senators and outsiders are, but let me tell you something...there's going to be a lot of rumbling in the community and you'll know why.

"The irony of this entire matter, Mr. President, is that poor Mr. Kaahanui is caught between this political hogwash. It's more ironic because there are a few senators here in this coalition who know him personally as a fair, honest, and hard working person. He also helped one of you in one of your campaigns. Yet, there seems to be no support for him from members of the coalition; no one speaking out nor any questions asked either. It's a sad day in the Senate when we support the killing of a nomination purely on politics.

"I know a lot of people out there who would testify on behalf of Mr. Kaahanui, if given the chance, and I'm just going to have to tell them that he got shelved, not because he wasn't qualified, but because he knew me. Thank you."

Senator Cobb then responded and said: "Mr. President, I think a brief response is in order. I did not indicate to Senator Holt that there was any kind of personal vendetta or anything like that. I did indicate that there were some problems raised with the name. I've indicated also to the Governor that if an interim appointment is desired that that can always be made. As I understood it, the name was withdrawn. The Governor does have the option of an interim appointment and if such is made there will be a full hearing in the future."

The motion was put by the Chair and, Roll Call having been ordered, was carried on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

At 11:49 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:50 o'clock p.m.

Senator Young, for the Committee on Legislative Management, presented

a report (Stand. Com. Rep. No. 1116), recommending that Senate Resolution No. 41, as amended in S.D. 1, be adopted.

On motion by Senator Young, seconded by Senator George and carried, the report of the Committee was adopted and S.R. No. 41, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING AN INTERIM COMMITTEE TO DETERMINE WHETHER A LIMITATION ON THE NUMBER OF BILLS WHICH MAY BE INTRODUCED DURING A REGULAR SESSION SHOULD BE ESTABLISHED," was adopted.

MESSAGE FROM THE GOVERNOR

A message from the Governor (Gov. Msg. No. 336), transmitting an Executive Order providing for an extension of 1981 Session of the Eleventh Legislature as follows:

"EXECUTIVE ORDER

"WHEREAS, Section 10, Article III of the Constitution of the State of Hawaii, provides that an extension of not more than fifteen days of any session may 'be granted by the presiding officers of both houses at the written request of two-thirds of the members to which each house is entitled or may be granted by the governor'; and

"WHEREAS, pursuant thereto the governor extended the 1981 regular session of the Eleventh Legislature of the State of Hawaii for a period of twenty-four hours, excluding Saturday and Sunday, to 12:00 midnight, April 27, 1981; and

"WHEREAS, the governor further extended the 1981 regular session of the Eleventh Legislature of the State of Hawaii for a period of forty-eight hours to 12:00 midnight, April 29, 1981; and

"WHEREAS, it appears that a further extension is necessary in the public interest;

"NOW, THEREFORE, I, GEORGE R. ARIYOSHI, Governor of Hawaii, pursuant to the power vested in me by Section 10, Article III of the Constitution of the State of Hawaii, do hereby further extend the 1981 regular session of the Eleventh Legislature of the State of Hawaii for a period of four (4) hours following 12:00 midnight, April 29, 1981.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 29th day of April, 1981.

/s/ GEORGE R. ARIYOSHI
GEORGE R. ARIYOSHI
Governor of Hawaii

APPROVED AS TO FORM:

/s/ Tany S. Hong

TANY S. HONG
Attorney General"

was read by the Clerk and was placed on file.

At this time, Senator Uwaine rose on a point of information addressed to the Chair and inquired: "Mr. President, was this extension requested by the Senate?"

The Chair replied: "It was requested on behalf of the House and the Senate."

At 11:51 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:54 o'clock p.m.

ORDER OF THE DAY

FINAL READING

RECOMMITTAL OF BILLS

Senator Yamasaki moved that the following bills be recommitted to the Committee on Conference on the part of the Senate:

House Bill No. 241, H.D. 1, S.D. 1, C.D. 1 (Conf. Com. Rep. No. 60);

Senate Bill No. 454, H.D. 1, C.D. 1 (Conf. Com. Rep. No. 61);

House Bill No. 1716, H.D. 2, S.D. 2, C.D. 1 (Conf. Com. Rep. No. 62);

House Bill No. 1879, S.D. 1, C.D. 1 (Conf. Com. Rep. No. 63);

House Bill No. 1724, H.D. 2, S.D. 2, C.D. 1 (Conf. Com. Rep. No. 64);

House Bill No. 1239, H.D. 1, S.D. 1, C.D. 1 (Conf. Com. Rep. No. 65);

House Bill No. 1, H.D. 1, S.D. 1, C.D. 1 (Conf. Com. Rep. No. 67);

House Bill No. 2, H.D. 1, S.D. 1, C.D. 1 (Conf. Com. Rep. No. 68);

House Bill No. 629, H.D. 1, S.D. 2, C.D. 1 (Conf. Com. Rep. No. 69);

House Bill No. 1870, H.D. 1, S.D. 1, C.D. 1 (Conf. Com. Rep. No. 70); and

House Bill No. 1167, H.D. 1, S.D. 2, C.D. 1 (Conf. Com. Rep. No. 57),

seconded by Senator Anderson.

The motion was put by the Chair and carried, and H.B. No. 241, H.D. 1, S.D. 1, C.D. 1; S.B. No. 454, H.D. 1, C.D. 1; H.B. No. 1716, H.D. 2, S.D. 2, C.D. 1; H.B. No. 1879, S.D. 1, C.D. 1; H.B. No. 1724, H.D. 2, S.D. 2, C.D. 1; H.B. No. 1239, H.D. 1, S.D. 1, C.D. 1; H.B. No. 1, H.D. 1, S.D. 1, C.D. 1; H.B. No. 2, H.D. 1, S.D. 1, C.D. 1; H.B. No. 629, H.D. 1, S.D. 2, C.D. 1; H.B. No. 1870, H.D. 1, S.D. 1, C.D. 1; and H.B. No. 1167, H.D. 1, S.D. 2, C.D. 1, were recommitted to the Committee on Conference on the part of the Senate on the following showing of Ayes and Noes:

Ayes, 22. Noes, 3 (Abercrombie, Carpenter and Kawasaki).

Senator Yamasaki then announced that there will be a public decision-making hearing on the aforementioned recommitted bills at 12:30 o'clock a.m., April 30, 1981, in Conference Room 310.

Senator Abercrombie then asked: "Mr. President, does my 'no' vote preclude me from participating in the conference?" and the Chair replied: "That is correct."

Senator Carpenter rose to remark as follows:

"Mr. President, I can assume that my 'no' vote will also preclude me from participating in this conference. I'd just like to say that I think this is an unnecessary maneuver that we're going through at this time. I think that the Senate has conducted its business in the full light of what might be considered constitutionally prudent and I only regret at this time that Governor's Message 161 is not before us, that is, for the approval of the appointment of the Attorney General."

Conference Committee Report No. 66 (H.B. No. 1470, H.D. 2, S.D. 2, C.D. 1):

By unanimous consent, action on Conf. Com. Rep. No. 66 and H.B. No. 1470, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," was deferred until Thursday, April 30, 1981.

MATTERS DEFERRED
FROM APRIL 28, 1981

FINAL READING

Conference Committee Report No. 53 (H.B. No. 344, H.D. 1, S.D. 2, C.D. 1):

By unanimous consent, action on Conf. Com. Rep. No. 53 and H.B. No. 344, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE RELIEF OF CERTAIN PERSONS' CLAIMS AGAINST THE STATE AND PROVIDING APPROPRIATIONS THEREFOR," was deferred until Thursday, April 30, 1981.

Conference Committee Report No. 56 (S.B. No. 1507, S.D. 2, H.D. 2, C.D. 1):

By unanimous consent, action on Conf. Com. Rep. No. 56 and S.B. No. 1507, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COUNSEL AND OTHER SERVICES FOR INDIGENT DEFENDANTS IN CRIMINAL AND RELATED CASES," was deferred until Thursday, April 30, 1981.

Conference Committee Report No. 52 (H.B. No. 919, S.D. 1, C.D. 1):

By unanimous consent, action on Conf. Com. Rep. No. 52 and H.B. No. 919, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR PAYMENT OF A JUDGMENT BETWEEN THE STATE OF HAWAII AND SYLVIA GAMINO," was deferred until Thursday, April 30, 1981.

Conference Committee Report No. 2 (H.B. No. 769, H.D. 2, S.D. 2, C.D. 1):

By unanimous consent, action on Conf. Com. Rep. No. 2 and H.B. No. 769, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE 1984 SILVER JUBILEE OF HAWAII'S STATEHOOD AND MAKING AN APPROPRIATION THEREFOR," was deferred until Thursday, April 30, 1981.

Conference Committee Report No. 18 (H.B. No. 50, H.D. 1, S.D. 2, C.D. 1):

By unanimous consent, action on Conf. Com. Rep. No. 18 and H.B. No. 50, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HOUSING AUTHORITY," was deferred until Thursday, April 30, 1981.

Conference Committee Report No. 30 (H.B. No. 1048, H.D. 2, S.D. 2, C.D. 1):

By unanimous consent, action on Conf. Com. Rep. No. 30 and H.B. No. 1048, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE AUTHORIZATION OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST UTILITIES SERVING THE GENERAL PUBLIC," was deferred until Thursday, April 30, 1981.

Conference Committee Report No. 37 (H.B. No. 1680, H.D. 1, S.D. 2, C.D. 1):

By unanimous consent, action on Conf. Com. Rep. No. 37 and H.B. No. 1680, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS FOR HEALTH CARE FACILITIES," was deferred until Thursday, April 30, 1981.

Conference Committee Report No. 44 (S.B. No. 163, S.D. 1, H.D. 1, C.D. 1):

By unanimous consent, action on Conf. Com. Rep. No. 44 and S.B. No. 163, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INDEXING THE HAWAII REVISED STATUTES," was deferred until Thursday, April 30, 1981.

THIRD READING

Standing Committee Report No. 955 (H.B. No. 114, H.D. 1):

By unanimous consent, action on Stand. Com. Rep. No. 955 and H.B. No. 114, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE COMPENSATION OF CERTAIN PERSONS UNDER THE CRIMINAL INJURIES COMPENSATION ACT AND PROVIDING APPROPRIATIONS THEREFOR," was deferred until Thursday, April 30, 1981.

Standing Committee Report No. 1102 (H.B. No. 767, H.D. 2):

By unanimous consent, action on Stand. Com. Rep. No. 1102 and H.B. No. 767, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO DEFERRED COMPENSATION PLANS FOR PUBLIC EMPLOYEES," was deferred until Thursday, April 30, 1981.

STANDING COMMITTEE REPORTS

Standing Committee Report No. 1111 (Gov. Msg. Nos. 129 and 226):

By unanimous consent, action on Stand. Com. Rep. No. 1111 and Gov. Msg. Nos. 129 and 226 was deferred until Thursday, April 30, 1981.

Standing Committee Report No. 1112
(Gov. Msg. Nos. 225 and 128):

By unanimous consent, action on
Stand. Com. Rep. No. 1112 and Gov.
Msg. Nos. 225 and 128 was deferred
until Thursday, April 30, 1981.

MATTERS DEFERRED
FROM APRIL 27, 1981

Standing Committee Report No. 1025
(Gov. Msg. No. 283):

By unanimous consent, action on
Stand. Com. Rep. No. 1025 and Gov.
Msg. No. 283 (Gerard Jervis to the
Board of Regents, University of Hawaii)
was deferred until Thursday, April
30, 1981.

Standing Committee Report No. 1026
(Gov. Msg. No. 283):

By unanimous consent, action on
Stand. Com. Rep. No. 1026 and Gov.
Msg. No. 283 (Tim Scott Farr to the
Board of Regents, University of Hawaii),
was deferred until Thursday, April
30, 1981.

Standing Committee Report No. 1030
(Gov. Msg. No. 283):

By unanimous consent, Stand. Com.
Rep. No. 1030 and Gov. Msg. No.
283 (Alice Guild to the Board of Regents,
University of Hawaii), were recommitted
to the Committee on Higher Education

ADJOURNMENT

At 12:00 o'clock midnight, on motion
by Senator Cobb, seconded by Senator
Anderson and carried, the Senate
adjourned until 1:30 o'clock a.m.,
Thursday, April 30, 1981.