

## FORTY-FOURTH DAY

Wednesday, March 31, 1982

The Senate of the Eleventh Legislature of the State of Hawaii, Regular Session of 1982, convened at 11:30 o'clock a.m., with the Vice-President in the Chair.

The Divine Blessing was invoked by the Reverend Narito Nagao of the Honpa Hongwanji Mission of Hawaii, after which the Roll was called showing all Senators present.

The Chair announced that he had read and approved the Journal of the Forty-Third Day.

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

Senator Anderson, on behalf of the members of the Senate, introduced a group of 36 senior citizens from the Whitmore Senior Citizens Club.

Senator Yee, on behalf of the Senators from the Sixth Senatorial District, introduced a group of 27 fifth graders from Jefferson Elementary School, accompanied by their teacher, Mrs. Sarah Moriyama.

The President then stated:

"On behalf of the Senate, I would like to introduce a group of musicians from Nagoya who performed and gave a superb concert at the Ala Moana Hotel on Saturday.

"We have with us today, Mr. Yoshio Hiratsuka, the President of the Korei Hogaku Kai, an outstanding koto instructor and musician, who has performed with Leonard Bernstein and the New York Philharmonic and has given innumerable concerts throughout the world.

"Accompanying him today are Professor Hiroshi Ishihara of the Nagoya School of Music and the Director of the Nishikawa School of Japanese Dancing, Professor Mitsujo Nishikawa.

"At this time, I would also like to introduce the remaining members of his party. Mr. Motoharu Kojima, Professor of Music; Mrs. Yusui Reimei, koto artist; Miss Meiyu Hiratsuka, daughter of Professor Yoshio Hiratsuka and a koto artist; Mr. Yoshimichi Tamai, the Press Club President; and from Honolulu, Mr. Sozan Jack Yamada, the President of the Hawaii-Japan Cultural Entertainers Association."

## HOUSE COMMUNICATION

A communication from the House (Hse. Com. No. 320), transmitting House Concurrent Resolution No. 132, which was

adopted by the House of Representatives on March 30, 1982, was read by the Clerk and was placed on file.

At 11:50 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:51 o'clock a.m.

On motion by Senator Kuroda, seconded by Senator Anderson and carried, H.C.R. No. 132, entitled: "HOUSE CONCURRENT RESOLUTION EXPRESSING SUPPORT FOR OCEAN FAIR WEEK, APRIL 14-16, 1982, AT THE UNIVERSITY OF HAWAII, MANOA CAMPUS," was adopted.

## SENATE CONCURRENT RESOLUTION

A concurrent resolution (S.C.R. No. 52), entitled: "SENATE CONCURRENT RESOLUTION REQUESTING A STUDY ON THE REGULATION OF TRAVEL AGENCIES," was offered by Senators Kuroda, Henderson, George, Ajifu, Soares, Yamasaki, Campbell, Ushijima, Carpenter, Cayetano, Kobayashi, Kawasaki, Holt, Wong and Young, and was read by the Clerk.

By unanimous consent, S.C.R. No. 52 was referred to the Committee on Tourism.

## SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 69 to 72) were read by the Clerk and were disposed of as follows:

A resolution (S.R. No. 69), entitled: "SENATE RESOLUTION REQUESTING A STUDY ON THE REGULATION OF TRAVEL AGENCIES," was offered by Senators Kuroda, Henderson, George, Ajifu, Soares, Campbell, Yamasaki, Ushijima, Carpenter, Cayetano, Kobayashi, Holt, Wong and Young.

By unanimous consent, S.R. No. 69 was referred to the Committee on Tourism, then to the Committee on Legislative Management.

A resolution (S.R. No. 70), entitled: "SENATE RESOLUTION REQUESTING A STUDY OF RETAINAGE PRACTICES BETWEEN GENERAL AND SUBCONTRACTORS IN TRANSACTIONS INVOLVING PUBLIC CONTRACTS," was offered by Senators Kuroda and Kawasaki.

By unanimous consent, S.R. No. 70 was referred to the Committee on Government Operations and Intergovernmental Relations, then to the Committee

on Legislative Management.

A resolution (S.R. No. 71), entitled: "SENATE RESOLUTION CONCERNING A REPORT ON THE DEFERRED COMPENSATION BOARD," was offered by Senator Abercrombie.

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

A resolution (S.R. No. 72), entitled: "SENATE RESOLUTION REQUESTING THE ADOPTION OF ELECTRIC CARS FOR STATE AND COUNTY VEHICLES," was offered by Senators Campbell, Machida, Abercrombie, Holt, Ajifu, Cobb, Yamasaki, Anderson, Uwaine, Yee, Mizuguchi, Young, Henderson, Kawasaki, Kuroda, George, Soares, Toyofuku and Kobayashi.

By unanimous consent, S.R. No. 72 was referred to the Committee on Ecology, Environment and Recreation.

#### STANDING COMMITTEE REPORTS

Senator Young, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 588-82) informing the Senate that Senate Concurrent Resolution No. 52, Senate Resolution Nos. 69 to 72 and Standing Committee Report Nos. 589-82 to 594-82 have been printed and have been distributed to the members of the Senate.

On motion by Senator Young, seconded by Senator George and carried, the report of the Committee was adopted.

Senator Carpenter, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 589-82) recommending that House Bill No. 2022-82, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Carpenter, seconded by Senator Cayetano and carried, the report of the Committee was adopted and H.B. No. 2022-82, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DEFERRED ACCEPTANCE OF NOLO CONTENDERE PLEAS," passed Second Reading and was placed on the calendar for Third Reading on Friday, April 2, 1982.

Senator Carpenter, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 590-82) recommending that House Bill No. 2640-82, 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 Carpenter, seconded by Senator Cayetano and carried, the report

of the Committee was adopted and H.B. No. 2640-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ALOHA STADIUM," passed Second Reading and was placed on the calendar for Third Reading on Friday, April 2, 1982.

Senator Carpenter, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 591-82) recommending that House Bill No. 3016-82, 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 Carpenter, seconded by Senator Cayetano and carried, the report of the Committee was adopted and H.B. No. 3016-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BIRTH CERTIFICATES," passed Second Reading and was placed on the calendar for Third Reading on Friday, April 2, 1982.

Senator Cobb, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 592-82) recommending that House Bill No. 2190-82, 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 Cobb, seconded by Senator Uwaine and carried, the report of the Committee was adopted and H.B. No. 2190-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII MOTOR VEHICLE ACCIDENT REPARATIONS ACT," passed Second Reading and was placed on the calendar for Third Reading on Friday, April 2, 1982.

Senator Cobb, for the Committee on Consumer Protection and Commerce, presented a report (Stand. Com. Rep. No. 593-82) recommending that House Bill No. 2933-82, 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 Cobb, seconded by Senator Uwaine and carried, the report of the Committee was adopted and H.B. No. 2933-82, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INTEREST ON CREDIT CARDS," passed Second Reading and was placed on the calendar for Third Reading on Friday, April 2, 1982.

Senator Kobayashi, for the Committee on Ecology, Environment and Recreation, presented a report (Stand. Com. Rep. No. 594-82) recommending that Senate

Resolution No. 38, as amended in S.D. 1, be adopted.

Senator Kobayashi moved that Stand. Com. Rep. No. 594-82 and S.R. No. 38, S.D. 1 be adopted, seconded by Senator George.

At this time, Senator Kobayashi stated:

"Senate Resolution No. 38, introduced by Senator Patsy Young and myself, was originally scheduled for Senate consideration on March 19, and after discussion, it was recommitted to my Committee for further consideration.

"Senator Andy Anderson counseled the Committee and in consideration of his recommendations, Senate Resolution No. 38 was amended and is now before the chamber as Senate Resolution No. 38, S.D. 1.

"I did want to emphasize that it is not the intent of the resolution to be anti-military because we all recognize and appreciate the importance of the military and the contributions it has made to our state. The adoption of this resolution just apprises the Navy of our continued commitment toward achieving reduction of military activities on Kaho'olawe and to the stopping of military activities on Kaho'olawe by foreign nations.

"Thank you."

Senator Kuroda then rose and stated:

"Mr. President, I'd like to make a few comments.

"I'd like to commend the Chairman of the Committee on Ecology, Environment and Recreation for revising Senate Resolution No. 38 to accommodate some of us who are in support of the Navy agreement with the state to use some selected areas of Kaho'olawe for live ammo target practice.

"S.R. No. 38, as amended in S.D. 1, now is critical only of foreign participation to which I agree.

"Thank you."

The motion was put by the Chair and carried, and the report of the Committee was adopted and S.R. No. 38, S.D. 1, entitled: "SENATE RESOLUTION EXPRESSING CONCERN REGARDING THE USE OF KAHŌ'OLAWĒ AS A SHELLING TARGET BY THE DEPARTMENT OF THE NAVY AND RIMPAC '82 PARTICIPANTS," was adopted.

At 11:54 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.

## ORDER OF THE DAY

### THIRD READING

### MATTERS DEFERRED FROM MARCH 30, 1982

House Bill No. 2333-82, H.D. 1:

On motion by Senator Carpenter, seconded by Senator Cayetano and carried, H.B. No. 2333-82, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE LEGISLATIVE REFERENCE BUREAU," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none. Excused, none.

At 12:00 o'clock noon, the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:03 o'clock p.m.

House Bill No. 2507-82:

By unanimous consent, action on H.B. No. 2507-82, entitled: "A BILL FOR AN ACT RELATING TO TRIALS," was deferred until Thursday, April 1, 1982.

House Bill No. 2175-82:

By unanimous consent, action on H.B. No. 2175-82, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," was deferred until Thursday, April 1, 1982.

House Bill No. 2178-82:

By unanimous consent, action on H.B. No. 2178-82, entitled: "A BILL FOR AN ACT RELATING TO AQUATIC RESOURCES AND WILDLIFE," was deferred until Thursday, April 1, 1982.

House Bill No. 2208-82, H.D. 1:

By unanimous consent, action on H.B. No. 2208-82, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE USE OF QUALIFIED STATE APPRAISERS AS WELL AS INDEPENDENT APPRAISERS TO DETERMINE THE VALUE OF REMNANTS," was deferred until Thursday, April 1, 1982.

House Bill No. 2176-82, H.D. 2:

By unanimous consent, action on H.B. No. 2176-82, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," was deferred until Thursday, April 1, 1982.

House Bill No. 2177-82, H.D. 1:

By unanimous consent, action on H.B. No. 2177-82, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FOREST AND WATER RESERVE ZONES," was deferred until Thursday, April 1, 1982.

House Bill No. 2934-82, H.D. 1:

By unanimous consent, action on H.B. No. 2934-82, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII BANK ACT OF 1931," was deferred until Thursday, April 1, 1982.

#### RE-REFERRAL OF HOUSE BILL

The President re-referred House Bill No. 3125-82, which was received on Tuesday, March 16, 1982, to the Committee on Consumer Protection and Commerce.

At 12:05 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:06 o'clock p.m.

At this time, Senator Cayetano rose and addressed the members of the Senate as follows:

"Mr. President, I rise to make some remarks on a point of personal privilege.

"Mr. President, all of us here today know that George Yuen, the former Director of the Department of Health, announced his retirement yesterday.

"Mr. President, I want to congratulate Mr. Yuen for realizing that his retirement was the first step necessary to clear up the cloud that is covering the Department of Health at the present time. Mr. Yuen's retirement is the first step we can take to restoring public confidence in the Department of Health, with respect to the situation involving heptachlor in milk.

"I do not want to have my remarks misconstrued because I think all of us have to recognize that Mr. Yuen has been a public servant, serving the people of this state, for 35 years, and I hope that those who judge him will judge his record over the full eight years that he served and not just on the recent events which have transpired and are still going on.

"Mr. Yuen, Mr. President, is shouldering the blame for many of his subordinates and for parties in the private sector as well. I think that we have to recognize this because in our system of government, the buck stops at his office. And it is our system of government that holds persons in his position responsible for the actions of others below him.

"I congratulate the Governor for appointing Mr. Charles Clark. I think what the Department of Health needs at this time is a strong man, a man with a good reputation, a man who is familiar with the state's bureaucracy. And we all know that Mr. Clark has had vast experience in running the Department of Education, which is no less a bureaucracy than the Department of Health.

"My committee, Mr. President, has just completed a preliminary report which would be distributed to members of the Senate sometime this afternoon and also be made available to the public or for any party who wants it. The report is the result of over two weeks of extensive investigation and meetings by my staff, the Department of Health officials, persons from the private sector, the Governor and our Attorney General.

"I also ask that our President and the Senate leadership meet to discuss other ways in which the Senate can assist the administration in bringing the milk crisis to quick resolution. The President and I have discussed this matter informally and I think that some stronger action will be forthcoming.

"In closing, I want to wish Mr. Yuen well. I think he will do well in the private sector. Certainly he has great expertise in certain areas. I wish his family well and thank him for taking this very, very courageous and necessary step.

"Thank you."

Senator O'Connor then rose and stated:

"Mr. President, I rise on the same point of personal privilege.

"I concur in part with my brother Cayetano and I differ in part in that I do not personally believe that it is in the best interest of the state that Mr. Yuen step down at this time from the Department of Health. He was going to retire this summer in any event.

"The disarray, or at least the appearance of disarray, in that department which the public today perceives would be

better corrected with Mr. Yuen in the job than with Mr. Yuen out of the job. I think that the report earlier referred to which will come to us from the Committee on Health will demonstrate that it is not Mr. Yuen as an individual or even as a leader that needs the corrective action, but that it lies elsewhere in the Department of Health.

"We know Mr. Yuen in this state as the courageous, forthright head of the Honolulu Board of Water Supply, which under a difficult administration in the City and County of Honolulu stood steadfastly on certain principles insuring this City of Honolulu an adequate water supply and an adequate administration of that supply without any political impact or political collusion at a time when such could have occurred.

"He guided that department at a time when we were debating sewer charges and sewer problems, together with water problems and water charges and a combination or the lack of combination of the two, and it was his leadership and courage that really pulled that organization through a very difficult administration and difficult time.

"I think we should not forget that, nor should we forget that Mr. Yuen has demonstrated an ability at administration in the past from which we all today live in benefit. For these reasons, I would disagree; however, I thoroughly agree with the balance of the Senator's remarks and his observations concerning this present problem.

"Thank you."

Senator Kuroda then rose and stated:

"Mr. President, I concur with the remarks of the Senator from the Seventh District. George Yuen should have stayed on until this thing blew away, but I agree with both Senators in describing George Yuen's action as being very courageous.

"I watched the telecast last night as he was interviewed, and in response

to the question, 'George Yuen, do you feel you are the fall guy?', he unhesitatingly said, 'No.' He is a good soldier and I take my hat off to him."

Senator Campbell then rose and stated:

"Mr. President, I rise on the same point of personal privilege to wish George Yuen the best of luck.

"I concur with the sentiments that have been expressed by the Senator from the Seventh Senatorial District. I think, however, that the problem which we face in the milk industry is an indication that we must concern ourselves with a more efficacious way of dealing with the problem like this, rather than putting the blame at the doorstep of any one person.

"I think I indicated at the hearing of the Health Committee that the private sector should take some of the blame of the kind of problem that we're facing. And, it's my hope that this Legislature in looking at this serious problem will re-order the direction so that a problem like this is shared not only by government, but private industry as well.

"Thank you."

The President then stated:

"Notwithstanding our agreement or disagreement with the decision taken by the Director of Health, Mr. Yuen, I think it was in the discretion of the Governor's Office either to accept or not accept his resignation and inasmuch as he has accepted the resignation, the matter is quite settled, and some of us regret the results of that decision by the Governor's Office."

#### ADJOURNMENT

At 12:16 o'clock p.m., on motion by Senator Cobb, seconded by Senator Anderson and carried, the Senate adjourned until 11:30 o'clock a.m., Thursday, April 1, 1982.