

SIXTY-SECOND DAY

Tuesday, April 27, 1982

The Senate of the Eleventh Legislature of the State of Hawaii, Regular Session of 1982, convened at 11:00 o'clock a.m., with the President in the Chair.

The Divine Blessing was invoked by the Reverend Kim On Chong, Retired Chaplain of the Mid-Pacific Institute, after which the Roll was called showing all Senators present with the exception of Senator Campbell who was excused.

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

At this time, Senator Yee, on behalf of the Senate, made the following introduction stating:

"Mr. President, I have the great honor, on behalf of all of us, to make a distinguished introduction this morning. We have on the floor this morning, a person who has distinguished herself for the last 20 years and a person who has made all the difficult and hard decisions in the Senate Office from the Third Senatorial District, one who goes out to the community meetings, takes all the flack in the Third Senatorial District and, the one who has to pay for all the lunches that the senior citizens have always been invited to in Conference Room 6, and yet, a particular Senator always gets all the credit for all of this hard work. So, I thought it was fitting that we recognize today, the 'real' Senator from the Third Senatorial District, Mrs. Jackie Chong."

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

The Senate reconvened at 12:20 o'clock p.m.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 326 and 327) were read by the Clerk and were disposed of as follows:

A message from the Governor (Gov. Msg. No. 326), informing the Senate that he signed the following bills into law on the dates indicated:

April 22, 1982:

H.B. No. 2018-82 as Act 11, entitled: "RELATING TO APPLICABILITY OF GENERAL INSURANCE LAW";

April 23, 1982:

H.B. No. 1042 as Act 12, entitled: "RELATING TO THE FILING OF FINANCING STATEMENTS BY CONSIGNORS AND LESSORS UNDER THE UNIFORM COMMERCIAL CODE";

H.B. No. 1094 as Act 13, entitled: "RELATING TO INSPECTION OF VEHICLES";

H.B. No. 2028-82 as Act 14, entitled: "RELATING TO HOTELS";

H.B. No. 2029-82 as Act 15, entitled: "RELATING TO BILLIARDS AND BOWLING ALLEYS";

H.B. No. 2097-82 as Act 16, entitled: "RELATING TO FAIR HOUSING";

H.B. No. 2167-82 as Act 17, entitled: "RELATING TO PROPHYLAXIS FOR THE PREVENTION OF BLINDNESS IN THE NEWBORN";

H.B. No. 2170-82 as Act 18, entitled: "RELATING TO SMOKING IN PUBLIC PLACES";

H.B. No. 2172-82 as Act 19, entitled: "RELATING TO SOLID WASTE DISPOSAL";

H.B. No. 2173-82 as Act 20, entitled: "RELATING TO EMPLOYMENT SECURITY";

H.B. No. 2191-82 as Act 21, entitled: "RELATING TO SOLICITATION OF FUNDS FROM THE PUBLIC";

H.B. No. 2203-82 as Act 22, entitled: "RELATING TO TAXATION";

H.B. No. 2204-82 as Act 23, entitled: "RELATING TO TAXATION";

H.B. No. 2224-82 as Act 24, entitled: "RELATING TO BOARDS AND COMMISSIONS";

H.B. No. 2247-82 as Act 25, entitled: "RELATING TO TAXATION";

H.B. No. 2334-82 as Act 26, entitled: "RELATING TO DISCRIMINATORY PRICING IN SUPPLYING LIQUOR";

H.B. No. 2339-82 as Act 27, entitled: "RELATING TO THE JURISDICTION OF THE HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD";

S.B. No. 2376-82 as Act 28, entitled: "RELATING TO TIME LIMITATIONS";

H.B. No. 2405-82 as Act 29, entitled:
"RELATING TO DISCLOSURE OF FINANCE
COSTS";

H.B. No. 2562-82 as Act 30, entitled:
"RELATING TO DEPOSITS OF PUBLIC
FUNDS";

H.B. No. 2848-82 as Act 31, entitled:
"RELATING TO SICK LEAVE EXCEPTIONS";

H.B. No. 2935-82 as Act 32, entitled:
"RELATING TO BRANCH BANKS";
and

H.B. No. 3030-82 as Act 33, entitled:
"RELATING TO DENTISTRY,"

was placed on file.

A message from the Governor (Gov. Msg. No. 327), submitting for consideration and consent to the Intermediate Court of Appeals, the nomination of Harry T. Tanaka, Judge, for a term of ten years, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, was referred to the Committee on Judiciary.

STANDING COMMITTEE REPORT

Senator Young, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 1058-82) informing the Senate that Conference Committee Report No. 92-82 and Standing Committee Report Nos. 1053-82 to 1057-82 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.

ORDER OF THE DAY

MATTERS DEFERRED FROM APRIL 26, 1982

Standing Committee Report No. 1050-82 (H.C.R. No. 103, H.D. 1):

On motion by Senator Young, seconded by Senator George and carried, Stand. Com. Rep. No. 1050-82 was adopted and H.C.R. No. 103, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE LEGISLATIVE AUDITOR TO REVIEW THE ADMINISTRATION AND ADEQUACY OF THE UNEMPLOYMENT COMPENSATION FUND, INCLUDING THE UNEMPLOYMENT TRUST FUND ACCOUNT, AND THE RELATED STATUTORY PROVISIONS," was adopted.

Standing Committee Report No. 1022-82 (S.R. No. 139, S.D. 1):

By unanimous consent, action on Stand. Com. Rep. No. 1022-82 and S.R. No.

139, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING AN INVESTIGATION OF THE ALLEGATIONS OF BRUTALITY AGAINST INMATES OF THE OAHU COMMUNITY CORRECTIONAL CENTER ARISING FROM AND OF THE PROCEDURES UTILIZED IN THE PRISON SHAKEDOWN," was deferred until Wednesday, April 28, 1982.

Standing Committee Report No. 1046-82 (Gov. Msg. No. 172):

Senator Carpenter moved that Stand. Com. Rep. No. 1046-82 be received and placed on file, seconded by Senator Cayetano and carried.

Senator Carpenter then moved that the Senate advise and consent to the nomination of John A. Chanin to the Commission to Promote Uniform Legislation, term to expire December 31, 1985, seconded by Senator Cayetano.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Campbell, Kawasaki and Ushijima).

RE-REFERRAL OF HOUSE CONCURRENT RESOLUTION

The President re-referred House Concurrent Resolution No. 108, which was received on Tuesday, April 20, 1982, to the Committee on Human Resources.

RE-REFERRAL OF HOUSE BILL

The President re-referred House Bill No. 2849-82, H.D. 1, which was received on Wednesday, March 17, 1982, to the Committee on Human Resources.

At 12:23 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:27 o'clock p.m.

STANDING COMMITTEE REPORT

Senator Uwaine, for the Committee on Human Resources, presented a report (Stand. Com. Rep. No. 1059-82) recommending that House Bill No. 2849-82, H.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

Senator Cobb moved that Stand. Com. Rep. No. 1059-82 be adopted and H.B. No. 2849-82, H.D. 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Senator Yee.

At this time, Senator George rose to ask for a ruling of the Chair as to a possible conflict of interest, and the President ruled that there was no conflict.

Senator Anderson then rose and stated:

"Mr. President, if I may, a technical question, on page 1-A, under Standing Committee Report No. 1059-82, you've got 48 hours there and I think that should be 24 hours."

The President then stated:

"That's incorrect. May the record so note that it is 24 hours."

The motion was put by the Chair and carried and Stand. Com. Rep. No. 1059-82 was adopted and H.B. No. 2849-82, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES HEALTH FUND," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, April 28, 1982.

At this time, Senator Carpenter, Chairman of the Committee on Judiciary, requested a waiver of the 48-hour notice of a Public Hearing on the following:

Gov. Msg. No. 327, submitting for consideration and consent to the Intermediate Court of Appeals the nomination of Harry T. Tanaka;

and the President granted the waiver.

At this time, Senator Holt rose and stated:

"Mr. President, I believe that this afternoon's paper reports that there was a caucus on the organization of the Senate and I was wondering if you would inform us as to what happened."

The President then replied:

"Senator Holt, I would like to respond in follow-up to your inquiry of yesterday about my statements earlier in the year about dissolving the coalition if Senator Anderson officially announces for governor. Since that is now a fact, as he has indeed announced for governor, I would now like to announce my proposal for the reorganization of the Senate strictly among Democrats as follows:

1. Committee chairmanships now being held by Republicans will be reassigned to Democrats. These are Agriculture; Ecology, Environment and Recreation; Economic Development; Higher Education; Public Utilities and Transportation.

2. Committee vice-chairmanships now being held by Republicans will be reassigned to Democrats. These

are Agriculture, Economic Development, Government Operations and Intergovernmental Relations, Legislative Management, Tourism and Ways and Means.

3. Committee assignments in the various standing committees will be reallocated among Democrats and Republicans on the basis of proportionate representation.

"Immediately after the session today, I would like to call a majority caucus of all Democratic Senators to work out the details of the reorganization of the Senate."

Senator Cobb then rose and stated as follows:

"Point of order, Mr. President. While as President, you formally have the authority to appoint committee chairmen, vice-chairmen and make committee assignments of the Democratic Senators, in actual practice, you cannot do so unless you have the majority of this body, namely, 13 votes, to support your action.

"I maintain that you have neither the 13 votes to dissolve the coalition nor the votes to reorganize the Senate. And, at this time, I would like to formally present a motion before the Senate. I move that the present organization of the Senate be kept as is for the remainder of the Eleventh State Legislature, with the exceptions of Senator Anderson no longer being vice-chairman of Ways and Means and Senator Saiki no longer being chairman of Higher Education, in concert with their letters of resignation."

Senator Yee then rose and stated:

"Mr. President, I second the motion."

Senator O'Connor then rose and stated:

"Mr. President, I guess I'm going to vote against that motion. I'm not sure whether I should vote against it or for it, but I would like to compliment the movant for the carefully drafted script. I would like to suggest that the entire script of this little situation has been very nicely thought out, and if this is the decision based upon the circumstances that we find ourselves in to publicly take out the sting of earlier positions taken by individuals in this body, then that's one of those things.

"I would suggest that this matter could have been handled in many other ways. It could have been handled earlier. As the Titanic went down,

the iceberg didn't leap under the Titanic and try to put it back up again, and I suggest that this scripted situation can only lead to further difficulties, further problems and further situations.

"For example, just for example, if the statement made earlier by the President, just a minute ago, were a straightforward statement, not carefully scripted into this motion, I would suggest that the Functional Plans could be on the desks of the members of this body by tomorrow morning in a form acceptable to all Democrats in this body, and I'll have more to say about that tomorrow when we terminate after this motion passes. But, that's just one of the casualties of the Titanic striking the iceberg."

The President then replied:

"May I just respond, very briefly, to my distinguished colleague from the Seventh Senatorial District on two points. One is how can I reorganize the Senate if the caucus consisting of a majority of the Senate chooses to retain the same organization. I think anyone who wants to change things needs 13 votes. All of us in this august body are very much aware of that.

"I have tried to make an attempt to change the organization of the Senate. There is a motion before the Senate that speaks for itself. But relating to the Functional Plans, I was meaning to tell this body that we are now awaiting the House to pass the Transportation Plan so that we can go to conference.

"My understanding is that there is a filibuster going on in the House on the Transportation Plan. So, so much for the Transportation Plan. I shouldn't be the one to speak on this motion on the floor. Is there any discussion?"

Senator Cayetano then rose and stated:

"Mr. President, I am going to support the motion. Let me say that I think the facts are that I am a member of this coalition, but also that I am a member of the Democratic faction of the coalition who has been most anxious to reorganize the Senate with Democrats only. I don't think anyone can deny that.

"This so-called script that Senator O'Connor speaks of may have become necessary because one script begets the other. You seven Democrats who are in the so-called 'dissident' faction, I ask you to look down the road. Why are we getting into this kind of monkey business at this stage of the game when it's totally impractical for us to dissolve the coalition with only two more days left. So how about let's just follow the

script and let's look to next year and see whether we can work things out."

Senator Cobb then rose and stated:

"Mr. President, I take strong exception to the remarks of my colleague from the Seventh Senatorial District that the Functional Plans might have come out differently if there was a Democratic chairman. If I were chairman, I would be holding to the same position that the present chairman is, because we had the Governor of this state, most of the legislators, most of the community groups and most of those who have been involved in the State Functional Plans think there are in fact, guidelines. And, the bill that we sent over from the Senate specifies guidelines, so in no way would I agree with the statement that there would be a difference if there were a Democratic chairman.

"In fact, most of the Democrats in the Senate, I think, would agree with the action taken by the chairman of the Economic Development Committee. As far as the script goes, Mr. President, you're going to be President whether you like it or not. You've attempted to dissolve the coalition in caucus and we voted you down. Now, you're doing it openly on the floor. I predict that the result will be the same."

Senator Yee then rose and stated:

"Mr. President, I would like to say that this is really no script, in answer to the comments made by the Senator from the Seventh Senatorial District, because after Senator Holt's question to you yesterday, we did meet in caucus and the caucus voted unanimously to retain the present leadership and to retain you as President of the Senate. And we also unanimously agreed that you didn't have the right as the total group to dissolve the coalition--you were only speaking as an individual.

"We respect you as the President of the Senate here, but in your commitment to the public, and to your fellow Democrats, it was an individual comment. You neither committed me nor did you commit the Democrats in the coalition. As a result, we unanimously felt that in the last few days of the session that the coalition had done well, and let us end it this way.

"This fall we're having an election and the people will judge us by what we have done this session.

"Thank you."

Senator Cobb then stated:

"Mr. President, I'd like to add one observation, perhaps an implication to the remarks of my colleague, that the Functional Plans might be different if we had a Democratic chairman. That is an acknowledgement on the part of the House that they're being obstructionists in legislation only because we have bi-partisan chairmanships in the Senate. I find that to be discouraging at best, and to be intimidating at worst."

Senator O'Connor then rose and stated:

"Mr. President, I would like to clarify something. I used those Functional Plans but as one example of the wreckage of a legislative session which is drifting slowly by us. I'll elaborate more on that later. I for one would not want to be one who had to take credit for the wreckage, and I think any attempt at this juncture would do more than dissolve the coalition and point at those individuals who might be responsible, will be less than responsible on the part of those of us in this body."

Senator Cayetano then rose and stated:

"Mr. President, I hope in the coming elections those Democrats who are up for election will not undergo experiences that will affect the next organization. I think we had better measure the words we say here on the floor today, and I'm talking about all Democrats."

Senator Holt then rose and stated as follows:

"Mr. President, I just wanted to congratulate you on a job well done."

"Now, I'm totally convinced that you and some of the other Democrats in this Senate have always been and will continue to be party to Senator Anderson's quest to be the Governor of this state."

"Thank you."

The President then replied:

"Senator Holt, I think in the election process, when we said we're going to make a difference, that difference should be felt in ideas rather than in pointing out individual personality differences throughout the whole two years. I think any Senator who represents his district is here not on a personal basis, but on the basis that he represents his constituents. For anyone who has campaigned on a slogan that he will make a difference, so far, I've not seen that difference."

"Now, as far as the personal attack on me as President for forming the coalition,

I will assume the responsibility. I told you two years ago before the formation of this coalition that I am responsible. I've never once told anyone that I was not. I have not once wavered in my commitment, a commitment that was made because Democrats couldn't get together. I would caution everyone, Democrats and Republicans alike, that tomorrow, I will say more on the subject about organization of the Senate for the future. I hope at that time, that people will understand where I'm coming from and that people will understand what we have to do in this state in the 80's to accomplish whatever dreams or aspirations we might have. And I will remind everyone that as far as I'm concerned, it was a difficult position for me and many Democrats to get involved in the coalition. But I'll elaborate on the reasons tomorrow."

"I want to say very firmly that I can accept personal responsibility for my actions and I will do so in the election process. If I have to run again this year or in the next election, I'm willing to face the people and have them decide whether the decision I made two years ago was correct or incorrect. And at that time, I think the votes will tell the story."

"Is there any further discussion on this matter?"

"If not, Senator Cobb, we will have to go into recess because we are awaiting the Transportation Plan to come from the House to the Senate so that the Senate can disagree and go to conference on the Functional Plans as late as it might be."

Senator Cobb then stated:

"Mr. President, I move that the Senate stand in recess subject to the call of the Chair in the event that we have to reconvene to take action on the House Communication which may arrive later this afternoon. Otherwise, we will be reconvening tomorrow at 11:00 o'clock a.m., leaving the Journal open."

The President then replied:

"Correction, Senator Cobb, we will have to wait here for receipt of the Senate Concurrent Resolution."

Senator Cobb then stated:

"I stand corrected, Mr. President. Then I amend the motion to specify that we stand in recess subject to the call of the Chair."

At 12:41 o'clock p.m., on motion

by Senator Cobb, seconded by Senator Yee and carried, the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:10 o'clock p.m.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 654 and 655) were read by the Clerk and were disposed of as follows:

A communication from the House (Hse. Com. No. 654), returning Senate Concurrent Resolution No. 13, S.D. 2, H.D. 1, which was adopted by the House of Representatives on April 27, 1982, was placed on file.

On motion by Senator Henderson, seconded by Senator Soares and carried, the Senate disagreed to the amendments proposed by the House to S.C.R. No. 13, S.D. 2, and requested a conference on the subject matter thereof.

In accordance therewith, the President appointed Senators Henderson, Chairman, Abercrombie, Vice-Chairman, Ajifu, Cayetano, George, Kobayashi, Saiki, Yee, Kuroda and Young as Managers on the part of the Senate at such conference.

A communication from the House (Hse. Com. No. 655), informing the Senate that pursuant to the disagreement of the Senate to the amendments proposed by the House to Senate Concurrent Resolution No. 13, S.D. 2, and the request for a conference on the subject matter of said amendments, on April 27, 1982, the Speaker appointed Representatives Dods, Chairman, Andrews, Waihee, Tungpalan and Medeiros as Managers on the part of the House for the consideration

of said amendments, was placed on file.

At this time, Senator Henderson, Chairman of the Committee on Economic Development, requested a waiver of the 48-hour notice of a Public Hearing on the following measure:

S.C.R. No. 13, S.D. 2, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION RELATING TO THE STATE TRANSPORTATION FUNCTIONAL PLAN,"

and the President granted the waiver.

At 1:11 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:13 o'clock p.m.

STANDING COMMITTEE REPORT

Senator Uwaine, for the Committee on Human Resources, presented a report (Stand. Com. Rep. No. 1060-82) recommending that House Concurrent Resolution No. 108 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1060-82 and H.C.R. No. 108, entitled: "HOUSE CONCURRENT RESOLUTION RELATING TO THE REPORT ON THE FINAL COMPENSATION PLAN AND THE COST THEREOF," was deferred until Wednesday, April 28, 1982.

ADJOURNMENT

At 1:16 o'clock p.m., on motion by Senator Cobb, seconded by Senator Soares and carried, the Senate adjourned until 2:00 o'clock p.m., Wednesday, April 28, 1982.